

FINAL ORDER

26-8-1987

CENTRAL ADMINISTRATIVE TRIBUNAL  
MADRAS BENCH

ORIGINAL APPLICATION NO.160/87 TO 164/1987

K.K. Sukumaran ... Applicant in OA 160/87

C.K. Vijayan ... Applicant in OA 161/87

M.P. Madhusoodanan ... Applicant in OA 162/87

K.A. Asokan ... Applicant in OA 163/87

T.P. Krishnan ... Applicant in OA 164/87

Vs

1. The Secretary,  
Department of Postal Services, }  
New Delhi. }  
2. Senior Superintendent of Post )  
Offices, Ernakulam Division, )  
Chairman of Postal Canteens, )  
Postal Complex Building, )  
Ernakulam, Cochin-11. )  
3. Secretary of Postal Canteens, }  
Postal Complex Building, )  
Ernakulam, Cochin-11. )

Respondents  
in all the  
cases

For Applicants: Mr. K. K. Balakrishnan  
(in all cases) Advocate

For Respondents 1 & 2 Mr. K. Karthikeya Panicker,  
(in all the cases) Addl. Central Govt. Standing  
Counsel.

For Respondent 3 Mr. C. Verghese Kuriakose  
(in all the cases) Advocate

CORAM:

Hon'ble Shri C. Venkataraman, Administrative Member

And

Hon'ble Shri G. Sreedharan Nair, Judicial Member

O R D E R

(Pronounced by Hon'ble Shri C. Venkataraman,  
Administrative Member)

These applications have been filed by five  
employees in the Postal Canteen, Postal Complex  
Building, Ernakulam. They have been aggrieved  
by a communication dated the 20th January, 1986  
addressed by the Secretary, Postal Canteen, to the  
the Divisional Employment Officer, Cochin,  
requesting the latter to nominate candidates  
for selection of staff for various posts viz.,  
Halwai, Tea Maker/Coffee Maker, Bearer,  
Wash Boy/Dish Cleaner. The applicants have  
prayed that the department should be restrained  
from terminating their services in the Postal  
Canteen and further to regularise their services.

These applicants have been working in the  
Postal Canteen, Ernakulam continuously from

dates ranging between 15-7-1985 to 19-5-1986.

Though they have been working as casual employees since they were appointed, they had been interviewed and selected prior to their appointment by the officers of the Postal Department Canteen. All their names are registered with the Employment Exchange Ernakulam. They have further stated that the canteen is a departmental canteen and it has been registered with the Directorate of Canteens in the Department of Personnel and Administrative Reforms. The 2nd respondent is the Chairman of the departmental canteen. They have pointed out that the employees of the departmental canteens have been declared as holders of civil posts in connection with the affairs of the Union with effect from 1st October, 1976 as per Government of India Notification

No.5(2)/23/77 Welfare Canteen dated 11-12-1979.

Conditions of service and recruitment rules  
for these employees with effect from 1-10-1979  
are those as framed by the President under  
proviso to Article 309 of the Constitution. On  
the ground that the applicants are employees  
of the departmental canteen and thus holders of  
civil posts, they have prayed that after their  
having been selected and continued in their  
respective posts for over one and a half years,  
their services should not now be terminated and  
instead their services should be regularised.

In a Counter Affidavit filed on behalf of  
the first two respondents, it has been stated  
that these applications are not maintainable  
because the applicants are not civil servants  
appointed to any civil service of the Union or  
to any civil post under the Central Government.

The status of the canteen itself is that of a

cooperative canteen run by the postal employees

and the applicants are only casual employees

therein. No written appointment orders had been

issued to these casual employees and that they

were appointed by the Secretary of the canteen.

Besides, the Counter Affidavit points out

that the requisition made by the Secretary,

Postal Canteen, Ernakulam, to the Employment

Exchange is not an order passed against any of

the applicants. An application for registration

of the canteen as a cooperative body had been

submitted to the Registrar of Cooperative

Societies on 26th July, 1986 and the same is

pending registration. The averment of the

applicants that the canteen is a departmental

canteen has specifically been refuted and even

the existence of a letter addressed to the

Director of Canteens for the purpose of registration

stated to have been sent on 18-12-1983 by the

Senior Superintendent of Post Offices has been

specifically refuted.

The 3rd respondent in these applications is

the Secretary of Postal Canteen. He has filed a

reply to the application stating that the canteen

in which the applicants are working on casual

basis is a departmental canteen set up at Government

cost and that it is centrally registered with the

Director of Canteens. A copy of the bye-laws

for the canteen has also been enclosed along with

his reply.

The learned counsel for the applicants

contended before us that the canteen is not a

cooperative canteen and produced in support of that

plea a letter addressed to him on 20th January, 1987

by the Assistant Registrar of Cooperative Societies,

Kanayannur, intimating him to that effect. He

further pointed out that in response to an

application sent on 18th December, 1982 by the

Senior Superintendent of Post Offices, Ernakulam

Division, the canteen had been registered

by the Director of Canteens in the Department

of Personnel and Administrative Reforms

on 24th January, 1983 and a number viz., C-53A

had been allotted to it. He would accordingly

stress that the canteen enjoys the status of

a departmentally managed and the employees have

the status of those holding civil posts under

the Union of India. As the casual employees

have been functioning for varying periods

ranging between 15-7-85 and 19-6-86 till date

continuously, they have a right to continue

on a regular basis in the said departmental

canteen. Accordingly, he prayed that the

application be allowed.

The learned counsel for the first two

respondents strongly refuted the contention

that the canteen enjoys the status of a

Central departmental canteen. According to him, this canteen, from the very beginning was thought of only as a cooperative canteen. Though it has not yet been registered by the Registrar of Cooperative Societies, steps had already been taken as early as in July, 1986 seeking such registration as a cooperative canteen and the formality of registration under the Cooperative Societies Act is expected to be completed in the near future. The appointing authority of Cooperative canteens is ex-officio Chairman and in that capacity he had directed the Secretary of the canteen to take steps for filling up the posts by calling for names from the employment exchange. As the casual employees in this canteen are not holders of civil posts under the Union of India, he prayed that the application be dismissed.

In this case on the basic question about

the status of the canteen itself, there is no

agreement between the two sides. The applicants

have attached a copy of a letter dated 18th

December, 1982 sent by the Senior Superintendent

of Post Offices, Ernakulam Division to the

Director of Canteens in the Department of

Personnel and Administrative Reforms in Ex.P-4

wherein registration of the canteen was sought

duly indicating its status as 'departmental

canteen' from 15-12-1982. In reply to that

in Ex.P-6 the Department of Personnel had allotted

Registration number viz. C-53A to the canteen.

It was also stipulated in that letter that the

registration is required to be renewed every

financial year. Though respondents 1 and 2 have

denied the existence of the letter dated 18-12-1982

since no such file indexed "H/canteen/82-83"

is available with them, we notice from the records

made available to us that such a letter must

in fact have been issued. This is evident from the fact that in letter No. B-19011/4/80m the

P & T Directorate, New Delhi, has invited reference

to the said letter dated 18-12-1982 addressed to

the Director of Canteens in the Department of

Personnel. Thereafter, a decision has been

communicated to the Senior Superintendent of

Post Offices, Ernakulam Division that no useful

purpose would be served by registering the P & T

departmental canteen with the Department of

Personnel. The P&T Directorate had also

communicated this decision to the Department of

Personnel and Administrative Reforms. This would

mean that though registration with the Director

of Canteens was sought and obtained by the 2nd

respondent, immediately thereafter, the P&T

Directorate had communicated their decision that

no such registration was needed. In this

connection we find it significant to note that

we are not able to see in the files made available

to us any subsequent request for renewal of the

registration with the Director of Canteens. We

also notice that the Postmaster General, Kerala

Circle, had intimated the Senior Superintendent

of Post Offices, Ernakulam on 21-6-1983 that the

canteen could be registered under the Cooperative

Societies Act. We notice from the files that

this matter was further examined and ultimately

on 29th July, 1986, a request was made to the

Joint Registrar of Cooperative Societies, Cochin,

to register the canteen as a cooperative canteen.

The letter makes it clear that it was decided

"at a meeting of the employees of the complex to

form a Postal Canteen Cooperative Society" and for

that purpose " a managing committee consisting of

8 members has been constituted". It was expressed

therein that they were desirous of forming a

cooperative society and have it registered conforming to the rules and regulations of the Cooperative Department. Registration of the canteen under the Cooperative Societies Act has still however not been completed.

Thus, as far as we are able to see in this case, soon after the idea of a canteen crystallised in December, 1982, a letter was hurriedly sent to the Director of Canteens seeking its registration as a departmental canteen. The canteen was registered by him on 24th January, 1983 with a stipulation that there must be annual renewal of the registration. P&T headquarters, however, did not favour such a registration with the Director of Canteens. Annual renewal of the registration consequently does not seem to have been obtained. While so, the employees had met and decided to form a Postal Canteen Cooperative Society and to have it registered under the Cooperative Societies Act. Necessary letter was addressed to

the Joint Registrar of Cooperative Societies  
and registration is still to be completed. It  
would thus be seen from the above that the canteen,  
as it stands now, does not enjoy the status either  
of a departmental canteen or of a cooperative  
society canteen.

Even if the canteen enjoys the status of a  
departmental canteen, according to schedule B  
of Departmental Canteen Employees (Recruitment  
and Conditions of Service) Rules, 1980, vacancies  
of posts like Wash Boy, Halwai etc. can be filled  
only by circulating simultaneously to the local  
employment exchange, and other offices and establishments  
of Central Government where departmental canteens  
are functioning. Therefore, in this case

regular appointments to the posts can be made  
only after following the abovementioned procedure

The letter dated 20-1-1986 sent by the Secretary,

Postal Canteen is merely a requisition for

nomination of suitable candidates for selection

to various posts like Halwai, Wash Boy, and also Dish Cleaner etc. in the scale 196-232. The

applicants cannot have a right to be

regularly appointed to those posts in a

departmental canteen even without considering

other names sponsored by the employment

exchange.

If the canteen is to be regarded as

a cooperative society canteen, then the

applicants cannot come to this Tribunal

seeking any relief.

Accordingly, in whatever way it is

viewed, the applicants' case fails. These

applications are therefore dismissed.

Respectfully

C. Venkataraman

*Errol*  
*26/8/77*

(C. VENKATARAMAN )  
Administrative Member

( G. SREEDHARAN NAIR )  
Judicial Member

Verdict and Index :  Yes  No

Index : Yes/No

Public copies of verdict to be furnished to the parties concerned in every third week of the month.

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