

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 1762 of 1992

Allahabad this the 07<sup>th</sup> day of December, 2000

Hon'ble Mr.V.K. Majotra, Member (A)  
Hon'ble Mr.S.K.I. Naqvi, Member (J)

Hari Om Sharma, aged about 34 years, son of Shri Ram Gopal, resident of village & Post Dhanauli, District Agra, presently employed as Supervisor/Manager, Officers Ration Distribution Systems, No.4 Wing, Air Force Station, Agra.

Applicant

By Advocate Shri M.K. Upadhyay

Versus

1. Union of India, through the Secretary, Ministry of Defence, Government of India, New Delhi.
2. Air Officer Commanding in-Chief, Central Air Command, Bhamrauli, Allahabad.
3. Director of Personnel (Civilians), Directorate of Personnel (Civilians) Air HQs, VAYU BHAWAN, New Delhi-110011.
4. Air Officer Commanding, No.4 Wing, Air Force Station, Agra-282008.

Respondents

By Advocate Shri Ashok Mohiley

ORDER (

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

Shri Hari Om Sharma claims to be absorbed and treated as Government employee by the respondents, and <sup>also</sup> claims all the benefits retrospectively from the date of his appointment.

2. As per applicant's case, he was appointed

as Assistant, in Ration Distribution System vide appointment letter dated 25.7.1983 on a consolidated salary of Rs.300/- per month in Officers' Mess, Air Force Station, Agra. The emoluments were gradually raised from time to time and at the time of filing the O.A., he was being paid consolidated salary of Rs.1650/- per month. ~~Ther~~<sup>he</sup> claim of the applicant is that he has been regularly and continuously working since his appointment on 01.7.1983 and his work and conduct have been certified to be very good throughout, he was promoted from Assistant to the post of Supervisor/Manager, Officers Ration Distribution System, Air Force Station, Agra, and his salary has been gradually raised from the initial Rs.300/- to Rs.1650/- per month, but, his services have not been regularised nor ~~his~~<sup>he</sup> being given the benefits like other Government servants, such as, leave, gratuity pension, D.A., graded scale of pay, Group Insurance benefits, Provident Fund etc. The applicant made several representations to the authorities concerned but, the authorities ~~have~~<sup>are</sup> keeping silent over the matter and, therefore, he has filed this O.A. The applicant has also mentioned that similarly placed other employees working in the Officers' Mess, Air Force Canteen have been absorbed as Government-servant and have been given all the benefits throughout country but, the applicant has been kept deprived of all such benefits.

3. The respondents have contested the case and filed counter-reply with the mention that  
.....pg.3/-



the applicant was never appointed by the respondents in any manner whatsoever in any service. He has worked for a group of Officers in his private capacity to distribute rations. His pay/emoluments were also decided by this Group of Officers as and when deemed fit and <sup>he</sup> his paid out of voluntary contributions made by them and, therefore, the applicant is not entitled to any of the benefits as he has claimed through this O.A. It has also been mentioned that no representations, as mentioned by the applicant in his O.A., have been received by the respondents. It has emphatically <sup>been</sup> denied that any of the similarly placed employee working in the Officer's Messes or Air Force Canteens, has been absorbed as Government servants. The respondents have also pressed that the petition is not maintainable before this Tribunal as the petitioner is not a Government servant and he was never appointed to any civil post held in the Union of India.

4. Heard, the learned counsel for the parties and perused the record.

5. The applicant claims himself to be an employee under Air Command of India, <sup>by</sup> By virtue of his appointment as Assistant, Ration Distribution System and his promotion to the post of Supervisor/Manager, Officers Ration Distribution System, Air Force, Agra but, he has failed to bring on record that he was ever appointed by any Officer of the Air Force in his official capacity. The appointment letter has, no doubt, been signed by A Group Captain but, in

the capacity of PMC Officers Mess, Air Force, Agra. The applicant has also failed to show that he was being paid his emoluments out of public fund and with these facts in view, we have guide line from a Tribunal's case, cited as (1991) 15 A.T.C. page 507, C.A.T. Allahabad Amar Nath Chaddha Vs. Union of India and Others decided on 24.8.1990 and 1997(36) A.T.C. 440(FB) Dambar Singh Rathore Vs. Officer Commanding(Details) and Others, decided on July 9th, 1997.

6. In Amar Nath Chaddha's case(supra), the observation is as under:-

"The first and foremost question which calls for adjudication is the question of jurisdiction of this Tribunal. In case the plaintiff/applicant is not a civil post holder in connection with the affairs of the Union Government, the Tribunal will have no jurisdiction to adjudicate the controversy. In the case of R.D. Shukla Vs. Union of India, Allahabad Bench of Tribunal held that Red Eagle Canteen rendering service to the troops of 44 infantry division was run by non-public funds and, therefore, its employees were not holder of the civil post under the Union of India and consequently the provisions of Administrative Tribunals Act No. 13 of 1995 were not applicable to them .....

@In the case of M.M.R. Khan Vs. Union of India, their Lordships of the Supreme Court in the latest judgment involving the question whether the employees of canteens were Railway employees and entitled to be treated as such while dealing with the case of statutory canteens, non-statutory recognised canteens, and non-statutory

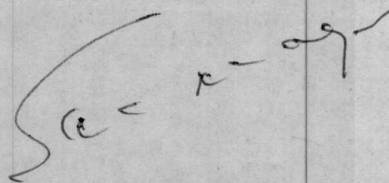


non-recognised canteens have also observed as follows:

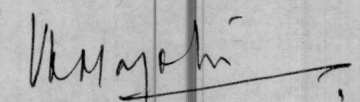
....(T)he contention advanced by Mr. Ramaswamy that the Railway Administration is engaged in varied welfare activities, and the employees engaged in these activities will also have to be treated as railway employees, in case, the canteen employees are recognised as railway employees does not appeal to us. We express, no opinion on the subject as to whether the employees engaged in other welfare activities will or will not be entitled to the status of the railway employees, since neither they nor the facts pertaining to them are before us...."

and in Full Bench Judgment, it has been held that "in the absence of any statutory or other legal obligation and in the absence of any right in the Defence Establishment to supervise and control the work or the details thereof in any manner regarding the canteen workers employed in the Unit Run canteens, it cannot be said that the relationship of Master and Servant existed between the Defence Establishment of the Government and the various persons employed in the Unit Run canteens.

7. With the above legal and factual position in view, we find that this O.A. is not maintainable before this Tribunal and the same is dismissed accordingly. No order as to costs.



Member (J)



Member (A)