

1/2

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR**

Original Application No.254/2011

Jodhpur, this the 18th April, 2013

CORAM

HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, MEMBER (J)
HON'BLE MS. MEENAKSHI HOOJA, MEMBER (A)

R.L. Gaur S/o Shri Teja Ram Gaur, aged about 49 years, R/o H.No.580/16, Rajiv Gandhi Nagar, Magrapunjla, Jodhpur, at present employed on the Billing clerk cum Cashier (designated as Sales Man cum Accounts Clerk), in Unit Run Canteen, Air Force Station, Jodhpur.

.....**Applicant**

Mr.J.K.Mishra, counsel for applicant.

Vs.

1. Union of India, through Secretary to the Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Quartermaster General's Branch, DY Dte Gen Canteen Services, Army Headquarters, L-Block Room No.16, Church Road, New Delhi.
3. Air Officer Commanding, No.32 Wing Air Force C/o 56 APO.

...**Respondents**

**Mr. D.P.Dhaka, proxy counsel for
Mr. Vinit Mathur, counsel for respondents.**

ORDER (ORAL)

Per Justice K.C. Joshi, Member (J)

By way of this application, the applicant has sought the following relief(s):-

- (i) *That impugned Rule 16 of the Rules dt.28.04.2003 (Annexure-1) may be declared illegal, unconstitutional and the same may be struck down and thus quashed.*
- (ii) *The respondents may be directed to frame newest of rules in consonance with rule of law especially providing payment of subsistence allowance and make payment thereof to the applicant. The impugned order dated 15.4.2011 (Annexure-A/2) may be ordered to be modified accordingly*
- (iii) *That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.*
- (iv) *That the costs of this application may be awarded.*

2. The facts of the present case are similar to that of Misc. Application No.99/2010 in OA No.49/1999 with MA No.100/2010 & 4 others, filed before this Tribunal, which were decided on 21st February, 2012, and the law involved is also similar.

3. The short facts of the present case as averred by the applicant are that the applicant is working in the Unit Run Canteen of the Air force. He was initially appointed on the posts of Salesman-cum-Accounts Clerk. A criminal case was lodged against the applicant and an FIR No.62 was also lodged against him in Kotwali Police Station, Jodhpur on dated 28.03.2011 alleging commission of offences under Sections 19/54 and 20/54 of Rajasthan Excise Act, 1950. The applicant was taken in custody and was enlarged on bail on 29.03.2011. The respondent No.3 placed the applicant on leave without pay w.e.f. 17.04.2011 vide order dated 15.04.2011 (Annexure-A/2), and for which the applicant has filed the present OA for the aforementioned relief(s).

4. By way of reply, the respondents contended that this Tribunal has no jurisdiction to adjudicate the question involved in this OA because the applicant is not a Government servant.

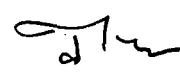
5. Heard both the counsels. Counsel for the respondents contended that in similar matters i.e. in MA No.99/2010 in OA No.49/1999 with MA No.100/2010 and 4 others, decided on 21.02.2012, this Tribunal had decided the same controversy as involved in the present case. He further submits in this OA also, the question raised is that whether the employees of the Unit Run Canteen of Air Force are Government employees or not, and

2/14

whether under the Administrative Tribunals Act, 1985, this Tribunal has jurisdiction over the grievances or not. Counsel for the respondents further contended that in Review Petition (Civil) No.1296/2009 filed in the Civil Appeal No.3495 (R.R. Pillai's and other case), the Hon'ble Apex Court dismissed the OAs, and again a Curative Petition (C) No.43/2010 filed in Review Petition (C)No.1296/2009 in Civil Appeal No.3495/2005 was also dismissed by the Hon'ble Apex Court. Hence, in view of the judgment of the Hon'ble Apex Court, this Tribunal has no jurisdiction.

6. In view of the categorical declaration of law, this Tribunal has no jurisdiction to entertain the service matters of employees of Unit Run Canteen of the Air Force. Therefore, the OA is dismissed. However, the applicant is at liberty to avail the appropriate remedy to adjudicate his grievances in accordance with law. No order as to costs.


[Meenakshi Hooja]
Administrative Member


[Justice K.C. Joshi]
Judicial Member


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