

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A.No. 244 OF / 2004**

Friday, this the 26<sup>th</sup> day of August, 2005.

**CORAM :**

**HON'BLE Mr.K.V.SACHIDANANDAN, JUDICIAL MEMBER**

1. **T.A.George**  
Casual Labourer/Cashier, Unit Run Canteen,  
INS Dronacharya, Fort Cochin,  
Residing at H.No.11/254, Thaiparambil House,  
South Thamaraparampu, Cochin – 1.
2. **K.V.Xavier**  
Casual Labourer/Cashier, Unit Run Canteen,  
INS Dronacharya, Fort Cochin,  
Residing at H.No.11/551(B) Polackal House,  
Pattalam, Cochin – 1.
3. **T.J.Joshy**  
Casual Labourer/Helper, Unit Run Canteen,  
INS Dronacharya, Fort Cochin,  
Residing at H.No.9/806, Thathrathil House,  
Kambiri Road, Manthra, Cochin – 2.
4. **P.S.Pradeep**  
Casual Labourer/Helper, Unit Run Canteen,  
INS Dronacharya, Fort Cochin,  
Residing at H.No.10/231, Puthenveliparambil House,  
Chirattapalam. J.D.Street, Cochin – 1.
5. **E.R.Satheesh**  
Casual Labourer/Helper, Unit Run Canteen,  
INS Dronacharya, Fort Cochin,  
Residing at H.No.10/1272, Ellickal House,  
Mullavalapu, Cochin – 1.
6. **N. Ramkumar**  
Casual Labourer/Helper, Unit Run Canteen,  
INS Dronacharya, Fort Cochin,  
Residing at H.No.10/279, Kannamparambu,  
Amaravathy,, Cochin – 1.
7. **W. Dixon**  
Casual Labourer/Helper, Unit Run Canteen,  
INS Dronacharya, Fort Cochin,  
Residing at H.No.1/1289, Kuttathiparambil,  
Chirattapalam. J.D.Street, Cochin – 1.
8. **P.S.Prasad**  
Casual Labourer/Helper, Unit Run Canteen,  
INS Dronacharya, Fort Cochin,  
Residing at H.No.10/231 A, Puthuvellyparambil House,  
Chirattapalam, JD Street, Cochin - 1

9. **Sevin Jeffin**  
**Casual Labourer/Helper, Unit Run Canteen,**  
**INS Dronacharya, Fort Cochin,**  
**Residing at H.No.23/136 Kurisingal House,**  
**St.John Pattam, Cochin - 1**

: **Applicants**

(By Advocate Mr.N.Nagaresh )

**Versus**

1. **Union of India represented by**  
**Secretary to Government of India**  
**Ministry of Defense, New Delhi.**
2. **The Flag Officer Commanding In Chief**  
**Southern Naval Command, Cochin**
3. **The Commanding Officer**  
**INS Dronacharya, Fort Cochin**
4. **The Canteen Officer**  
**INS Dronacharya, Fort Cochin**
5. **The Canteen Manager,**  
**INS Dronacharya, Fort Cochin.**

: **Respondents**

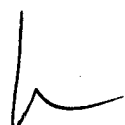
(By Advocate Mrs. K.Girija, ACGSC )

The application having been heard on 26.08.2005, the Tribunal on the same day delivered the following :

**ORDER (Oral)**

**HON'BLE Mr. K.V. SACHIDANANDAN, JUDICIAL MEMBER**

The applicants are 9 in number who claim that they were working as casual labourers in the Unit Run Canteen under the 4<sup>th</sup> respondent. They have been issued with temporary pass and utilised as Cashiers and Helpers in the Canteen and according to them they have been considered as Civilian employees for all purposes. They were also granted Productivity Linked Bonus and paid Rs. 75/- and Rs.55/- per day and according to the averments in the O.A all supplies to the Canteen is unloaded inside the premises of INS Dronacharya and no loading and unloading employees are allowed inside the premises. The groceries are brought everyday in two small truckloads and are being unloaded by other casual employees inside the unit and are paid at the rate of Rs. 600/- per truck everyday. Liquor which requires extra caution are paid Rs.350/- per truck. The charges for broken bottles are levied from the wages of the applicant. Therefore, they stated that they could not undertake



that job. The respondents got annoyed in this and they terminated the services of the applicants. So the applicants have filed this O.A seeking the following reliefs:-

- i, To call for the records relating to Annexure A-1 to A-3 and to declare that the applicants are entitled to continue as Cashiers/Helpers on daily wages till they are regularised as such as per provisions of the Scheme issued by the 1<sup>st</sup> respondent;
- ii, To declare that the applicants cannot be terminated without complying with the provisions of law, by oral orders at the whims and fancies of the respondents and they are entitled to be paid atleast at the minimum rate of wages given to the regular employees as per the instructions of the 1<sup>st</sup> respondent and consequential regularisation ;
- iii, To direct the 4<sup>th</sup> respondent to re-engage the applicants immediately;
- iv, To pass any other orders which this Hon'ble Court may deem fit and proper in the circumstances of the case; and
- v, To award costs of this proceedings.

2. The respondents have filed a Counsel statement and a reply statement contending that the applicants are purely casual labourers. The daily wage receipts are available at URC corroborating their status. In Para 5 of the reply statement they further submitted as follows :-

“Applicants are doing the duties of Cashier and that the duties of the applicants are purely inside the canteen, receiving money for the purposes of printing bills and disbursing of the purchased article is highly incorrect. The applicants have never been engaged for performing the duties of cashier or for receiving money and printing bills or for disbursing the purchased articles. The unit run canteen has a staff pattern. The unit run canteen is divided into three sections, viz., liquor section, grocery section and costly item section. All these sections have a sailor as section in-charge. This three section in charges work under canteen manager, who is again a senior sailor. All these sections and in-charges work under canteen officer, who is appointed by the Commanding Officer. Apart from the above officers, 4 civilians are employed exclusively for doing the job of cashiers and other official works. The applicants were employed only as helpers to help the section in-charge for lifting liquor and bringing it to sale point as per requirement of customer. Since the number of customers have now been reduced and on consequential reduction of work the applicants are no longer required to be engaged as casual labourers.”



3. Respondents no longer require the services of the applicants for want of work and that the claim of the applicants to be engaged as casual labourers cannot be sustained.

4. The applicant has filed a rejoinder reiterating the contention in the O.A and further submitted that the respondents cannot terminate the services of the applicants in view of the ruling of the Hon'ble Supreme Court.

5. Mr.N. Nagaresh, learned counsel appeared for the applicant and Mrs. K.Girija, ACGSC appeared for the respondents.

6. When the matter came up for hearing, it is brought to my notice that an interim order has been passed by this Tribunal on 20.04.2004 which is reproduced as under :-

“ In the interest of justice, this Court further order that all applicants except Applicant Nos.2 and 3 will be engaged by the respondents as was done earlier. As far as respondents No.2 & 3 are concerned, the respondents are at liberty to proceed against them as per due process of law.” This court directs the respondents to take the applicants into confidence and the applicants also to co-operate with the respondents. “

7. The matter was taken up before the Hon'ble High Court in WPC No.15820 of 2004 and the writ petition was disposed of directing “ Ext.P5 order to the extent it directed the respondents in the O.A to engage the applicants except applicants 2 and 3 is set aside.”

In Para 3 of the said order it is stated as follows:-

“ Having considered the facts and circumstances of the case and having perused Ext.P5 order passed by the Tribunal, we do not find any justification for the interim order of the Tribunal directing the respondents in the O.A to engage the applicants even before deciding the question whether they are legally entitled to be engaged. The said question remains to be decided in the O.A In our considered view, in directing the respondents in the O.A to engage the applicants pending final decision in the O.A., the Tribunal did not properly exercise its power to grant interim relief. Hence, Ext.P5 order is liable to be set aside. ”

8. When the matter came up, learned counsel for respondents



submitted that in view of a change in the policy decisions respondents have filed an additional reply statement today. Para 6 of the said reply statement is reproduced as under :-

“ Without prejudice to the above, it is respectfully submitted that the respondents have initiated the process of setting up a board of officers to examine the suitability and feasibility of engaging personnel in canteen in accordance with the guidelines provided by the Apex Court in *M Aslam Vs Union Of India* (Civil Appeal No.1039-1040 of 1999). The board is entrusted with the task of ascertaining the nature of work, workload, requirement of manpower essential to run the canteen and eligibility of personnel to be employed. Hence the case of applicants can also be placed before the board along with other eligible employees presently working in canteen for their consideration. It is further submitted that the applicants do not have a vested right to get regularised and they can only be considered, subject to eligibility and suitability for appointment to any of the posts specified in the guidelines framed pursuant to the Apex Court judgment in *M. Aslam's case*. In view of the above, the Hon'ble Tribunal may be pleased to dismiss the O.A. “

9. As per the said averment, the respondents are formulating a procedure for engaging persons in Canteen in accordance with the guidelines provided by the Apex Court and the Board is entrusted with the type of work. Since the applicants are not engaged as of now the apprehension that they may not be informed of such intimation may be notified. I direct the respondents to notify the said action to the applicants and also make sure that notification should be brought to the notice of the applicants well in advance and in fact the applicants apply their case will be considered as per the norms along with others. .

10. The O.A is disposed of as above. In the circumstances no order as to costs.

Dated, the 26<sup>th</sup> August, 2005.



**K.V.SACHIDANANDAN**  
**JUDICIAL MEMBER**