

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 984/93
T.A. No.

199

DATE OF DECISION 20-8-93

<u>Shri Subash Chander & Ors.</u>	Petitioner
<u>Shri V.K.Rao</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India</u>	Respondent
<u>Shri P.H.Ramchandani</u>	Advocate for the Respondent(s)

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The Hon'ble Mr. J.P.SHARMA MEMBER (J)

The Hon'ble Mr. S.GURUSANKARAN MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *yes*

JUDGEMENT

This judgement was delivered by Hon'ble Shri S.Gurusankaran, Member (A).

In this application filed by the nine applicants, they are aggrieved by their continuance as casual labour even after long years of service and then not being regularised as Government servants. They have prayed for directing the respondents to regularise their services with all consequential benefits and not to terminate their services till their regularisation by preparing a suitable scheme.

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2. The applicants are engaged as drivers of non-public vehicles and are paid from the Regimental Funds and not from Government Funds. They are used to drive the vehicles to transport officers from their residences to their places of work and back and also their children to their schools ~~privately~~ ^{privately & freely} as a private arrangement. The officers also pay private subscription for making the transport arrangements.

3. The respondents have filed their reply contesting the application. They have also raised the question of jurisdiction. We have heard Mr. V.K.Rao for the applicants and P.H.Ramchandani for the respondents. It is not disputed by both sides that this case is identical to the case of Subash Chander and Ors. Vs. Union of India & Ors in OA No. 1237/93 to 1240/93 decided on 13.8.1993. From the material available before us, we are of the view that the applicants are neither holders of civil posts nor are they in the service of the Union. The applicants have not been able to produce any material to show that the master-servant relationship exists between the respondents and the applicants. Since this case is exactly on all fours with Subhash Chander's case (supra) and the applicants have not placed any additional material or raised any new pleas, there are no grounds to take any different view and we are in complete agreement with the judgement in Subhash Chander's case.

4. We may add that we are fortified in our views by the following case laws:

i) Union of India Vs. Tejram Parashramji Bombhate & Ors (1991) 1 Ors (1991) SCC (L&S) 809. It was a case filed by teachers of an unapproved school run by officers of Government Ordnance Factory by local arrangement and they had sought for equal pay for equal work and regularisation involving grant of Government

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sanction of funds. The teachers were being paid honorarium out of fees from children and other donations. It was held by Supreme Court that a Tribunal or Court cannot compel the Government to change its policy and accord sanction to the school. Further section 14 of A.T. Act, 1985 does not confer jurisdiction on Tribunal to deal with service matters of the teachers of an unapproved school.

ii) All India Railway Institute Employees Association Vs. Union of India (AIR 1990 SC 1952). In this case the Supreme Court had distinguished its judgement in the case of M.M.R.Khan & Ors Vs. Union of India and Others (AIR 1990 SC 937) involving employees of non-statutory recognised canteens and observed as under: "There is a material difference between the canteens run in the Railway establishments and the Railway Institutes and Clubs. The provisions of Institutes/Clubs is not mandatory. They are established as a part of welfare measure. If the workers engaged in these Institutes/Clubs are treated as railway employees, the danger is that these welfare activities, which are otherwise encouraged by railway administration, may in course of time shrink and cease altogether for want of funds."

5. The ratios laid down and the observations made in the above cases are equally applicable to the present case. The provision of transport services to the officers and children is not mandatory. It is being done as a welfare measure from Regimental Funds by contribution, as distinct from

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consolidated fund. The staff engaged are not recruited on the basis of any Government approved rules and their service conditions are also not governed by any statutory rules and regulations. There is no master-servant relationship between the Government and these employees. Hence this Tribunal will have no jurisdiction to deal with the service conditions of the applicant.

6. In view of the above, the application^{is} ~~are~~ dismissed for want of jurisdiction and the interim order dated 25.5.1993 is vacated. The applicants may, if so desired, assail their grievance in the proper forum.
No costs.

S. Gurusankaran
20/8/93

S. GURUSANKARAN
MEMBER (A)

J. P. Sharma
20/8/93

J. P. SHARMA
MEMBER (J)