

R.A.No. 49 OF 1993.

O.A. No. 574 OF 1993.

T.A. No.

Shri C.H. Pandya & Ors. Petitioner s

Mr. M.S. Trivedi, Advocate for the Petitioner(s)

Union of India & Ors. Respondent s

Advocate for the Respondent(s)

The Hon'ble Mr. R.C.Bhatt, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✕
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✕
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✕

Shri C.H. Pandya & Ors.
Ex-Manager, Rly. Staff Canteen,
DRM Office,
Bhavnagar Para,
Bhavnagar.

..... Applicants.

(Advocate: M.S. Trivedi)

Versus.

1. Union of India, through
The General Manager,
Western Railway,
Churchgate, Bombay.
2. Divisional Railway Manager,
Western Railway,
D.R.M. Office,
Bhavnagar Para,
Bhavnagar.
3. Senior Divisional Personnel Officer,
Controlling Office & Ex. Office
Chairman of the D.R.M. Office Staff,
Canteen, Western Railway,
Bhavnagar Para,

..... Respondents.

ORDER

R.A. No. 49 OF 1993

in

O.A.No. 574 OF 1993

Date: 30-11-1993

Per: Hon'ble Mr. R.C. Bhatt, Judicial Member.

Heard Mr. M.S. Trivedi, learned advocate for the
applicants.

1. The applicants have filed this Review Application
seeking the relief that the order of dismissal made by
this Tribunal in O.A. 574/93 on 15th October, 1993 be
reviewed.

2. The present applicants had filed O.A. 574/93
alleging that initially they were engaged in the year

..... 3/-

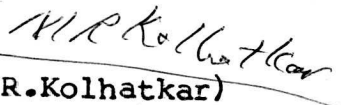
1980 and thereafter the screening committee of Casual Labours/Substitutes and staff of Co-operative Canteen was held on August 1985 which drew a panel of the ~~and~~ employees who were found suitable and the panel was prepared according to the seniority. The applicants were the employees of the Railway Staff Canteen, D.R.M. Office, Bhavnagar Para. The prayer of the applicants was that the notice dated 9th October, 1987 issued by the respondents authority should be held illegal and void and the action on the part of the respondents not treating the applicants as Railway Servants as per Railway Board's letter dated 18th May, 1990 be quashed and to direct the respondents to treat the applicants as Railway Servants and to give them all benefits. Therefore, the main question which arose at the time of admission ^m on ~~that~~ O.A was whether the Tribunal had jurisdiction under section 14 ^m of the Administrative Tribunals Act, 1985 to entertain such application of Ex. employees of a non-^m ~~recognised~~ ^{statutory} private staff canteen. After examining all the documents produced by them, we found no evidence on behalf of the applicants that they were appointed by on or behalf of the Union Govt. or Railway. We relied on the decision in Union of India & Ors. V/s. Telegram Parashramji Mombhate & Ors., JT 1991(2) S.C. 572 and held that in the present case no

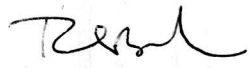
relationship of master and servants was established and hence the application was dismissed summarily.

3. The applicants in this review application have alleged that the said railway canteen ^{was} ~~is~~ not started ^{by} ~~with~~ Railway Administration and they have not followed Railway Board's letter shown at Annexure A-3. It is also contended that the decision referred to by us while dismissing O.A does not apply in this case. It is the case of the applicants that their service were illegally and abruptly terminated vide notice dated 8th October, 1987. Mr. Trivedi submitted that the Railway Administration now has decided to re-start the said canteen and the present applicants who had worked earlier more than 1000 days have a prima facie and better right to have opportunity to work in the said canteen.

4. We have examined the documents which are now produced by the applicants and even going through these documents produced in review application, we find no evidence that the applicants are the employees of the Railway. The model rules to govern the service conditions of canteen employees of non-statutory canteen on railways produced with Annexure A-4 in review application also show that the appointment for the employees in this canteen is to be made by the Managing Committee of the non-statutory canteen and the Chairman

has to make the appointment. We find no error ^{in our judgement} apparent on the face of the record. More over, even from the documents which are now produced with review application, we find no evidence to hold that the applicants were employees of Railway. We therefore, dismiss the review application. The review application is dismissed.


(M.R. Kolhatkar)
Member (A)


(R.C. Bhatt)
Member (J)

vtc.

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

AHMEDABAD

Application No. RA/49/93 in OA/574/93 of 199

Transfer Application No. _____ Old Writ Pet. NO. _____

C E R T I F I C A T E

Certified that no further action is required to be taken
and the case is fit for consignment to the Record Room (Decided).

Dated : 13/12/93

Counter-signed :

AHAR
287283
Section Officer/Court Officer

med
Sign. of the Dealing Assistant.

CAUSE TITLE.....RA/49/93 in on/574/93.....OF 198 ☐ ..

NAMES OF THE PARTIES.....Shri. C. H. Pandya & Co.

4.07.8m

[illegible]

- ✓ 1. Judgment / Order by Hon'ble Mr. R.C. Bhatt, Member (J) on 15.10.93
 (i) Hon'ble Mr. R.C. Bhatt, Member (J) and
 (ii) Hon'ble Mr. M.R. Kolhatkar, Member (A)

✓ 2. Both the aforesaid Members are functioning in this Tribunal.

2. Hence to be placed before the said Members i.e., Hon'ble Mr. R.C. Bhatt, Member (J) & Hon'ble Mr. M.R. Kolhatkar, Member (A)

✗ 3. Hon'ble Mr. _____ still belongs to Local Bench but Hon'ble Mr. _____ is now a Member/V.C. of _____ Bench.

3. Hence may be sent for consideration by circulation to the said Members i.e., Hon'ble Mr. _____ & Hon'ble Mr. _____.

✗ 4. Both the aforesaid Hon'ble Members have ceased to be Members of the Tribunal.

4. Hence to be placed before Hon'ble V.C. for constituting a Bench of any 2 Members of this Bench.

✗ 5. Hon'ble Mr. _____ has ceased to be Member of Tribunal but Hon'ble Mr. _____ is available in this Bench.

5. Hence may be placed before Hon'ble V.C. for constituting a Bench of Hon'ble Mr. _____ who is

✗ 6. Both the aforesaid Members are now Members of other Benches namely _____ and _____ Benches.

6. May be placed before Hon'ble V.C. for sending the R.A. to both the Members for consideration by circulation. If one of the Members is of the view that the petition merits a hearing, reference may be made by Hon'ble V.C. to the Hon'ble Chairman seeking orders of the Hon'ble Chairman.

✗ 7. The case is not covered by any of the above contingencies.

7. Therefore, orders of the Hon'ble Vice Chairman are required to be obtained by Hon'ble Chairman.

10.11.93

DR/S) 10.11.93
 Pralok 10.11.93

Diarised under

RA St. No. 66 of 93

RA 49193

Submitted.

Application has been scrutinized and found
to be in order. May be placed before
Hon'ble Members (S) for circulation.

ceeslap
10/11/93

Chafin
10-11-93 SO(S)

Radh
10-11-93 DR(S)

Hon'ble shri A.C. Bhatt
(mem(JI))

May be put for preliminary hearing on 25-11-93.
Applicant's advocate be informed at earliest
of preliminary hearing of RA 49193

Reel
M.J.
11/11/93

Filed by Mr. M.S. Trivedi
Learned Advocate for Petitioners
with serial no. 3 spares
copies of not served to
other side

RAs 66/93

10-11-93 Dy. Registrar C.A.T.(I)
Ahmedabad Bench

BEFORE THE HON'BLE CENTRAL ADMINISTRATION TRIBUNAL
AHMEDABAD BENCH AHMEDABAD?

Review Application No. 49 of 1993.

IN

O.A. No. 574 of 1993.

Shri C.H. Pandya & others.

....Applicants.

V/s.

Union of India & others.

....Respondents.

I N D E X

Sr.No.	Annex.	Particulars.	Page.
1.	-	Memo of Application	1 to 6
2.	A-1	Copy of the Order dtd. 15.10.1993.	7 to 12
3.	A-2	Copy of reply dtd. 10.7.87.	13 to 21
4.	A-3	Copy of letter dtd. 18.5.1983.	22-23
5.	A-4	Copy of memorandum dtd. 5-12-1989.	24-37

M.S. Trivedi
Jc

SERIAL NO. 9201...1993
NOTARY

BEFORE THE HON'BLE CENTRAL ADMINISTRATION TRIBUNAL
AHMEDABA D. BENCH AHMEDABAD.

Review Application No. 49 of 1993.

I N

Original Application No. 5741 of 1993.

Shri C.H.Pandya and Others
Ex-Manager, Rly.Staff Canteen,
DRM Office, Bhavnagar Para,
Bhavnagar.

....Applicants.

V/s.

1. Union of India, through
The General Manager, W.Rly.,
Churchgate, Bombay.
2. Divisional Railway Manager,
W.Rly., D.R.M.Office,
Bhavnagar Para,
Bhavnagar.
3. Senior Divisional Personnel Officer,
Controlling Office & Ex. Office
Chairman of the D.R.M. Office Staff,
Canteen. W.Rly. BVP.,
Bhavnagar.

...Respondents.

Review Application as per rule
17 of C.A.T. Procedure rules.

The applicants abovenamed humbly states that the applicants had filed one application Under Section 19 of A.T. Act, before this Hon'ble Tribunal challenging the illegal termination of the applicants by the respondents.

2. It is further stated that the said application is registered as O.A. 574 of 1993 and the Hon'ble Tribunal was pleased to pass appropriate orders at the time of hearing of admission stage in the said matter i.e. on 15.10.1993. The applicant further states that a copy of order dtd. 15.10.1993 shown as Annexure - A1 to this

application and as per para 4 of the said judgment the Hon'ble Tribunal has held that the applicants were the employees of the Railway Canteen managed locally and run by the Railway Staff and there is no relationship of master and servants between Union Government - Railways and these employees and therefore, application cannot be entertained by this Tribunal having no jurisdiction to deal with service matter of such employees.

3. The applicants therefore states that in view of the above findings the application of the applicants was dismissed summarily at the admission stage. It is further states that the findings of the Hon'ble Tribunal deserves further considerations and deserves to be reviewed in the light of submitting/grounds mentioned here as under.:-

T. M. PATEL
NOTARY
Bhavnagar
District.

: G R O U N D :

(A) The applicants humbly states that the said staff canteen of D.R.M. office BVP is not statutory canteen and DPO is ex-officio Chairman of the said canteen is already admitted by the Railway Administration vide para 9 of the reply filed by the Administration in O.A. 167/87. It is further stated that the Railway Administration had also admitted the facts as regards the instructions of Railway Board and it is further admitted that the applicants were called for screening alongwith other class IV employees and looking to the seniority and days the applicants had worked the applicants were empanelled in the panel dtd. 11.9.1985. The applicants further states that the railway administration had also admitted in para 7 of the reply filed as 22.6.1988 in M.A.No. 495 of 1987 in O.A. 167 of 1987 that the notice dtd. 9.10.87 was cancelled vide subsequent notice dtd. 14.10.87 and the canteen has been restarted but as the applicants have not ..3/-

reported back for duty, the same is not functioning at present. It is significant to note that neither the applicants were never informed about the restarting of the said canteen nor any notice was placed as the notice board, . It is pertinent to note that even till this date the said canteen is not started by the Railway Administration. Copies of reply dtd. 10.7.1987 and 22.6.1988 are annexed herewith and marked as Annexure : A2 to this application.

2. The applicants further states that in view of the directions given by the Hon'ble Supreme Court the instructions were issued by Railway Board vide letter dtd. 18.5.82, shown as Annexure - A3 to this application regarding revised scales of pay applicable to the employees of non statutory canteens on the Railways. Thus the employees of the said non statutory canteen were considered, eligible for equal pay for equal work with ^{the} regular Railway employees. It is further stated that in pursuante of the Hon'ble Supreme Court directions in C.M.P. No. 101/91 10191/83-M.M.R Khan and Others. Vs. Union of India and Other necessary instructions were issued by the Railway Administration vide letter dtd. 6.6.1990. The applicant further states that in view of the said instructions the applicant had requested the respondent authority to consider the case of the applicant in the light of the directions given by the Hon'ble Supreme Court.

3. The applicants further states that the Hon'ble bench (C.A.T.) had relied upon the decision of the Hon'ble Supreme Court in case of Union of India and others Vs. Shri Tejaram Parshramji Mombhate and others reported



in JT.1991 (2) SC 572 and held that the subject matter of the application does not ~~xxx~~ falls within the jurisdiction of the Hon'ble Tribunal. The applicants most respectfully submits that the decision of the Hon'ble Supreme Court referred hereinabove will not be applicable with the facts of the present case. It is further stated that the present applicants were screened ~~along~~with the other class -IV employees of the Railway Administration and after screening the applicants were placed on penal for regular absorption with other class IV employees. More over it is further stated that the Railway Administration had also issued instructions from time to time regarding leave rules and service conditions of the employees in non statutory canteens. The copy of the memorandum dtd. 5.12.1979 is annexed herewith and marked annexure : A4 to this application. It is pertinent to note that the Railway Administration have also sanctioned some grant to the said non-statutory canteens. Thus, it appears from the above referred instructions that though the employees of the said non-statutory canteen were not ~~labeled~~ labelled as Railway employees ~~xxx~~ but they were treated as class -IV employees of the Railway Administration and therefore, they were screened and put on penal for regular absorption by the Railway Administration.

T. M. PATEL
NOTARY
Bhavnagar
District.

4. The applicant further states that as mentioned hereinabove the services of the applicant were illegally and abruptly terminated vide notice dtd. 8.10.1987, subsequently the said notice was withdrawn by the ~~Adminis~~ Administration and till this date the said canteen is closed. It is pertinent to note that know the Railway Administration have decided to restart the said canteen the present applicants who had worked earlier more than

1000 days and in view of the facts that they were screened and empanelled the applicants have prima facie and better right to have an opportunity to work in the said canteen. It is further stated that the applicants are most unfortunate persons whose application was dismissed earlier on the ground of defaults where as the subsequent was decided in absence of some important and vital facts related with the said application.

5. In view of the facts and circumstances of the case the present applicants submits that in view of the new facts come to the notice of the applicants after the decision of O.A. 574/93 ~~is~~ i.e. after 15.10.1993 the decision given by the Hon'ble Tribunal deserves further consideration and review of the order. The applicants therefore, pray as under:-

- (A) That the Hon'ble Tribunal be pleased to Allow this Application;
- (B) That the Hon'ble Tribunal further be
7 pleased to review order dtd.15.10.1993 passed by Hon'ble Tribunal in O.A.574/93, and further be pleased to grant reliefs prayed for in O.A.574/93;
- (C) Any other and further relief that the Hon'ble Tribunal may ~~be~~ deem fit and proper may be given to the applicants;

Date. 3/11/1993.
Ahmedabad.

(M.S. Trivedi)

Advocate for the Applicants.

(S) ~~20/11/93~~

KT I OF
Shri Bhikhan Nani

(1) 20/11/93 20/11/93 4/12/93
(2) 01/2 01/2
(3) 01/2 01/2 01/2
(4) 01/2 01/2 01/2
(5) 01/2 01/2 01/2



21/5/21 21/21 1522
Applicants.
Signature.

A F F I D A V I T

We, CHANDRAKANT H. PANDYA, Natuvithal
kiskar BARDI, BALKRISHNAPANDYA, kubar DURANSINCH, adults,
Occupation-NIL, residents of Bhavnagar, do hereby solemnly
affirm and states that what stated hereinabove are true
to the best of my knowledge and belief and ~~X~~ ~~xx~~ we have
not suppressed any material facts.

L T I O F

Shri BHIKHA DANI

Identified.
Save.

S. K. DANI

B.A.B.B. Advocate

Gujarat High Court,

1st Floor, Talai Chakras,

Chambhal Street, BHAVNAGAR

21/5/21 21/21 1522

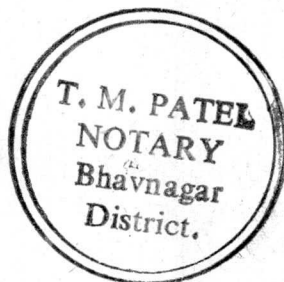
12/05/21

21/5/21 21/21 1522

21/5/21 21/21 1522

21/5/21 21/21 1522

Applicants
Signature.



Solemnly Affirmed by Mr./Mrs.
Chandrakant H. Pandya & four
others who have signed in the
presence of S. K. Dani, Advocate
who is Personally known to me.

Trambaklal M. Patel
(NOTARY)
Bhavnagar District,
Gogha Gate, BHAVNAGAR

Anne. Ag
—
P/7

DATE OF DECISION 15-10-1993.

Mr. M.S. Trivedi, _____ Advocate for the Petitioner(s)

Union of India & 'Ors. _____ Respondents

Advocate for the Respondent(s)

The Honble Mr. C. Bhatt, Judicial Member.

The Hon'ble Mr. M. R. Kothatkar, Admn. Member.

1. Chandrakant H. Pandya,
 2. Nathubhai
 3. Bhikhabhai
 4. Kishorbhai'
 5. Kubersinh
 6. Balkrishna
- Ex. Staff Member of
Railway Staff Canteen,
Western Railway,
Bhavnagar Para.

..... Applicants.

(Advocate : Mr. M.S. Trivedi)

Versus.

1. Union of India
Through the General Manager,
Western Railway,
Churchgate, Bombay.
2. Divisional Railway Manager,
Western Railway,
Bhavnagar Para.
3. Sr.Divl. Personnel Officer &
Controlling Officer of the
D.R.M. Office Staff Canteen,
Western Railway,
Bhavnagar Para.

..... Respondents.

J U D G M E N T

O.A.No. 574 OF 1993

Date: 15-10-1993.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

The main question which arises at the time of
consideration in this application filed by the six applicants
under Section 19 of the Administrative Tribunals Act, 1985,
is whether this Tribunal has jurisdiction under section
19 of the Administrative Tribunals Act, 1985 to entertain
this application of Ex.employee of Railway Staff Canteen,
D.R.M. Office, Bhavnagar Para. It is alleged in the
application that initially they were engaged in the year



..... 3/-

1980 and thereafter the screening committee of Casual Labours/Substitutes and Staff of Co-operative Canteens was held on August 1985 which drew a panel of the employees who were found suitable and the panel was prepared according to the seniority. It is alleged by the applicants that they were also empanelled in the said memo dated 11th September, 1985 vide Annexure A-1, that the applicants had completed more than 1200 days worked upto 1st September, 1984 and they were working in the said Canteen thereafter, but by a notice dated 9th October, 1987, the services of the applicants were terminated vide Annexure A-2. It is the case of the applicants that the action of the respondents Railway and the Senior Divisional Personnel Officer and Controlling Officer of the D.R.M. Office Staff Canteen, Western Railway was illegal and arbitrary. It is alleged in the application that formally the applicants had filed O.A. 167/87 before this Tribunal along with one O.A. 195/87, but the said application was dismissed for default vide Annexure A-3. It is alleged that recently the D.R.M Office Bhavnagar Para had give notice-cum-advertisement on 26th August, 1992 vide Annexure A-4 by which applications were invited for Staff Canteen of D.R.M Office, Bhavnagar Para. The applicants have also

referred in the application the instruction circulated by General Manager, Western Railway, Bombay vide letter dated 6th June, 1990 vide Annexure A-5 about "the implementation of the instructions of the Supreme Court's judgment regarding canteen employees non statutory recognised." The applicants have prayed that the Tribunal be pleased to declare the notice dated 9th October, 1987 issued by the respondent authority as illegal, null and void and that the action on the part of the respondents not treating the applicants ~~as~~ railway servants as per Railway Board's letter dated 18th May, 1990 be quashed and to direct the respondents to treat the applicants as Railway Servants from 1st April, 1990 and to give them all benefits.

2. We have perused the entire application and the documents produced with it. The applicants were the employees of Staff Canteen D.R.M office, Bhavnagar Para.



managing committee of this canteen unanimously decided that as it was not possible to run the canteen and as there was heavy debt in the canteen, it should be closed down from 9th October, 1987 after office hours.

This notice annexure A/2 very clearly shows that these applicants were the employees of a non-recognised private staff canteen. The instructions given by the Ministry

of Railways vide Annexure A-5 about the implementation of Supreme Court's judgment regarding Canteen employees- non statutory (recognised) are about the payments. of the Act However, the question is whether Section 14 empowers this Tribunal to exercise the jurisdiction and authority to deal with the question of these applicants who were ex employees of the Railway Staff Canteen which was closed from 9th October, 1987 as per the notice Ann.A/2 by the Managing Committee, by virtue of which these applicants were terminated.

3. Having gone through all the material on record we do not find any evidence that the applicants were or appointed by/on behalf of the Union Government or Railways. Therefore, any question regarding the service matter of such persons which is unapproved and run by the employees

of the Railways by local arrangement would not create any relationship of master and servant between the - Railways Union, Government and the applicants. Similar question about the appointment of Teachers in the Secondary

School by local arrangement made by officers of Ordinance Factory came up for consideration before the Hon'ble Supreme Court in the case of Union of India & Ors. V/s. Shri Tejram Parashramji Mombhate & Ors., JT 1991(2) S.C. 572 and it was held that the Tribunal had no jurisdiction, power authority to deal with the service matters of such employees as there was no

12

- 6 -

relationship of master and servants between the Central Government and such employees.

4. In this case also the applicants were the employees of the Railway Canteen managed locally and run by the Railway Staff and there is no relationship of master and servants between Union Government-



ways and these employees and therefore, this application can not be entertained by this Tribunal having no jurisdiction to deal with service matter of such employees. Hence the application is dismissed summarily at the admission stage.

Sd/-
(M.R.Kolhatkar)
Member (A)

repared by *[Signature]*
Compared by *[Signature]*
TRUE COPY

Sd/-
(R.C.Bhatt)
Member (J)

[Signature]
Section Officer (J)
Central Administrative Tribunal
Ahmedabad Bench

vtc.

True
[Signature]
[Signature]
10/11/93

Reply from
P.L.Y. - A.M.

17

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BRANCH AT AHMEDABAD.

(District, Bhavnagar).

Original Application No. 187/ of 1987.

APPLICANTS.

1. Guresh Anantlal Kumbhar.
2. Madhugadan. M. Jari.
3. Anantlal Vithalbhai
Shiraji.
4. Shikha Manji.
5. Ashore Udayasing Barot.
6. Balakrishna S. Pandya.
7. Chandrabant S. Pandya.
8. Subodha Juvansing Barot. Applicants.

AND

1. Union of India.
Working Western Railway,
through its General Manager,
Mumbai. & others. Respondents.

REPLY TO THE APPLICATION.

The respondents above named file the following
reply to the application of the applicant.

1. The application is not filed according to the
law and the same is also otherwise defective and
hence not maintainable.
2. The Railway Administration does not admit the
truth or correctness of any statement, submissions,
suggestions or contents of the applications except
those truth or correctness of which is expressly
admitted in this reply.

3. Without prejudice to the above submission the respondents submit the reply to the contents of the application as under :-

4. That regarding para one of the application it is submitted that these are formal submission and the respondents have to offer ^{no} remarks.

5. That regarding para two of the application the contention there of is admitted in respect of applicant No. 1 to 7 only. The designation of the remaining applicant are as under :-

1. Shri Madhusudan M. Jnani, Appli. No.2. :-

He is Ex.Manager of co-operative consumer store Shivnagar Bazar,. He worked as Manager for the period of 1/8/75 to 31/1/82. He is never re-engaged thereafter.

2. Shri Natubhai Vithalhar Shirsalia :- Appli.No.3. :-

He is Tea Boy and not kitchenman as stated in the application.

3. Shri Shikha Nani applicant No.4 :-

He is a cook and not kitchenman.

4. Shri Kishore Dadasing Barot applicant No.4 :-

He is a vendor and not waiter.

5. Shri Balkrishna M. Pandya, Applicant No.5 :-

He is also a vendor and not sweeper.

6. Shri Kuberdas Juvansing Barot Applicant No.6 :-

He is a vendor and not counterman as stated in application. application.

6. As regard para 3 of the application it is submitted that no details of impugned order, date etc. are ~~not~~ given in this para. The application is therefore defective to this extent.

7. That on regard para 4 of the application it is submitted that the order for cancellation of the un-operated part of the letter dt. 11/9/85 have been issued because of the objection received by one of the recognised Trade Union in the permanent Negotiation meeting who stated that some of the old workers of co-operative consumer store should have been called in the screening, along with the applicants and other regular workers. Though this request of the recognised Union was not acceded to, but to avoid any further complications, it was decided to cancel the un-operated portion of the panel dt. 11/9/1985, by the competent authority. The copy of said letter No. S/HR/891/4/ screening dt. 9/10-4-87, cancelling the un-operated portion of the panel dt. 11/9/85 is annexed as enclosure : II.

Annex. I.

8. That with reference to para 4 (ii) of the application it is stated that the applicant No. 2, is not at present serving in consumer co-operative stores. He has left the job from 26/2/84. It is further clarified that the worker of the divisional (staff canteen) Bhopalgarh Para, are working in the (non-statutory canteen) and not in statutory canteen. The provision of Indian Railway Establishment Manual are clear in respect of statutory and non-statutory canteen para 2330 of Indian Railway Establishment Manual is annexed herewith as Annexure. II. ~~which~~ ^{which} relates to non-statutory canteens. The statutory ^{canteens} are functioning in workshop only as per provisions of factory Act. The other canteens are provided only as measure of staff welfare under para 2330 of Indian Railway Establishment Manual. As regard consumer co-operative society it is clarified

of that employees
in 8. Men 5. Canteen
They are employees
who are not
being screened -

Annex. II.

The Manager
Canteen & the
employees & P
Division 2 TPO
is in ex-
office
Chairman

clarified that there is no provision for statutory or non-statutory co-operative consumer society but it is a Government Policy to encourage the co-operative movement on Indian Railway and as such, such stores are organised on the Division. As regards their duty hours, the canteen functions according to the times of Division office i.e. 9.30 AM to 6.00 PM for 5 days in a week. Actual working remains during the recess hours of Divisional Office i.e. 13.30 to 14.00 hours. Thereafter they have to cater to the isolated consumers.

9. As regards para 4(iii) the respondents submit that the contents of this para, as it regards to instructions of the Railway Board etc. are admitted. The Administration has acted up on the said letter and that is why the applicants ~~thereafter~~ were called for the screening as per the provision of the said letter. It is however, again repeated that the applicants are not working in the statutory canteen but in non-statutory canteen.

10. As regards para 4 (iv) the respondents admit the facts mentioned therein. However, as regards the submission that all the applicant have completed 7 years service, it is submitted that applicant No.1 has worked for the period 11/8/78 to 10/3/85 and again from 18/4/85 to ~~11/11/85~~ till date. The applicant No.2. has worked for the period from 1/12/78 to 26/2/84 and has then left the service. He is not working in the co-operative stores at WVP at present.

11. As regard para 4 (v) the respondents submit that the un-operated part of the panel, which includes the names of the applicants had been cancelled by the competent authority for the reason brought out in reply to

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In reply to para 4 (i) above. As such there is no question to give regular appointment to the applicants to class IV posts.

12. As regards para 4. (vi) of the application the respondents submit that the reasons for the cancellation of un-operated panel dt. 11/9/85 has been explained in the detail in reply to para 4 (i) above. The details of this para regarding rival unions etc. are not relevant. The item was taken by one of the recognised union of Railway employees and it was decided by the competent authority to cancel the panel partially.

13. As regards para 4(vii) of the application respondents submit that the reasons for cancellation of the select list partly are already given above. The other contents of this para are apprehensive and needs no comments at this stage.

14. As regards the grounds for the application, given in the application the remarks of the respondents are as under :-

As regard ground (a) it is submitted that the impugned order, cancelling the panel partially is in conformity with the rules and there is nothing illegal, arbitrary discriminatory or violative of the article 14 or 16 of the constitution of India.

As regards ground (b) it is submitted by the respondents that there is no bar in cancellation of selected panel. The provision shown by the applicants are for absorption of persons on panel, but when the panel is cancelled, partially, there is no question of their absorption.

~~As regards ground (c) it is stated that contents~~

1- 5 :-

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As regards ground (c) it is stated that contents of this ^{are} ~~are~~ denied herewith. The applicants are not working in statutory content. It is denied that the impugned order is belated or otherwise defective.

As regards ground (d) the contents regarding their rights for absorption etc. are not denied. They have been called for the screening according to the rules only. However, the reasons for cancellation of unoperated part of panel are explained in foregoing para and the respondents have nothing to add.

Regarding ground (e) it is stated by the respondents that the cancellation of panel is an Administrative action. There is no question of giving show cause notice or giving hearing to the applicants in this regard.

15. Regarding para (4 (viii)) of the application and sub paras, B, C, ^{2E} D, of the same it is submitted by the respondents that the action of the respondents is in order and in conformity of the rules and regulation and therefore, the applicants are not entitled for all or any relief as prayed for in sub paras 9, 6, C, D, E, of para (viii). The application deserves to be dismissed with cost.

The respondents have leave to add, to amend, all to alter any of the above submission as and when required.

For & on behalf of the
Union of the India.

Date:- 10/7/57.


Div. 2, and Railway Manager;
Western Railway Bhubaneswar Zone.

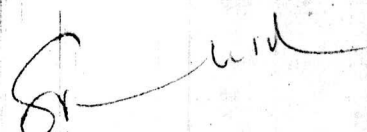
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A/4 (2)

VERIFICATION

I J. Venkatarasa, Divisional Railway Manager,
Western Railway Bhavnagar Division, Bhavnagar Para,
do hereby verify that the contents para 4 to 15
above are true to my knowledge and information as
gathered from the records and I believe the same
to be true.

Bhavnagar Para.

Date - 10 /7/37.


(J. Venkatarasa).
Divisional Railway Manager,
Western Railway,
Bhavnagar Para.

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ANNEXURE I.

WESTERN RAILWAY

No. EpCaw/891/4/screening

S.O.O. No. EM/56/87

Divisional Office
Bhavnagar para
Dt. 9/10-4-1987.

Sub: - Empanelment of Casual Labours/subsets.
Screening-N.G. Staff-Class IV Mechanical
(C&W) Department.

Ref: - This office Memorandum dt. 11/12-9-85.

....

DM has accorded sanction for cancellation of unoperated portion of the panel notified a vide this office No. quoted above it is as under:-

Co-operative stores-BVP & JLR & staff canteen-BVP-SVC

Sr. No.	Name	Co-Op. Store	Date of Birth	Date of Appt.	Total No. of Days.
<u>BVP Unit</u>					
1.	Suresh Amratlal	BVP	20-5-58	11-3-78	2086
2.	H.M. Jani	"	17-11-57	1-2-79	1850
<u>JLR Unit</u>					
1.	Mahendra Harilal	JLR	3-3-61	1-12-79	1744
2.	Asbok Sachubhai	"	1-6-55	1-3-80	1655
3.	Satis Mansukhlal	"	2-7-61	1-6-80	1563
<u>BJ-BTD Unit</u>					
<u>Staff canteen</u>					
1.	Nathubhai Vitthal	BVP	12-1-57	1-12-80	1379
2.	Shikha Nanji	"	6-8-57	1-12-80	1379
3.	Kishor Udaising	"	22-6-58	1-12-80	1379
4.	Sekrishna N. Pandya	"	27-2-59	1-12-80	1379
5.	Chandrakant N. Pandya	"	27-5-59	1-12-80	1379
6.	Kuberdas Juvansingh	"	3-3-62	1-12-80	1379

Sd/-

for DM (E) BVP

c/- all concerned.

7c
for
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Extract of Chapter XXVIII of Indian Railway Establishment
Manual - Para 2830

2830. Provision of Canteens other than as a statutory obligation; - In addition to a provision of Canteens as required by the statute, the Railway Administrations should take steps to develop their canteen organisation to the maximum possible extent as a measure of staff welfare, preferably by encouraging the development of the canteens for staff on co-operative basis.

T.C

Mr

Dr

10/11

Copy of Board's letter No.E(W)83CN1-8 dated 18-5-1983 addressed to The General Managers, All Indian Railways and copy to others.

Sub: Revised scales of pay applicable to employees of non-statutory canteens on the Railways.

As the Railways are aware, pursuant to a judgment of the Supreme Court dated 22-10-80, employees of all the statutory and 11 Delhi based non-statutory canteens have been treated as railway servants w.e.f. 22-10-1980 and the revised scales of pay applicable to such staff have been communicated vide Board's letter No.E(W)81-CN1-21 dated 11-3-82. The employees of other non-statutory canteens have filed writ petitions in the Supreme Court for treating them also as railway servants. These petitions are being contested.

2. In the course of hearing of CMP Nos. 10191-83/83 (In W.P. Nos. 2275-86/82 & W.P. No. 9084/81-M.M.R.Khan & Subir Kumar Begchi and others), Supreme Court vide their order dated 22-4-1983 have directed as follows:

"We direct that pending hearing and final disposal of Writ Petitions all employees of non-statutory canteens will be paid at the same rate and at the same basis on which employees of statutory canteens are being paid. This direction will take effect from 1-6-82, that being the date from which according to the petitioners they have not been paid salary though that averment is disputed on behalf of the respondents. This direction will be without prejudice to the rights and contention of the parties and particularly the claim of the petitioner to arrears of salaries on the revised basis from an earlier date as also the claim of the respondents that they are not liable to pay the employees of the non-statutory canteens on the revised basis. Arrears, on the basis of our directions will be paid to the employees of non-statutory canteens in four weeks from today and the future payments will be continued to be made on the revised basis from month to month. CMP will come up for hearing on 18th July, 1983 for reporting compliance with our directions."

3. Ministry of Railways after carefully considering the matter in detail have decided that in order to comply fully with the directions of the Court in spirit, the employing agencies viz. cooperative Societies & Managing Committees should be directed forthwith to take the following action:-

a) The pay of the employees in non-statutory canteens may be fixed in the revised scales w.e.f. 1-6-82 as indicated in col.3 of the Annexure to this letter.

b) Fixation of pay in the revised scales should be made in the manner indicated below:-

(1) At that stage in the revised scale which would correspond to the pay till now being drawn in the lower existing scale, provided there is such a stage.

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there is no such stage in the revised scale, then pay may be fixed in the revised scales at the next lower stage of the revised scale the excess over the stage pay and pay now being drawn being treated as personal pay.

(iii) If the pay now drawn is less than the minimum of the revised scale, then the fixation of the pay in the revised scale should be at the minimum of this scale.

c) Increment:- The increments in the revised scale should be drawn in the following manner:-

(i) In cases where the pay fixed in the revised scale is on any specified stage or on the next lower stage, the annual increments are to be drawn on the normal date as now due. Further the personal pay should stop as and when the scale pay overtakes the sum of initial fixation pay under (b)(ii) and increments drawn.

(ii) If the pay on re-fixation in revised scale is fixed on the minimum of the revised scale the increment may be granted after completion of a period of 12 months from re-fixation.

4. Necessary additional funds required for enhanced 'subsidy' payable as well as any further amounts which may be required to be provided as 'Advances' liable to adjustment at a later date depending upon the final decree of the Supreme Court on these petitions may be specifically reflected under the relevant Demand for Grants in the August Revision and in the Revised Estimate stage.

5. Necessary immediate action may be taken to ensure fixation of the pay of the employees of these Agencies in question in the revised scales and drawal of arrears from 1-6-82 positively within a period of one month from the date of receipt of this letter under advice to this Ministry so that compliance status can be reported to the Supreme Court on 18-7-83, the day of next hearing.

6. The above has the sanction of the President and issues with the concurrence of the Finance Directorate of the Ministry of Railways.

Hindi version will follow.

-x-

ANNEXURE

<u>Existing designation</u>	<u>Existing Pay scales</u>	<u>Revised Pay Scales</u>
1. Manager	300-500	330-480
2. Manager	240-418	260-400
3. Asstt. Manager	240-118	260-400
Cum-Storekeeper		260-430
4. Store Keeper	240-418	225-308
5. Clerk	220-335	225-308
6. Salesman	220-335	225-308
7. Cook	220-335	260-400
8. Halwai	240-380	225-308
9. Asstt. Halwai	220-335	196-232
10. Coffee/Tea maker	160-275	196-232
11. Sweeper	160-275	196-232
12. Washboy	160-275	

P/- 23.5.84.

S-D- *Bhilar*

No-22575

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ANNEXURE = A/4

WESTERN RAILWAY

Headquarter Office,
Churchgate, Bombay. 20

Dt. 5th Dec. 1979.

No.E(Wel)254/O Vol.III

DRM(E)-BCT/BRC/RTM/KTT/AII/JP/BVP DS(E)-RJT,
Dy.CME(C)-PL/Dy.CME(L)-DHD/ SM(W)-AII /Dy.CE(Eng)-SBI
Dy.COS-MX/AII/ DCOS-SBI/DAO-BCT/BRC/RTM/KTT/AII/JP/RJT/BVP,
WM-PRTN/KTT/JP/HVP/WAO-DHD/ SAO(W&S)-PL/SAO(W)-KTT/SAO(W)-AII/
AAO(W&S)-SBI/WAO-BVP/FA & CAO-CCG.

Sub:- Leave Rules for employees in non-statutory
canteens.

A copy of Board's letter No E(W)-79 CN 1-9 dated 26.10.79
on the above subject is sent herewith for information and necessary
action. Please ensure strict compliance of the instructions
contained therein.

Encl: As reproduced below:

Sd/-
for General Manager(E).

Copy of Railway Board's letter No E(W)79 CN1-9 dated 26.10.79
addressed to the General Managers, All Indian Railways and
CLW, DLW and ICF, MFP Calcutta, and copy to others.

Sub:- Leave rules for employees in non-statutory
canteens.

At present the rules regulating the service conditions
of employees of non-statutory canteens on railways are decided
by the Co-operative Societies/Canteen Management Committees who
run the canteens and therefore, considerably vary from canteen
to canteen. The matter has been examined by the Ministry of
Railways and they have decided that the Model Rules given in the
Annexure may be circulated to the Cooperative Societies/Canteen
Management Committees who run the non-statutory canteens in your
organisation for adoption uniformly, except to the extent that
wherever the present rules already negotiated and enforced by
them are more liberal than those given in the Model Rules, the
status-quo may be maintained as a personal concession if the
employees opting for the same.

Action may please be taken accordingly, Meanwhile the
receipt of this letter may be acknowledged.

DA/ As above.

Sd/-
(J.Thiagarajan)

Jt. Director, Establishment,
Railway Board.

SM12286.

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Model Rules to govern the Service conditions of canteen employees of Non-Statutory Canteens on Railways.

Section 1. Short title, Commencement and Application.

- (1) These Rules may be called "The Rules regulating the conditions of Service of non-statutory canteen employees of Co-operative Societies/Management Committees."
- (2) These Rules with such modifications as may be considered necessary by the local Managing Committee of the non-statutory Canteens/Tiffin Rooms be made applicable to all canteen employees of the non-statutory canteens/Tiffin Rooms functioning on the Railways.
- (3) These Rules shall come into force from the date as may be notified by the respective local Managing Committees.

Section -2.

Classification of Employees.

- (1) All employees of the canteens shall be classified as under:-
 - (a) Regular
 - (b) Temporary
 - (c) Casual
 - (d) Probationers.
- (2)(a) A regular employee is a person whose name has been entered in the Canteen's register as a regular employee and who has been given letters as such. Regular employees shall always be monthly rated.
- (b) A temporary employee is a workman who has been engaged for work which is of a essentially temporary nature likely to be finished within a limited period. Any temporary employee who has been in continuous employment of the Canteen for 12 months may be considered for absorption as a permanent hand subject to fitness and availability of a vacancy in the permanent cadre of the particular trade. Such an employee shall always be monthly rated.
- (c) A Casual workman is a workman whose employment is of a casual nature.
- (d) A Probationer is a person who is provisionally employed to fill a vacancy in the regular cadre and who has not completed the prescribed probationary period.

Section -3

Appointments

- (1) Appointments of the undermentioned categories of staff shall be made by the Chairman.
 - (a) Senior/General Manager/ Manager/Deputy General Manager.
 - (b) Deputy/Asstt. Manager/Asstt. Manager-cum-Store Keeper.
 - (c) Manager-cum-Salesman.
 - (d) Accountant
 - (e) Cashier.
 - (f) Store-Keeper.
 - (g) Internal Auditor.
 - (h) Halwai

- (2) Appointments of the Staff other than those mentioned above shall be made by the Hony. Secretary, subject to such directions as may be given by the Chairman.
- (3) Letters of appointment containing the terms and conditions shall be issued to each employed, as in the Annexures I & II.
- (4) Every employee before his appointment shall have to produce a medical certificate from a Registered Medical Practitioner certifying that he is free from any Communicable or contagious disease.
- (5) Every employee shall be required to produce before appointment a certificate of good character from any Gazetted Officer, Member of Parliament/Corporation/Municipal Committee, not related to him.

Section 4: Probation:

An employee provisionally employed to fill a vacancy in the permanent cadre shall be on probation for a period of 3 months extendable by another spell of three months during which period his services can be terminated by the appointing authority at any time without assigning any reasons. In case, a permanent employee is appointed as a probationer in a new post, he may at any time during the probationary period be reverted to his old permanent post.

Section 5. Termination of Service.

- (1) The service of a temporary employee who has been in continuous employment for not less than 3 months may be terminated by the appointing authority at any time by giving at least one months notice in working or payment of wages, in lieu thereof except in the following cases when their services may be terminated forthwith and without any compensation:-
 - (i) for breach of any implied terms of contract;
 - (ii) for absence from duty without leave; or
 - (iii) for misconduct and/or misappropriation/embezzlement canteen funds and stores.
- (2) The services of a regular canteen employee may be terminated in case his services are not required due to reasons other than disciplinary, such as reduction in establishment by giving three months notice or payment of wages in lieu thereof:-

Section 6 Resignation:

A temporary employee desirous of leaving the service of the canteen shall be required to give one month's notice to the Management. In the case of a regular employee, the notice period shall be three months. The notice will be effective from the day it is received by the appointing authority.

Section 7 Identity

- (1) Every canteen employee shall be issued with an identity Card, wherever necessary. The Identity Card shall be arranged by the Management from the Security Officer of the building in which the canteen is located.
- (2) In the event of the employee becoming non-effective e.g. when his name is removed from the roll of the canteen staff, the Identity Card shall be deposited in the security office and a clearance to this effect obtained.

Section 8

Attendance:

- (1) Attendance of all employees shall be marked daily according to the method prescribed (and duly announced from time to time. Employees who are required to sign in a register maintained for the purpose shall do so at the time of going away from duty.
- (2) If an employee does not present himself at his place of work within ten minutes of the time when his hours of duty begin, he shall be liable to be treated as absent for the hour for, which period no pay shall be admissible. If the employee is late by more than 30 minutes without a satisfactory explanation acceptable to his superior, he shall be liable to be treated as absent for the day. An employee, who after his attendance has been marked, is found absent from his proper place of work, during his working hours without permission or sufficient and acceptable reasons, shall be liable to be treated as absent for the period corresponding to the period of such absence and corresponding from his wages for the period of such absence may be made.

Section 9

Hours of work and close day.

- (1) Every employee shall be required to perform duty for a total period of eight and half hours daily. The period of work of each employee each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest and meals of at least half an hour, the time for such interval being fixed.
- (2) Every employee shall be allowed a weekly holiday.

Section 10: Leave:

- (1) Every employee shall be entitled to :-
 - (a) After every twelve months continuous employment to privilege leave for a total period of not less than fifteen days;
 - (b) In every year, sickness or casual leave for a total period of not less than twelve days;
- Provided that -
- (i) an employee who has completed a period of one month in continuous employment, shall be entitled to not less than five days privilege leave.
 - (ii) an employee who had completed a period of one month in continuous employment, shall be entitled to not less than one day's casual leave for every month.

Note:- (1) Privilege leave, to which an employee is entitled under clause 1(a), if not availed of by an employee shall be added to the privilege leave in respect of any succeeding period to which he is so entitled, so however that the total period of such privilege leave may be accumulated by such employee shall not at any one time exceed three times the period of privilege leave to which he is entitled after every twelve months employment.

(ii) Leave admissible under clause (b) accumulated.

- (2) Leave of absence whether leave/Casual leave will not be deemed to have been sanctioned unless the employee is in possession of a written authority for the purpose from the Manager/Hony. secretary.

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(3) In case an employee while on leave desires an extension thereof, he shall apply to the Manager/Hony. Secretary sufficiently ahead of the expiry of his leave so that the final decision taken on his leave application may reach his address before the expiry of the leave earlier sanctioned and being already availed of by him. The employee must report for duty in time when the leave already sanctioned expires. If the employee remains absent beyond the period of leave originally granted or subsequently extended, he shall lose his lien on his appointment unless he returns to duty within 8 days of the expiry of the leave so granted and explain to the satisfaction of the Hony. Secretary/Manager reason of his overstay.

(4) The habitual production of Medical/Certificates from registered medical practitioners and taking sick leave for an aggregate period of 100 days in the course of three calendar years shall render the employee liable to be declared unfit for service in the canteen and such persons shall consequently be liable to be discharged.

(5) If an employee remains absent without having taken leave in the proper and authorised manner, he shall be liable to be proceeded against for such absence unless he can satisfy the Manager/Hony. Secretary regarding the circumstances under which he could not take prior leave.

Section 10(A) Maternity Benefits:

(1) Every woman employee of the canteen shall be entitled to the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence immediately preceding and including the day of her delivery and for the six weeks immediately following that day.

Explanation: For the purpose of this Section, the average daily wage means the average of the women's wages payable to her for the days on which she has worked during the period of the three calendar months immediately preceding the date from which she absents herself on account of maternity or one Rupee a day, whichever is higher.

(2) No woman shall be entitled to maternity benefits unless she has actually worked in a canteen from whom she claims maternity benefit, for a period of not less than one hundred and sixty days in the twelve months, immediately proceeding the date of pregnancy.

(3) The maximum period for which any woman shall be entitled to maternity benefits shall be twelve weeks, that is to say, six weeks upto and including the day of her delivery and six weeks immediately following the day.

Provided that when a woman dies during this period the maternity benefits shall be payable only for the days upto and including the day of her death.

Provided, further that when a woman, having been delivered of a child, dies during her delivery during the period of six weeks immediately following the date of her delivery, leaving behind in either case the child, the employer shall be liable for the maternity benefit for the entire period of six weeks immediately following the day her delivery but if the child also dies during the said period, the days upto and including the day.

Section 11-Change of Address:

All employees must notify the Manager/Hony. Secretary immediately when any change of address takes place. A communication forwarded by the canteen to the recorded address shall be regarded as sufficient compliance of the purpose for which the communication is addressed.

Section 12. Fitness for work.

The canteen Management shall have a right to test any employee for his fitness to hold a post at any time with or without notice and to discharge or demote or otherwise deal with him, if on such test the Management is satisfied that the employee concerned is or has become unfit for the post filled by him due to loss of skill, physical strength or any other reason.

Section 13 Wages - entitlement to

The canteen employees shall be paid wages and other benefits in accordance with the order issued by the Ministry of Railways from time to time.

Section 14. Payment of wages:

- (1) Employees shall be paid their wages on a working day between the 1st and 7th of every calendar month. Any claim for wages submitted after three years from the date on which the wages become due to the employees shall be considered as time barred.
- (2) Wages shall be paid in cash.
- (3) Where the employment of any person is terminated by or on behalf of the Management, the wages earned by him shall be paid before the expiry of the second working day after the day on which his employment is terminated.

Section 15: Deductions which may be made from wages.

- (1) The wages of an employee shall be paid to him without deduction of any kind except those mentioned in sub-clause (2);
- (2) Deduction from the wages of an employee shall be made for one or more of the following reasons.
 - i) Fines;
 - ii) Absence from duty;
 - iii) damage to or loss of goods expressly entrusted to money for which the employee for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default.
 - iv) such amenities or services supplied by the management as the Ministry of Railway's may by general or special order authorise;
 - v) recovery of advances or for adjustment of over payments of wages.
 - vi) Income-tax payable by the employees.
 - vii) Subscription to and for the repayment of advances from Provident Fund.

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Section 16: Wages during leave.

Every employee shall be paid for the period of his leave at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime but inclusive of dearness relief.

Section 17: Rules of conduct.

(1) Every canteen employee shall work under the direction of the Manager/Hony. Secretary and will perform such duties as may be assigned to him.

(2) Every employee shall be required to carry out all order instructions, etc. issued by the Management from time to time.

(3) Employees shall have no objection in handling any kinds of food stuff, e.g. meat, fish, eggs etc. and preparations catered for by the canteen.

(4) Employees shall at all times -

(i) Maintain absolute integrity.

(ii) Maintain devotion to duty and be courteous to customers.

(5) Every canteen employee holding a supervisory post shall take all possible steps to ensure integrity and devotion to duty of all the employees for the time being under his authority and control.

(6) No canteen employees shall engage himself directly or indirectly in any trade or business, or undertake any other employment.

(7) No canteen employee shall be a member of, or be otherwise associated with any political party or any organisation which takes part in politics nor shall he take part in subscribe in aid of, or assist in any other manner, any political movement of activity.

(8) No canteen employee shall join, or continue to be a member of, an association the objects or activities of which are prejudicial to the interests of the sovereignty and integrity of India, the security of India, friendly relations with foreign states, public order, decency or morality, or which involves contempt of court, defamation or incitement to an offence.

(9) No employee shall otherwise than in the normal course of his work, engage in giving information about or advise on matters relating to the activities of the canteen.

(10) Except in the ordinary course of his duties, no employee shall disclose whether during service or after leaving the service of the canteen, any secrets, cost of production of any or all of the canteens products, information of purchases made by, or claims by the canteen in or out of courts, or any other information on matters of trade or business secrets.

(11) No employee is permitted to carry with him outside the canteen premises any papers, books, or any other property belonging to the canteen or relating to the canteen or relating to the canteen affairs except when authorised.

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(12) No employee shall publish or cause to be published the articles written by him on any matter concerning canteen's affairs.

Section 18. Acts of omission and commission constitution misconduct.

The following acts of omission and commission shall be treated as misconduct:-

- (1) Wilful insubordination or disobedience, whether alone or in combination with another or others, of any lawful and reasonable order of a superior.
- (2) Striking work or adopting go-slow methods, either singly or along with others, in contravention of those rules or orders issued from time to time or inciting any employee while within the premises of the canteen to strike work or adopt go-slow methods.
- (iii) Theft, fraud, misappropriation or dishonesty in connection with the canteen's business or property.
- (iv) Taking or giving bribes or any illegal gratification, whatsoever, including tips.
- (v) Habitual late attendance and habitual absence without leave or without sufficient cause.
- (vi) Carrying on money-lending or any other private business.
- (vii) Drunkenness, fighting, riotous, disorderly or indecent behaviour within the canteen's establishment.
- (viii) Commission of any act subversive of discipline or good behaviour within the establishment or outside.
- (ix) Habitual negligence or neglect of work.
- (x) Absence from place of work without the permission of superiors.
- (xi) Causing damage to work in process or to any property of the canteen.
- (xii) Distribution or exhibition within the boundaries of the establishment of any newspapers, handbills, Pamphlets or posters without the previous sanction of the Management.
- (xiii) Refusal to work on a job to which the employee is posted provided of the canteen without the previous sanction of the Management.
- (xiv) Refusal to work on a job to which the employee is posted provided of the canteen without the previous sanction of the Management.
- (xv) Organising, attending or holding meetings within the premises of the canteen without the previous sanction of the Management.
- (xvi) Threatening or intimidating any employee within the premises of the canteen.
- (xvii) Gambling within the premises of the canteen.
- (xviii) Sleeping on duty.
- (xix) Malingering or slowing down of work.

contd..8/-

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- (xx) Failure to inform the Manager/Hony. Secretary of the Canteen of sickness from any notifiable disease.
- (xxi) Acceptance of gifts from subordinate employee.
- (xxii) Writing of anonymous or pseudonymous letters criticising the employees of the canteen.
- (xxiii) Theft of property belonging to other employees of the canteen.
- (xxiv) Refusal to accept charge-sheet, suspension order, or any other lawful order given by the superior.
- (xxv) Giving of false information regarding name, age, father's name, qualifications or previous service.
- (xxvi) Leaving work without permission or before being properly relieved at the end of his shift/ duty.
- (xxvii) Breach of any rule or instruction issued by the Management for the working of the canteen or for the maintenance of its cleanliness.
- (xxviii) Misbehaviour during the pendency of disciplinary, action against him.

Section 19. Punishment for misconduct.

An employee found guilty of misconduct may be given any of the following punishments:-

(a) Minor Punishments

1. Warning.
2. Fine.
3. Recovery to the full extent of the actual amount of loss caused to the canteen.
4. Withholding of increments for any specified period with or without cumulative effect.

Major Punishments:

5. Demotion to a Junior post, lower grade, lower grade, lower place in the scale of pay or to lower scale of pay.
6. Discharge from service.

Section 20 Procedure for dealing with cases of misconduct.

None of the punishments mentioned in section 19 above shall be enforced without first giving the employee an opportunity to explain the case, a show cause notice will therefore invariably be serve on him before the award of any of the these punishments.

Section 21 Appeals:

All employees have the right to submit an appeal to the Chairman. There will be no further appeals against the orders of the appellate authority.

The punishing authority for all offences will normally be the appointing authority unless powers have been delegated for the award of minor punishments.

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Specimen of Appointment letter in r/o General Manager/
Manager.

From : Honorary Secretary

To:

Subject: Appointment of a General manager/Manager.

Dear Sir,

With reference to your application dated _____ and interview held on _____ I am directed to offer you the post of General Manager in the _____ with effect from _____ on the terms and conditions of service given below:-

PAY AND OTHER FACILITIES:

1. (a) Your initial pay will be Rs. _____ (Rupees _____ only) per month from the date you report on duty in the scale of Rs. _____. Grant of annual increment will not be automatic but will be subject to satisfactory work throughout the year and on suitable recommendation by your superiors.

In addition to the above mentioned initial pay you will also be entitled to draw Rs. _____ (Rupees _____ only) per month as dearness relief.

- (b) No other allowances/facilities are admissible/available except that you are allowed to take free simple vegetarian mid-day meal (worth _____ P. only) tea and snacks (worth _____ P. only) for self and only on working days. The cost of mid-day meals, tea and snacks will be recovered from your emoluments.

- (c) Contribution to provident fund, you will be governed by Employee's Provident Fund Act, 1952 as amended from time to time.

TYPE OF APPOINTMENT:

3. This is a non-governmental, purely temporary employment and does not carry any pensionary or gratuity benefits, etc.

TERMINATION OF SERVICE:

4. (a) You will be on probation for the first three months during which period your services can be terminated by the appointing authority at any time without any notice or compensation whatsoever, this probationary period may be extended further by the management;
- (b) After the probation: The appointing authority can terminate your service at any time on one month's notice or wages in lieu of such notice, except in the following cases when your services can be terminated forthwith and without any compensation:-
- (i) for breach of any implied terms of contract; or
 - (ii) for absence from duty without leave; or
 - (iii) for misconduct and/or misappropriation/embezzlement of funds, insubordination etc.

contd..10/-

(c) In case you wish to leave service you will be required to bring all your work up-to-date, avail your leave earned if any, and then give one month's clear notice. Your resignations will be treated from the date it is received by the appointing authority and during the notice period you will not be granted any leave whatsoever. Moreover, before you are relieved of your duties, you will be required to hand over your charge properly to the nominated person within a week of his nomination and obtain no demand certificate from the before expiry of your notice, failing which the management has the right to retain your services for such extra period beyond the expiry of notice period as it deems fit for bringing your work up-to-date and proper handling over of your charge. The decision of the appointing authority as to the duration of extra period required for this purpose will be final and binding on you;

(d) You will be responsible for damages in case you leave service without proper handling over and obtaining 'NO DEMAND CERTIFICATE' from the person nominated to take charge from you and also for any loss occasioned by you during your service.

(e) You will be held responsible and liable for any commission or mistake committed in the discharge of your duties even if they are detected after you have left the service.

(NO OBJECTION CERTIFICATE:

5. In case you wish to apply for any job directly or through Employment Exchange, you will do so only with the permission of the undersigned failing which you will be dealt with under para 4(b) of this letter.

6. You will be eligible for the following two kinds of leave with full pay; but subject to exigencies of service, in addition to weekly rest holiday and three National Holidays in a calendar year.

(a) CASUAL LEAVE: Upto 12 days in a calendar year after 1 month continuous satisfactory service at the scale of one-day after every one month of service. It is non-accumulative and ordinarily taken with previous permission of the Secretary except in case of accident causing physical injury or any other cause of grave emergency. Casual leave cannot be granted for more than 3 days at a time. If it is extended, it will be treated as Privilege Leave or leave without pay as the case may be.

(b) Privilege Leave: Fifteen days after twelve months continuous service, which may be accumulated upto 45 days. However, as a Special case, you may be granted Privilege leave upto 6 days for every period of 4 months continuous Service in the Canteens.

(c) Normally you can avail of only 15 days leave at a time but under exceptional circumstances the period may be extended by the Secretary.

(d) You must understand that leave is a privilege and not a right. Therefore, the Secretary has the right to reject any application without assigning any reason and such absence will not only be treated as without pay but action can also be taken against you under paras(b) and 4(d) of the letter.

(f) The Honorary Secretary is at liberty to call you on duty on any of the Gazetted Government Holidays without any compensation or remuneration except for 3 National Calendar Holidays and your weekly rest holidays.

DUTIES

7. (a) You will work directly under the Honorary Secretary Manager who will assign you duties in detail.

(b) You will be required to carry out all instructions issued by the management from time to time for the canteens employees.

(c) You will have no objection in handling of meat, fish, eggs and otheir preparations catered for the Canteen.

(d) You will also be required to perform the duties of the employer/occupier of the Canteen in connection with running of the Canteens on behalf of the Cnteens Committee and will be held responsible and liable for implementation of the provisions of the various acts/labour laws applicable to the Canteen, e.g. compliance with the provisions of Shops and Establishment Act and rules, 1954 Prevention of Food Adulteration Act, 1954 and the employees Provident Funds Act, 1952, etc. (as amended from time to time)

8. In addition to above duties you may be called upon to perform any other duty in exigencies of service as may be assigned to you by the Secretary.

Surety/Security:

9. (a) You will be required to furnish within a week of acceptance of the offer, a cash Security or a fidelity bond from the Oriental Fire and General Insurance Co. Ltd., of Rs.2000/- in favour of the Honorary Secretary, Local Departmental Committee for Canteens (South and North Block).

(b) Provided that notwithstanding the cash security or the fidelity bond referred to in para 9(a) above under the head "SURETY/SECURITY" your liability shall not be limited to sum covered therein and should not be limited to therein and should the sum be insufficient to indemnify the management in full for any loss or damage sustained by them on account of the negligence, inefficiency or otherwise in the performance, of your duties, you will have to pay to the management on demand such further sum as shall be deemed by the Management to be necessary as aforesaid and that the Management shall be entitled to recover such further sum payable as aforesaid from any sum due to you or in any other manner open to them.

10. You will not have more than one wife living at a time.

MEDICAL FITNESS :

11. Your employment is subject to your being found medically fit to handle food and other eatables by the medical authorities to whom you may be sent for such examination by the management at any time during your service.

GOODS CHARACTER AND SATISFACTORY ANTECEDENTS:

12. You will be required to produce within a week of this offer a certificate of good character from any Gazetted Officer, Member of the Parliament, Corporation Municipal Committee who is not related to you.

13. Your employment in Canteen's service will be subject to verification of your good character and satisfactory antecedents by the local authotities.

14. The term management used in this letter means-----

Yours faithfully

Honorary Secretary
for Managing Committee 12/

I accept the above terms and conditions of service.

Specimen of Appointment letter in respect of Staff appointed in non-Statutory Canteens.

From:

The honorary Secretary,

To,

Subject:- Appointment in Canteen Staff.

Dear Sir,

With reference to your application dated _____ I am to offer you the post of _____ with effect from _____ on terms and conditions given below:

Pay and other facilities:

2(a) Your initial pay will be Rs. _____ (Rs. _____ only) per month from the date you report for duty in the scale of Rs. _____. Grant of annual increment will not be automatic but will be subject to satisfactory work throughout the year and on suitable recommendation of your superior.

In addition you will also be entitled to draw Rs. _____ (Rs. _____ only) per month as dearness relief) and Rs. _____ as _____. (b) No other allowance/facilities are admissible/available except that you are allowed mid-day meals, tea, snacks, etc. as admissible under rules. The cost of mid-day meals, tea and snacks will be recovered from your emoluments. (c) For Contribution to Provident Fund, you will be governed by the Employee's Provident Fund Act, 1952 as amended from time to time.

Type of appointment.

This is a non-governmental, purely temporary employment and does not carry an pensionary or gratuity benefits etc.

Termination of Service.

4(a) You will be on probation for the first three months during which period your services can be terminated by the Appointing Authority at any time without any notice or compensation whatsoever. The probationary period may be extended further by the undersigned/management.

(b) After the Probation. The appointing authority can terminate your services at any time on one month's notice or wages in lieu of such notice, except in the following cases when your services can be terminated forthwith and without any compensation:-

- i) For breach of any rules etc. in force from time to time, or,
- ii) for absence from duty without leave; or
- iii) for misconduct and/or misappropriation/embezzlement of funds, insubordination etc.

(c) In case you wish to leave service:

You will have to give one month's notice or pay one month wages in lieu thereof. Your resignation will be treated from the day it is received by the appointing authority and during the notice period you will not be granted any leave what-so-ever.

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5. Leave.

You will be eligible for the following two kinds of leave with full pay, but subject to exigencies of service, in addition to weekly rest holiday and three National Holidays in a calendar year.

(a) Casual Leave.

Upto 12 days in a calendar year after one month continuous satisfactory service at the scale of one day after every month of service. It is non-accumulative ordinarily taken with previous permission of the Manager except in the case of sickness etc. Casual leave cannot be granted for more than 3 days at a time. If it is extended, it will be treated as privilege leave or leave without pay as the case may be.

(b) Privilege Leave.

Fifteen days after twelve months continuous service which may be accumulated upto 45 days.

However, as a special case, you may be granted earned leave upto 5 days for every period of 4 months continuous service in the canteens.

6. Duties.

(a) You will work directly under the Honorary Secretary/Manager, who will assign your duties in detail.

(b) You will be required to carry out all instructions issued by the management from time to time for the canteens employees.

(c) You will have no objection in handling of meat, fish, eggs, and other preparations catered for by the canteens.

7. Surety/Security.

(a) Accountant, Cashier, and store Keeper will be required to furnish such security as may be decided by the management.

8. Medical Fitness:

Your employment is subject to you being found medically fit to handle food and other eatables by the medical authorities to whom you may be sent for such examination by the management at any time during your service.

9. Good Character and satisfactory Antecedents.

You will be required to produce within a week of this offer, a certificate of good character from any Gazetted Officer, Member of the Parliament, Corporation, Municipal Committee who is not related to you.

Yours faithfully,

Sd -

Hony. Secretary
for Managing Committee.

SM14286.

TC
22/11
10/11