

16-6-1987

CENTRAL ADMINISTRATIVE TRIBUNAL  
MADRAS BENCH

Application No.OA 170/1986

1. K.A. Joseph	X	
2. E.N. Udayan	X	
3. K.J. Antony	X	Applicants
4. K.O. Sunny	X	

Versus

1. The Chief of Naval Staff, Naval Headquarters, New Delhi.	X	
	X	
2. The Flag Officer Commanding, Southern Naval Command, Cochin.	X	Respondents
	X	
3. The Commanding in Chief, I.N.S. Venduruthy, Cochin.	X	
	X	

Sri M.C. Nambiar : Counsel for  
applicants

Sri K. Karthikeya Panicker, : Counsel for  
ACGSC respondents

CORAM

Hon'ble Sri G. Sreedharan Nair, Member (Judicial)  
Hon'ble Sri Birbal Nath, Member (Administrative)

ORDER

(Pronounced by Hon'ble Sri G. Sreedharan Nair, JM)

The applicants were appointed by the third respondent, the Commanding in Chief, I.N.S. Venduruthy, Cochin as Sports Malis and are working in the sports ground attached to Venduruthy. It is alleged that on 6-12-1983 the sports ground was

taken over by the Government and put under the control of the second respondent, the Flag Officer Commanding, Southern Naval Command, Cochin attached to M.E.S. The grievance of the applicants is that though the institution was taken over by the Government they have not been absorbed in Government service and as such they are denied the benefits allowed to the Government employees. Alleging that this amounts to violation of natural justice they pray for their confirmation in Government service and to direct the respondents to give equal salary to them as to the last grade employees under the Central Government.

2. The second respondent has filed a counter affidavit on behalf of all the respondents. It is contended that as the applicants have never been employed against any posts under the control of the respondents they are not members of the civil service and as such the application is not maintainable. It is stated that the Southern Naval Command Stadium was constructed utilising the resources of various amenity funds and other non-public funds. The maintenance of the stadium was being carried out by the third respondent through the southern naval command stadium maintenance

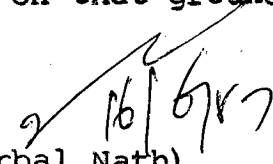
fund. The Sports Malis were engaged on casual basis and were paid remuneration out of this Fund. The applicants are not working under the MES.


3. The first question that arises for determination is whether the application is maintainable. It ~~is~~ argued on behalf of the respondents that the applicants are not holders of civil posts under the Union or members of any civil service of the Union and as such this application is not maintainable by this Tribunal. Reliance was placed on Section 14 of the Administrative Tribunals Act. On going through the pleadings and the files made available by the counsel of the respondents we are inclined to agree.

4. Admittedly the applicants were employed by the third respondent, and though on 6-12-1983 the Sports Ground was taken over by the Government and put under the control of the second respondent the applicants have not been absorbed in the service of the Government. It is seen from the records that these applicants were being paid from the non-public fund and that even after the taking over of the stadium they are continued to be paid out of the same fund. It is also

clear that it is not exactly a case of transfer of the stadium but only handing over to MES for the purpose of maintenance. It is specifically stated in the counter affidavit filed by the second respondent that these applicants were being paid out of what is known as the Southern Naval Command Stadium Fund and even after the taking over there is no change in that respect. In the circumstances just because the stadium has been brought under the charge of MES for its up-keep and maintenance it cannot be said that these applicants have acquired the status of civil servants of the Union or are holders of civil posts under the Union.

5. It follows that the preliminary objection regarding the maintainability of the application has to prevail. We hold that the application is not maintainable before this Tribunal and we dismiss the same on that ground.

  
(Birbal Nath)  
Member (Administrative)  
16-6-1987

  
(G. Sreedharan Nair)  
Member (Judicial)  
16-6-1987

Index : ~~YES~~ / NO