

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW
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Original Application No. 485 of 1992

this the 10th day of Feb., 95

HON'BLE MR. S. DAS GUPTA, ADMN. MEMBER
HON'BLE MR. D.C. VERMA, JUDICIAL MEMBER

Hari Nath, aged about 41 years, S/o late Sri Parmeshwar Deen, presently residing at Kharika-Telibagh (near Panchayat Bhawan), Lucknow.

2. Shiv Prasad Mishra, aged about 55 years, S/o late Sri Sukhdev Prasad Mishra, presently residing at House No. 137/52 Ganeshganj- Takiya, Lucknow.

3. Shyam Sunder Pandey, aged about 57 years, S/o late Pt. Shyam Manohar Pandey and presently residing at 149/60 Hari Nagar, Dugawan, Lucknow.

4. Raj Kumar, aged about 28 years, S/o late Sri Gulzar Lal, presently residing at Telibagh, Lucknow.

Applicants

By Advocate : Sh. Pankaj Nath

Versus

Union of India through Secretary to Government of India
Ministry of Defence, New Delhi.

2. Union of India through Secretary to Government of India, Ministry of Labour, New Delhi.

3. The Director General, Armed Forces Medical Services, Ministry of Defence, Government of India, New Delhi.

4. A.M.C. Printing Press, Army Medical Corpse, A.M.C. Centre & School, Lucknow through Commandant.

Respondents


By Advocate :  Km. A. Chowdhary

O R D E R

D.C. VERMA, MEMBER (J)

The four applicants in this case are seeking appropriate directions against the respondents for payment of salary in the pay-scale as admissible to other Government servants in the Ministry of Defence service rules or other Ministries holding such post and to frame/ by which they are entitled to get ~~the~~ Provident Fund, Gratuity, Pension etc.

2. The brief facts is that the four applicants are working at Army Medical Corps Printing Press (in short A.M.C. Printing Press) which ^{is} under control and comm- and of the Commandant of the Corps ~~sen~~, w.e.f. the date of their appointments ranging between 1974 to 1985. The applicant No. 1, Hari Nath was appointed ^{-ing as} as Distributor and now work/ ^{as} Compositor, Applicant No. 2, Shiv Prasad Mishra is working as Machine Man, applicant No. 3, Shyam Sunder Pandey is working as Compositor & applicant No. 4, Raj Kumar is working as Binder. The applicants made various representations for revision of their pay-scale etc. The pay scale of various grades o-f the employees working at A.M.C. Printing Press was revised w.e.f. 1.2.1983 but no provision for Dearness Allowance, House ~~sen~~ Rent Allowance & C.A.A. etc. as admissible to other employees of Government of India was made admissible to the employees of the A.M.C. Printing Press. According to the applicants the A.M.C. Printing Press is an organisation of Govt. of India having been set-up by the Ministry of Defence from the funds received from the Govt. of India and it



carries out exclusively the work of A.M.C. The Printing machine and all other assets belongs to Govt. of India and the same has been installed at Govt. land; and the electricity is provided to the Press on the Govt. expense. ~~At the same time~~ It is contended that A.M.C. Printing Press has been set-up under the authority of Government of India and, therefore, it is a part and parcel of the Ministry of Defence. On the basis of this it is contended that the applicants are employees of Union of India, having been appointed to civil posts, in connection with the affairs of the Union in Defence services and to the posts to be filled in by civilian. The applicants have, therefore, claimed that they are entitled to all the facilities and privileges, at par, which are admissible to other employees of the Union, of their status.

3. Apart from the above it is also claimed that A.M.C. Printing Press is an Industry within the meaning of section 2 (j) of the Industrial Disputes Act, 1947 and the applicants are 'workmen'. Within the said Act. The applicants made various representations which is still ^{under} consideration of the Government. Though, some decision has been taken by the Govt. but it is not being acted upon, hence, this O.A.

4. On behalf of the respondents a common Counter affidavit has been filed giving the brief history of necessity and having A.M.C. Printing Press which started functioning w.e.f. 23.8.53. It is mentioned that main aim was to print record office


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instructions, precies, Registers, Forms Cards, Cash Memos Bill Books etc. The Printing Press is undertaking private work of other Army Personnel also. The case of the respondents is that A.M.C. Printing Press is purely private and no Govt. money was granted/received/ invested to start or to maintain the same. Initially, it is mentioned, a Regimental Fund was raised from the officers, J.C.O.s and other ranks to start the press. Raw material is being purchased from whole-sale market. Some civilians were contacted and employed as machine man, Compositor and binder and are being paid out of Regimental Fund. The applicants are, therefore, not employees of Union nor holders of civil posts, hence, the Tribunal has no jurisdiction to entertain the petition.

5. We have heard the learned counsel appearing for the parties and have given anxious thought to the submissions made by the learned counsel for the applicant.

6. The Central Administrative Tribunal has been established under the Administrative Tribunals Act 1985. The jurisdiction, powers & authority of the Central Administrative Tribunal are given ^{under} section 14 of the said Act, which is as below :

"14. Jurisdiction, powers & authority of the Central Administrative Tribunal: (1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all court (except the Supreme Court (1* * *)) in relation to -



(a) recruitment, and matter concerning recruitment, to any All India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being in either case, a post filled by a civilian;

(b) all service matters concerning -

(i) a member of any All India Service; or

(ii) a person (not being a member of an All India Service or a person referred to in clause (c)) appointed to any defence service or a post connected with defence,

and pertaining to the service of such member person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Govt. of India or of any corporation (or society) owned or controlled by the Govt. ;


(c) All service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose service have been placed by a State Govt. or any local or other authority or any corporation (or society) or other body, at the disposal of the Central Govt. for such appointment.

Explanation - For the removal of doubts, it is hereby declared that references to "Union" in this sub-section shall be construed as including references also to a Union territory.

7. The learned counsel for the applicants and have not been able to produce any document to show that the

posts on which the applicants are working was ever created by the order of Govt.; Unless it is established that the posts on which the applicants are working were created by the Govt. for the defence service to be filled by civilians, this Tribunal would have no jurisdiction to entertain this petition.

8. The learned counsel for the respondents submits that A.M.C. Printing Press is a totally private press and Govt. shoulders no responsibility or liability towards the persons appointed to manage such press. According to the learned counsel for the respondents the applicants are paid salary out of Regimental Fund and no Govt. money is granted for maintaining the press or its staff. Unless it is shown that the applicants are holders of posts created by the Govt. in defence service, the applicants cannot claim relief from the Tribunal. Nothing has been brought on record either from the side of the applicants or from the side of the respondents, the Rules, Regulations, Bye laws if any, under which A.M.C. Printing Press has been established and is working. How the Regimental Fund has been created under what authority and by whose order, is also not on record. Simply because the accounts of A.M.C. Printing Press ^{are} audited by some officers of the defence service, would not give the press, status of a Govt. body. The party making audit of the A.M.C. Printing Press are not shown to be statutory body. In the circumstances, the claim of the applicants that A.M.C. Printing Press should be taken a Govt. body, cannot be accepted.



8. The learned counsel for the applicant has submitted that workers of the applicants are 'Workmen' within the meaning of Industrial Disputes Act, hence this Tribunal may provide relief as claimed in the O.A.. To our mind even if the applicants are covered within the definition of 'workmen' under the Industrial Disputes Act, they are first to approach the competent forum for the same.

9. The learned counsel has further submitted that though their representations are still pending, with the Govt., it appears, has taken certain decisions, but action thereon has not been taken. It is for the Govt., as a policy matter, to take decision; whether employees of A.M.C. Printing Press should or should not be given status of a Govt. employee, but to keep the matter pending for long is not in the interest of Printing Press nor in the interest of the employees who are managing the same. The representations of various dates from 1981 were sent by the applicant, but no positive decision, it appears, has been taken by the authorities, only communications have been sent that the representations are under consideration.

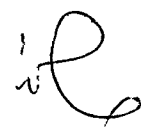
10. We desired to ^{know} how many such Printing Press are working at other places and how many staff is employed to manage the same, but learned counsel for both the party could not furnish the information. The plight of such employees managing work of A.M.C. Printing Press for the last more than two decades may not be commensurate with the job they are discharging, but this Tribunal cannot grant relief which is not covered within the provisions of A.T. Act.

11. In the facts and circumstances of the case, we are of the view that this case is not maintainable before this Tribunal and the application is, therefore liable to be dismissed as non-maintainable. However, before leaving this case, we would like to observe that the applicants appear to be poorly paid employees who have been working for a very long time in ^{AMC} Printing Press. Even if the ^{AMC} Printing Press is not a Govt. department and the applicants are not holders of civil posts, since the press comes within the Administrative jurisdiction of the Ministry of Defence, Govt. of India, it would be appropriate for the Govt. of India to consider the working conditions and other related matters of these applicants and frame appropriate rules in this regard. It would appear from the averments that the matter is already under consideration of the Ministry of Defence. If so, it would be just and fair that the matter is considered urgently and a decision is taken in a time-bound manner.

12. The application is dismissed as non-maintainable with the above observations. No order as to costs.


MEMBER (J)

LUCKNOW: DATED: 10th Feb 1995
GIRISH/-


MEMBER (A)