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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 282/89

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198

DATE OF DECISION 25-9-91

BALWANT AMURTHA MORE & 10 ors. Petitioner

Mr. N.A. Kulkarni, Advocate for the Petitioner(s)

Versus

THE COMMANDANT, College of Military Engineering, Pune. Respondent

Mr. A.I. Bhatkar, for Mr. M.I. Sethna Advocate for the Respondent(s)
for respondent.

CORAM

The Hon'ble Mr. JUSTICE U.C. SRIVASTAVA, Vice-Chairman,

The Hon'ble Mr. A.B. GORTHY, MEMBER(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether in needs to be circulated to other Benches of the Tribunal ? ✓

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA NO. 282/89

Mr. Balwant Amurtha More,
and 10 others

.... Applicants

V/s

The Commandant,
College of Military Engineering,
Kirkee, Pune - 411003

.... Respondent

CORAM : HON'BLE JUSTICE SHRI U.C. SRIVASTAVA, Vice-Chairman
HON'BLE MEMBER SHRI A.B. GORTHY, MEMBER(A)

Appearance :

Mr. N.A. Kulkarni, Adv,
for the applicants

Mr. A.I. Bhatkar, Adv for
Mr. M.I. Sethna, Sr. Counsel
for respondent.

JUDGEMENT

DATED: 25 Sep 91

(PER : A.B. GORTHY, M/A)

The applicants who are employed as Regimental Watchmen in the College of Military Engineering, Pune, have approached the Tribunal by means of this application under Section 19 of the Administrative Tribunals Act, 1985, seeking the under mentioned reliefs :

- a) The respondent be directed to absorb the applicants as regular Watchmen with retrospective effect.

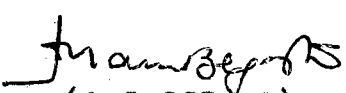
- b) The applicants be paid the salary and allowances as applicable to regular Watchmen under 4th pay Commission.
- c) The respondent be directed to pay arrears arising from the above and all other consequential benefits.


The applicants are the Regimental Watchmen employed by College of Military Engineering during the period 1967 to 1987 on a salary ranging from Rs.320 to Rs.423 per month. The applicants' claim is that they are performing duty which is similar to that performed by regular watchmen and hence they should be treated as regular Watchmen and paid salary and allowances accordingly. They have made several representations to the Central Government but without any success.

3. The respondent has clarified that the applicants are employed as Regimental Watchmen to work in the area of the residential premises occupied by the Officers of the College of Military Engineering, and that they are not government employees at all. They were employed by the Commandant, and they are being paid from the Regimental fund and not from the public fund. It is with a view to take care of the welfare of such employees, that a scheme of Provident Fund was also introduced by the Commandant of the College of Military Engineering and that the said fact by itself does not show that the employees are government servants.

4. The short question involved in this case is whether the applicants can be said to be Government employees so as to entitle them to claim the jurisdiction of the Tribunal. In the case of Narinder Gupta V Union of India 1986 (2) (CAT) SLR 213. it has been held that four conditions must satisfy to determine if a post is a 'civil post'. Firstly, whether it is created/abolished by the Government, secondly, whether the conditions of service are prescribed by the Government, thirdly, whether the duties are connected with the affairs of the State and lastly, whether the employees are paid by the State. It is at once seen that in the instant case none of the afore said conditions is satisfied. The posts of Regimental Watchmen are created by the Commandant of the College of Military Engineering, on conditions specified by him. The duties of the applicants are related to the guarding of the residential premises of the officers and officers Mess of the College of Military Engineering. The salary and allowances to the applicants are not paid from the public fund or imprest money. It is thus clear that the case does not fall within the scope of Section 14 of the Administrative Tribunal Acts, 1985.

5. In the result, we hold that the applicants cannot invoke the jurisdiction of the Central Administrative Tribunal. The application is therefore dismissed but the applicants are at liberty to approach the appropriate forum.


(A.B. GORTHI)
MEMBER(A)


(U.C. SRIVASTAVA)
Vice-Chairman