

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Original Application No. 917/95

Transfer/Review Application No.

Date of Decision 15-9-99

Khushal Singh & others

Applicant (s)

Counsel for the applicant Shri A.V.Srivastava, Advt.

V E R S U S

Union of India & Others.

Respondent(s)

Shri N.B.Singh, Advocate.


Counsel for the Respondents

CORAM

Hon'ble Mr. S.Dayal, Member (A)

Hon'ble Mr. S.K.Agrawal, Member (J)

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether their Lordship wish to see the fair copy of the judgement?
4. Whether to be circulated to all Benches?


(SIGNATURE)

/SATYA/

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

(18)

Allahabad, this the 15th day of September, 1999

ORIGINAL APPLICATION NO.917 OF 1995

CORAM : Hon'ble Mr.S.Dayal, Member (A)
Hon'ble Mr.S.K.Agrawal, Member (J)

1. Khushal Singh,
S/o. Shri Kamal Singh,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun.
2. Rajender Singh,
S/o. Shri Gopal Singh,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
3. Bachi Ram,
S/o. Shri Himanand,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
4. Om Prakash,
S/o. Shri Himanand,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
5. Tara Singh,
S/o. Shri Madho Singh,
Indira Gandhi National Forest Academy,
New Forest,,
Dehradun
6. Dalbir Singh,
S/o. Singh Jeet Singh,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
7. Brij Mohan,
S/o. Shri Pati Ram,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun.
8. Mohan Singh, S/o. Shri Jai Singh,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun.

9. Jokin, S/o. Shri Philip,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
10. Sunder Singh,
S/o. Shri Charno,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
11. Bhawan Singh,
S/o. Shri Nag Singh,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
12. Trilok Singh,
S/o. Shri Anand Singh,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
13. Ratan Singh,
S/o. Shri Balwant Singh,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
14. Ram Bahadur,
S/o. Shri Dil Bahadur,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun.
15. Narayan Singh,
S/o. Shri Brij Lal,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
16. Madan Singh,
S/o. Shri Govind Singh,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
17. Raghbir Singh,
S/o. Shri Mohan Singh,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
18. Jeet Bahadur,
S/o. Shri Chitrabir,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun.

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19. Kashi Ram,
S/o. Shri Moti Prasad,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
20. Kamal Prasad,
S/o. Shri Shrikrishan,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
21. Bishan Singh,
S/o. Shri Moti Singh,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
22. Roop Singh,
S/o. Shri Gulab Singh,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
23. Paras Ram,
S/o. Shri Kundan Lal,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
24. Robin Bora,
S/o. Shri Bhadchar Bora,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
25. Nain Singh,
S/o. Shri Dhan Singh,
Indira Gandhi National Forest Academy,
New Forest,
Dehradun
26. Padam Singh,
S/o. Shri Ranjeet Singh,
Indira Gandhi National Forest Academy,
Dehradun
27. Mohan Lal,
S/o. Shri Kali Prasad,
Indira Gandhi National Forest Academy,
Dehradun
28. Smt. Prem Lata, W/o. Late Sri Raghbir Prakash,
Indira Gandhi National Forest Academy,
New Forest, Dehradun.
29. Sanjeev Badola, S/o. Sri A.D. Badola,
Indira Gandhi National Forest Academy,
New Forest, Dehradun.

.....APPLICANTS

(By Shri A.V. Srivastava, Advocate)

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Versus

1. Union of India through Ministry of Environment and Forest, Paryavaran Bhawan, New Delhi.
2. Indira Gandhi National Forest Academy, New Forest, Dehradun, through its Director.

..... Respondents

(By Shri N.B.Singh, Advocate)

ORDER (Reserved)

(By Hon'ble Mr.S.Dayal, Member(A))

This original application was filed seeking direction of this Tribunal to the respondents to regularise the services of the applicants, fix regular hours of work, provide for treatment in the Indian Forest Service Hospital in other Government Hospital, provide other facilities given to Government employees like Provident Fund, Pension scheme etc.

2. The case as stated by the applicants is that they are working as Cooks, Mates, Butlers, Bearers, Peon, Supervisor, Masalchi, Assistant Supervisor and Accounts Clerk in Hostel Mess of Indira Gandhi National Forest Academy, Dehradun, an Academy of the Central Government providing training to probationers of Indian Forest Service. The Academy provides hostel facilities since 1936 to probationers and the Government contributes a subsidy of Rs.70/- per month per probationer alongwith other facilities including a properly furnished kitchen. The mess is housed in Government building. The staff maintaining the hostel such as Chowkidars, Sweepers, Groundman etc. are Government employees. The applicants have mentioned that although they have

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worked for a period of 2 to 10 years the Academy still regards them as private employees and has not regularised them. The case of the applicants is that they cannot be treated as employees of the probationers as the running and management of the Mess is managed by officers of Indira Gandhi National Forest Academy, in so much as Director is an Honorary President of the mess and a faculty member is nominated by him to act as Vice President. He is the appointing authority of the applicants and also makes payment to suppliers. All the movable and immovable property is owned by the government. It is claimed that stores and ration for cooking are supplied by the academy. It is also claimed that applicants were continued to work even when the probationers go on tour. The applicants are allowed Rs.250/- per year as Medical Allowance and 20 days leave per annum. The claim of the applicants is that they are discriminated in so much as they are treated differently from Chowkidars and Sweepers etc. although they are similarly situated. They have claimed that the employees of Mess in Indian Military Academy, Lal Bahadur Shastri Academy, Mussoorie, Wild Life Institute, Forest Research Institute are permanent servants. The applicants have been representing to the government for job security as well as regularisation and other benefits given to regular employees.

3. It was made clear to learned counsel for the applicant ^{at the outset} that he should establish that the case comes within the jurisdiction of the Tribunal.

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4. The arguments of Sri A.V.Srivastava for the applicant and Sri Satish Mandhyan, Addl.Standing Counsel, Govt.of India, appearing for Sri N.B.Singh, Sr.Standing Counsel, Govt.of India, have been heard. The pleadings have been taken into consideration.

5. The main contention of the learned counsel for the applicant is that a Training Institute can not be run without a Mess as Mess is an integral part of a Training Academy. Indira Gandhi National Forest Academy is a Government organisation of which the Officers Mess of the Academy is an integral part. Therefore the employees cannot be treated to be private servants of probationers. The learned counsel for the applicant has filed a Supplementary Rejoinder in which he has annexed certain documents. The first one of it is that the mess staff of Indira Gandhi National Forest Academy has been trained by the Mess Organisation of Indian Military Academy at Dehradun for a period of seven days. The learned counsel has also shown that the fittings and equipment in the mess is being done and paid for by Joint Director (Administration) of Indira Gandhi National Forest Academy out of Government Funds. It is also been shown that the Gas Connection of 16 cylinders and 8 pressure regulators is in the name of Director of the Academy. There is also a letter showing correspondence between the Ministry of Environment and Forest, and Indira Gandhi National Forest Academy regarding regularisation of mess staff. It is also been claimed in the Supplementary Rejoinder Affidavit that the mess staff is often put to work for the Canteen and Guest House of the Indira Gandhi National Forest Academy.

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6. The respondents in their Counter Reply have mentioned that the applicants are neither employees of the Central Government nor are they employees of Indira Gandhi National Forest Academy. It has also been mentioned that the applicants are not paid their salary from the Funds of Central Government or of the Academy. They are paid salary from the Funds of Indira Gandhi National Forest Academy Officer's Mess. This has been set up under Indira Gandhi National Forest Academy Dehradun Officers' Mess Constitution and Rules. It is contended that whenever the funds of the Indira Gandhi National Forest Academy Officers' Mess are not sufficient to meet the payment of salary to the Workers, the services of some workers are terminated as in the past. It has been stated that the mess is not registered or notified.

7. We have perused the Officers's Mess Constitution and other Rules. The mess has been established to provide messing facilities to its members, as also for providing managerial and organisational skills and appropriate attitude and social behaviour amongst probationers. Every probationer under training is a regular member and is seldom allowed to opt out of the membership. Each probationer pays mess membership fees, contribution to mess establishment fund, contribution to mess employees benevolent fund, and mess security on arrival in the Academy. It is stated that Director would be constitutional head of the mess and shall have powers to nominate a Vice President from amongst the faculty members to guide the activities and look after the day-to-day affairs of the mess. The mess shall have also a Mess Committee which will be an elected body from amongst the probationers.

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The mess committee comes into existence after elections and consists of General Secretary, Secretary Dry Stores, Secretary Fresh Stores, Auditor, Quality Controller (Vegetarian), Quality Controller (Non-Vegetarian), and nominee of General Secretary. Vice President has the authority to nominate adhoc Mess Committee in the interregnum between the expiry of the term of Committee and election of the next Mess Committee. The Mess Committee is responsible for efficient running and proper up-keep of the mess, supervision of the mess, up-keep of mess property and control of mess employees and also for correct maintenance of accounts. Mess accounts are maintained by General Secretary with the assistance of Mess Committee and Mess Supervisor. Rules have also been made for the Fund and are known as Indira Gandhi National Forest Academy Officers' Mess Establishment Fund Rules, 1989. The assets of the Fund are to consist of monthly contribution from the probationers and subsidy or grant from the Government. The amount at the credit of the Fund is to be utilised for payment of monthly salary to the Mess employees. Rules have been made for employment, retirement and termination of mess employees. The mess establishment is to be under direct control of the Vice President who shall be appointing authority of the employees. The mess committee can recommend to the Vice President special incentive or dis-incentives to the employees after considering the health, conduct and efficiency of the individuals. There is provision for retrenchment in which it has been stated that the number of mess staff will depend on number of probationers undergoing training at a particular time. The norms prescribed

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are a minimum of one mess worker for every six probationers. If the number of probationers is less, the mess employees can be retrenched after giving 15 days notice or 15 days salary in lieu of notice. There is a Benovelent Fund which shall consist of contribution by the members of the mess at the rates notified by Vice President and contribution, gifts, payments etc. which may be accepted by the Fund with the approval of the Vice President. The amount of the Fund are to be utilised for ex-gratia payment to employees whose services are dispensed with, or who superannuate after satisfactory service of not less than five years. The Funds can also be utilised for making ex-gratia payment to the families of employees who die. The ex-gratia payment will be calculated at a rate not exceeding 15 days of total emoluments for every completed year of service of an employee. There is a provision of loans to the employees also from this Fund. The other rules called Indira Gandhi National Forest Academy Officers' Mess Maintenance and Improvement Fund Rules. The fund consists of Mess Registration Fee, subscription charge through the mess bills, security deposit amounts and any other sum taken into the fund with the approval of the Vice President. The amount is to be spent for purchase of crockery, cutlery including silverware and equipments, uniform for the mess employees, advance of money to the mess for providing operating capital on loan basis, miscellaneous expenditure in connection with accounting and management of the Fund, expenses in connection with any curricular or extra curricular activities

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of the Academy with the approval of the President. The pay scales of the mess employees have been prescribed and the amenities given to the mess employees are contained in these rules.

8. Learned counsel for the respondents mentioned that Oxford Dictionary takes 'Mess' to mean -

"Group of people who takes meals together and share living quarters, speciall in the Armed Forces and buildings in which these meals are taken."

He also filed some annexures alongwith Supplementary Counter Affidavit in which appointment orders of Smt.Premalata Daundiyal, Office Clerk, Sri Sanjiv Badola, Accountant, Sri Vishal Singh, Head Cook, Sri Brij Mohan, Room Beara and Sri Bechi Ram, Cook, have been annexed. It is mentioned in the orders of appointment that the individual is appointed in a private mess in a given pay scale. The letter of Deputy Director Senior and Directors Nominee and Officers' Mess dated 19-10-95 is also annexed to Supplementary C.A. in which it has been stated that the mess employees working in the mess of Lal Bahadur Shastri National Academy of Administration, Mussoorie were not Government employees and that their service conditions were governed by the mess constitution. The Supplementary Counter Affidavit also has an annexure 'Minutes of General Body Meeting' held on 15-2-99 in which it has been recommended that services of three members of staff of the mess i.e. Mess Supervisor, Mess Accountant and Mess Store Keeper would be dispensed

with because the number of probationers had reduced and the work load has also got reduced. It had, therefore, become possible for the mess committee to manage the mess accounts itself. It also resolved to stop the food allowance and freez DA and Basic at the level of December, 1998. It is also recommended that engagement of two persons should be considered for running Indira Gandhi National Forest Academy canteen and Goest House and that salary of these persons should be contributed by the Academy. The respondents have also mentioned that Forest Research Institute and Wild Life Institute of India are Autonomous Institute and they have different rules and service conditions for their employees.

9. The learned counsel for the applicant has sought to place reliance on Parimal Chandra Raha and Others Vs. Life Insurance Corporation of India and Others (1995) 2 UPLBEC 846. In this case, the law laid down with regard to the Canteens has been discussed. It has been laid down that where provision and maintenance of Canteen is a statutory obligation, canteen becomes a part of the Establishment and canteen employees will be employees of management. Even where there is no statutory obligation but an obligation outside statute to provide canteen and it has become a part of the service conditions of the employees, the same result will follow. However, if the obligation is not for providing canteen; only facilities to run canteen, ^{are provided,} the canteen would not become a part

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establishment. The learned counsel for the applicant has also placed reliance on the case of M.M.R.Khan and others Vs. Union of India & Ors. 1990 SCC (L&S) 632, in which it has been held that the workers engaged in Statutory Canteens as well as those engaged in non-statutory recognised canteen in Railway canteens are Railway employees, but the employees in non-statutory non-recognised canteens cannot be considered to be Railway employees. This judgement is based on the consideration that such canteens are only statutory under provisions of Railway Establishment Manual or of Factories Act and the sanction regulates details in regard to the number of staff to be employed in the canteen and recurring and non-recurring expenditure etc.

10. The learned counsel for respondents has cited Employers In Relation to the Management of Reserve Bank of India Vs. their Workmen, J.T. 1996(3) SC 226. In this case again the judgement in Parimal Chandra Raha & Others Vs. Life Insurance Corporation of India & Others (Supra) has been upheld.

11. The authorities cited by learned counsel for the applicant are not specifically applicable to the case before us. The authorities relate to the matter of canteens, while we are dealing with the matter of Officers' Mess. The Officers' Mess is not a statutory requirement. The arguments of learned counsel for the applicant that the building, furniture, utensils, gas connection etc. belong to the respondents does not make it a part of the

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establishment of the employers because the employees of Officers' Mess in the case before us are appointed on the basis of requirements assessed by the Mess Committee and are paid mainly out of the Mess charges realised from the Officers under training. Their service conditions and pay scales are also different from the service conditions of the employees of Indira Gandhi National Forest Academy. The applicants had been clearly informed in orders of appointment that they were employees of a private mess. The Officers' Mess has also not been granted recognition as a Departmental Canteen by its registration by the Department of Personnel & Administrative Reforms and it does not run as per scheme issued by that Department.

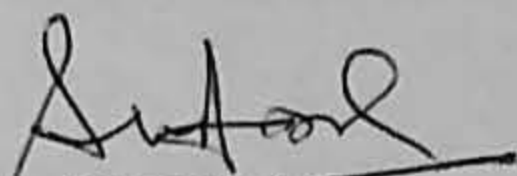
12. In view of the findings emanating from the facts brought on record by the parties and discussion in the preceding paragraphs, it is clear that the applicants are employees of the Mess of the Academy and are not Government employees or casual employees of Indira Gandhi National Forest Academy. The Indira Gandhi National Forest Academy Officers' Mess has not been notified as an Organisation which comes within the purview of Central Administrative Tribunal.

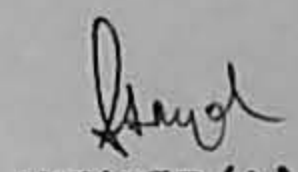
13. We, therefore, hold that jurisdiction has not been conferred on Central Administrative Tribunal

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to entertain the original application. The original application is, therefore, dismissed. The applicants may file their claim before appropriate forum if so advised.


MEMBER (J)


MEMBER (A)

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