

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 22.01.2002

O.A. No. 125/2001

Praveen Kumar Tiwari son of Shri Shiv Prasad Tiwari, aged about 36 years resident of Jain Quarter No. 3, Hanuman Mandir Ki Gali, Jail Well, Bikaner, at present employed on the post of Billing Machine Operator-cum-cashier in Unit Run Canteen (CSD), Ranbankura Shopping Complex, Hqrs 24 Inf Div. C/o. 56 APO.

... Applicant.

versus

1. Union of India through the Secretary to Ministry of Defence, Government of India, Raksha Bhawan, New Delhi.
2. Col Adm., Unit Run Canteen (CSD), Ranbankura Shopping Complex, Hqrs 24 INF Div. C/o. 56 APO.
3. General Officer Commanding, Hqrs 24 INF Div. C/o. 56 APO.

... Respondents.

Mr. J.K. Kaushik, Counsel for the applicant.

Mr. Vinit Mathur, Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice O.P. Garg, Vice Chairman

Hon'ble Mr. A.P. Nagrath, Administrative Member

: O R D E R :

(Per Hon'ble Mr. Justice O.P. Garg)

The applicant who was employed on the post of Billing Machine Operator-cum-cashier in Unit Run Canteen, Ranbankura Shopping Complex, Hqrs 24 INF Div., C/o. 56 APO, has prayed for the grant of

benefit of pay fixation in regular pay scale at par with his counter parts employed in CSD Canteens as per the judgement of this Tribunal and modified by Hon'ble the Supreme Court. A reply has been filed on behalf of the contesting respondents.

2. Heard Shri J.K. Kaushik, learned counsel for the applicant as well as Shri Vinit Mathur, appearing on behalf of the respondents.

3. The status of the applicant undoubtedly is that of an employee in the Unit Run Canteen and has been held to be a Government employee and consequently, amenable to the jurisdiction of this Tribunal (see Union of India & Ors. vs. M. Aslam & Ors., AIR 2001 SC page 526). The learned counsel for the applicant urged that in view of the earlier decision of this Tribunal, the applicant is entitled for grant of all the benefits of pay fixation in regular pay scale at par with his counter parts employed in CSD Canteens. A reference was made to the decision dated 07.02.1996 in the case of Rajendra Jagarwal & 18 Ors. vs. Union of India, reported in 1996 (1) ATJ page 376. In that case, the employees of the Unit Run Canteens were held to be entitled to pay and other benefits similar to the pay and other benefits available to the Canteen employees in the CSDI. On the strength of the above decision as well as earlier decisions, the learned counsel for the applicant urged that the applicant is also entitled to the same treatment. Shri Vinit Mathur repelled the above submission on the ground that the stand taken on behalf of the applicant overlooks the decision of the Hon'ble Supreme Court in the case of Union of India & Ors. vs. M. Aslam & Ors. (supra). The assertion of Shri Mathur is not without force. In the case aforesaid, the Apex Court has observed as follows:-

(Signature)

"4.... As already stated, we have come to the conclusion about the status of the employees serving in Unit-run Canteens to be that of Government servants, but that by itself ipso facto would not entitle them to get all the service benefits as is available to the regular Government servant or even their counter parts serving in the CSD Canteens. It would necessarily depend upon the nature of duty discharged by them as well as on the Rules and Regulations and Administrative Instructions issued by the employer. We have come across a set of Administrative Instructions issued by the Competent Authority governing a service conditions of the employees of such Unit-Run Canteens. In this view of the matter, the directions of the Tribunal that the employees of the Unit-Run Canteens should be given all the benefits including the retiral benefits of regular Government servants cannot be sustained and we accordingly, set aside that part of the direction. We, however, hold that these employees of the Unit-Run Canteens will draw at the minimum of the regular scale of pay available to their counter parts in the CSDI and, we furhther direct the Ministry of Defence, Union of India to determine the service conditions of the employees in the Unit-Run Canteens at an early date, preferably within six months from the date of this judgement. This appeal is accordingly disposed of with the aforesaid direction and observation."

The above observations made by the Hon'ble Supreme Court clearly lend strength to the submission made by Shri Vinit Mathur that though the employees serving in Unit-Run Canteens are to be treated as Government servants, but this fact by itself would not entitle them to get all the service benefits as available to the regular Government servants or even their counter parts serving in the CSD Canteens. The Apex Court had issued directions that in the matter of the employees serving in the Unit-Run Canteens, appropriate terms and conditions shall be specified. Shri Vinit Mathur pointed out that pursuant to the directions of the Apex Court, the Army Headquarters have specified the terms and conditions of the employees serving in the Unit-Run Canteens and in pursuance of the terms and conditions, the applicant has been granted regular pay scale vide order dated 12.12.2001. A copy of the said order has been brought on record as Annexure R/1 to the reply. The applicant has already been paid the arrears with effect from 01.06.2001. A copy of the cheque issued in the name of the applicant is Annexure R/2 to the reply.

(Signature)

4. After the decision of the Apex Court referred to above, reference to the earlier decision of this Tribunal is otiose and unnecessary. The service conditions of the applicant are to be governed under the terms and conditions specified by the Army Headquarters. The claim of the applicant, therefore, stands fully satisfied in terms of the decision of the Hon'ble Supreme Court. Now this application does not survive for the relief claimed. The O.A. is accordingly dismissed without any order as to costs.

(A.P. NAGRATH)
Adm. Member

(JUSTICE O.P. GARG)
Vice Chairman

CVR.

R/copy
~~Mr~~
~~25/1~~

R/copy
m 2/2/11
~~Mr~~
~~Am~~

part II and III destroyed
in my presence on ... 21.6.02
under the supervision of
Section officer (1) as per
order dated ... 11.6.02
Section officer (Record)