CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

Original Application No. 2 of 2009
Original Application No. 139 of 2009

Wednesday, this the 28th day of July, 2010

CORAM:

Hon'ble Mr. Justice K. Thankappan, Judicial Member
Hon'ble Mr George Joseph, Administrative Member

1. **Original Application No. 2 of 2009** -

M Rajasry, Wife of Late P.K Somasekharan Nair,
aged 40 years, residing at Plathanath Puthenpurayil,
Kakkanad, Ernakulam-682 530 ..... **Applicant**

(By Advocate – Ms. Rekha Vasudevan)

Versus

1. Union of India, represented by the Secretary to Government of India, Ministry of Defence, New Delhi.

2. The General Manager, Indian Naval Canteen Service, Head Office, Mumbai, 400 005.

3. The Regional Manager, Indian Naval Canteen Service, Kochi-682 004.

4. Mr. John Philipose, Regional Manager, Indian Naval Canteen Service, Kochi- 682 004.

5. The Member Secretary, Indian Naval Canteen Control Board, New Integrated Headquarters, Ministry of Defence (Navy), Department of Personnel Services, Sena Bhavan, New Delhi 11. ..... **Respondents**

(By Advocate – Mr. Sunil Jacob Jose, SCGSC)

2. **Original Application No. 139 of 2009** -

1. V.S Vijayamohanan, Accountant, Unit Run Canteen, N C C Group, Head Quarters, Thevally Palace, Kollam

2. M. Ravindran, Assistant Accountant,

Unit Run Canteen, NCC Group Head Quarters,
Thevally Palace, Kollam ..... **Applicants**
(By Advocate-Ms. Rekha Vasudevan for Mr. M.R. Rajendran Nair, Sr. Mr. C. Unnikrishnan)

V e r s u s

1. Union of India, represented by its Secretary
Ministry of Defence, New Delhi.

2. The Director, NCC Directorate (Kerala & Lakshadweep),
Cotton Hill Bunglow, Thiruvananthapuram.

3. The Chairman, Unit Run Canteen, NCC Group Head Quarters,
Thevally Palace, Kollam.

4. The Canteen Officer, Unit Run Canteen, NCC Group Head
Quarters, Thevally Palace, Kollam. ..... **Respondents**

(By Advocate – Mr. Sunil Jacob Jose, SCGSC)

These applications having been heard on 28.7.2010, the Tribunal on the same day delivered the following:

ORDER

By Hon'ble Mr. Justice K. Thankappan, Judicial Member -

The question raised in these Original Applications is that whether the claim put forward by the applicants can be considered as they are government employees or not. First Original Application though is not by the employee, his wife is the applicant. The matters have been already admitted by this Tribunal and notices ordered to the respondents. In pursuance to the notice ordered, the counsel appearing for the respondents placed reliance on a judgment of the Apex Court passed in Civil Appeal No. 3495 of 2005 in which the question relating to the conferment of governemnt employees' status to the canteen employees has been considered. In paragraph 10 of the above judgment the Apex Court observed that the question whether Unit Run Canteen can be treated as an instrumentality of the State does not fall for consideration as that aspect has

not been considered by one of the outlying Benches of this Tribunal or the High Court. However, finally relying on some of the judgments of the Apex Court, the Apex Court in paragraph 11 answered the question raised to the effect that the employees working under the Unit Run Canteens are not government employees. If that principle is adopted these Original Applications should be dismissed. Hence, we are of the view that there exists no question to be considered further in this matter. Hence, applying the principles laid down by the Apex Court these two Original Applications are dismissed. Any interim order passed in these Original Applications shall also stand vacated.

(K GEORGE JOSEPH)
ADMINISTRATIVE MEMBER

(JUSTICE K. THANKAPPAN)
JUDICIAL MEMBER

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