

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 9th day of February, 2004.

QUORUM : HON. MR. JUSTICE S.R. SINGH, V.C.
HON. MR. D. R. TIWAHI, A.M.

O.A. No. 235 of 1999

1. Suraj Chandra Gupta S/O Sri Ram Narain Lal R/O 117, Sadar Bazar, Varanasi Cantt., working as Commission Vendor under Catering Unit, Northern Railway, Varanasi.
2. Ashok Kumar S/O Late Shyam Sunder Lal, working as Commission Vendor under Catering Unit, Northern Railway, Varanasi.....Applicants.

Counsel for applicants : Sri S. Agarwal.

Alongwith

O.A. No. 1078 of 1999

1. G. Narain a/a 55 years S/O Late Govind Chatty R/O D-65/280/AI, Lahartara, Varanasi.....Applicant.

Counsel for applicant : Sri S. Agarwal.

Alongwith

O.A. No. 737 of 1999

1. Smt. Shanti Devi a/a 50 years wife of Late Chavind R/O H-17/7, Nadesar, Raza Bazar, Varanasi.....Applicant.

Counsel for applicant : Sri S. Agarwal.

Versus

1. Union of India through the Secretary, Ministry of Railways Rail Bhawan, New Delhi.
2. The General Manager, Northern Railway, Baroda House, New Delhi.
3. The Divisional Commercial Manager, Northern Railway, Divisional Office, Lucknow.
4. The Senior Catering Inspector, Northern Railway, Varanasi.....Respondents.

Counsel for respondents : Sri A.K. Gaur.

Alongwith

O.A. No. 344 of 1999

1. Kailash Ram S/O Ram Dhan Ram R/O Bhitari R/O Lohta, Varanasi.
2. Sarvajeet Pal S/O Sewalal R/O Mainatali, Mughal Sarai, Varanasi.....Applicants.

Counsel for applicant : Sri S.K. Mishra.

Versus

1. Union of India through the General Manager, N. Railway, Baroda House, New Delhi.
2. Divisional Commercial Manager, N. railway, Lucknow.

.....Respondents.

Counsel for respondents : Sri A.K. Gaur.

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Alongwith
O.A. No. 1263 of 1999
Bachau Pal a/a 40 years S/O Late Chhedi Lal Pal R/O Gram
Pahlukapura, P.O. Phulwariyan, Varanasi Cantt.
.....Applicant.
Counsel for applicant : Sri S. Agarwal.

Alongwith
O.A. No. 1264 of 1999
Bhaganu Prasad a/a 40 years S/O Sri Chhotey Lal H/O C-17/25,
Nadesar, Varanasi.....Applicant.
Counsel for applicant : Sri S. Agarwal.

Versus
1. Union of India through the Secretary, Ministry of Railways
Rail Bhawan, New Delhi.
2. The General Manager, Northern Railway, Baroda House,
New Delhi.
3. The Divisional Commercial Manager, Northern Railway,
Divisional Office, Lucknow.
4. The Senior Catering Inspector Northern Railway, Varanasi.
5. Senior Divisional Commercial Manager, D.R.M's Office,
Northern Railway, Lucknow.
6. The Divisional Railway Manager, Northern Railway, Lucknow.
.....Respondents.
Counsel for respondents : Sri A.K. Gaur.

O R D E R (ORAL)

BY HON. MR. JUSTICE S.R. SINGH, V.C.

Heard Sri S. Agarwal, Sri S.K. Mishra, (learned
counsel for applicants in O.A. No.344/99) and Sri A.K. Gaur,
learned counsel appearing for respondents. We have also
perused the pleadings.

2. In ^{this} bunch of six O.As., common questions of
facts and law ^{are} involved and with the consent of counsel
for the parties, they have been taken up for disposal by
a common order.

3. The applicants, who have been working as Commission
Vendors under Catering units of Northern Railway, Varanasi,
have instituted the O.As. and have prayed for quashing the
identical ^{and} warranted separate orders dated 7.1.1999 passed
in O.A. Nos.235/99, 1078/99 and 344/99 and orders dated
11.6.99 passed in O.A. Nos.737/99, 1263/99 and 1264/99

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whereby the services of the applicants have been dispensed with on the ground that they have been black listed by the C.B.I. Orders being identically worded, it would be convenient to quote the order dated 7.1.99 which is the subject matter of impugnment in O.A. No.235/99 (S.C. Gupta & another Vs. Union of India and others) as under :-

"Since you have been black listed by the C.B.I., your services are hereby dispensed forthwith with immediate effect." Sd/ Imtiaz Ahmad, ICM, Lucknow.

4. Thrust of the submissions made by the counsel appearing for applicants is that the orders impugned herein has evil consequences and yet passed without affording an opportunity of showing cause to the applicants. On the last date, after hearing counsel for the parties, the Tribunal thought it expedient to bring on record the appointment orders and other terms and conditions contained in agreement, if any, pursuant to which the applicants were appointed as Commission Vendors. Learned counsel for the respondents has filed the supplementary counter reply along with M.A. No.522/04 in O.A. No.235/99 annexing thereto copy of the letter dated 9/10.1.79 whereby specimen copy of the required standard agreement for commission vendors attached to the Catering Department of Railways was sent to the Divisional Superintendents, Northern Railway, New Delhi, Ferozpur, Lucknow, Allahabad & Moradabad for necessary action. A perusal of the letter dated 26.10.98 attached to the said letter issued on the subject 'Execution of agreement with commission vendors in departmental catering establishment' goes to show that the letter aforesaid was issued with the note that it had come to the notice of the Hqrs. that the agreements were not being executed by the Division - a serious lapse on division's part and, therefore, they were required to ensure that the agreements were executed with vendors without fail.

5. Learned counsel has placed reliance on paragraph 15

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of Standard Agreement form attached to the said letter in support of his contention that it was open to the respondents to dispense with the services of the applicants even without affording them an opportunity of showing cause. Paragraph 15 of the Standard Agreement form of commission vendors is quoted below for ready reference :-

"In the case of unsatisfactory performance or in the event of a complaint from the travelling public, the Administration shall be competent to terminate this agreement without any notice after informing him of the statement of allegations against him and after considering the representation, if any, made by him in that regard. No appeal against the termination of the contract under this clause shall be entertained by the Administration."

5. It is true that in case of unsatisfactory performance or in the event of a complaint from the travelling public, the administration had the competence to terminate the agreement without any notice but that could be done after informing him of the statement of allegations against him and after considering the representation, if any. In paragraph 10 of the Supplementary counter affidavit it has been averred that the applicants were orally warned in the matter and the order of black listing was passed, when the applicants could not submit any satisfactory reply. This, in our opinion, does not fulfil the requirement of principles of natural justice particularly when the dispensation of services of the applicants was done on the ground that they had been black listed by the C.B.I. Oral warning, if any, by the CBI before black listing does not fulfil the condition stipulated in standard form of agreement according to which the applicants were entitled to have a notice of the allegations against them and an opportunity to make representation. The order impugned herein has civil and evil consequences and yet the applicants have not been afforded opportunity of hearing. It may be pertinent to observe that there is no proof that the

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agreements were ever executed between the applicants and the Railway administration. Rather the covering letter dated 26.10.88 and one dated 9.1.89 referred to in letter dated 26.10.88 indicate that the agreements were not executed in the Division. Applicants have also denied that any such agreement was executed with them. Their services have been dispensed with without affording an opportunity of showing cause.

6. Accordingly the O.As. succeeds and allowed and the impugned orders are quashed. Applicants are entitled to all consequential benefits. This order may not preclude the respondents to proceed according to law.

No order as to costs.