BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

O.A.NOS.698, 699, 700, 725, 727, 784, 785,
786, 787, 789, 790, 791, 796, 797 of 1994.
1170/96, 1171/96, 1180/96.

Obj in OA 698/94

Thursday this the 23rd day of October, 1997.

CORAM: Hon'ble Shri M.R.Kolhatkar, Member(A).

1. Rajendra Prasad
2. Ajit Hindurao Salunke
3. Ramu Baijnath Pardeshi
4. Srikant Sahebrao Budhwale
5. Ganesh Mahadu Ohal
6. Manik Bandu Gaikwad
7. Jayprakash Ram Asre Singh
8. Mathew John Anthoney
9. K.Vengalrao
10. Balkrishna Kutty Raman Nair
11. Subhash Pande
12. Sriram Bhange
13. Sunit Baburao Hiremath
14. Pandurang Raksnasmare
15. Onkar Jaywant Mule
16. Parmeswaram Ramchandran Nair
17. Eknath Bhalerao

C/o Dr.Avinash Shivade
Advocate High Court,
112A/2, 'Shreeramgad',
14th Lane, Prabhat Road,
Pune - 411 004.

By Advocate Dr.Avinash Shivade ... Applicants

V/S.

1. The Union of India
Through
The Secretary,
Ministry of Defence,
South Block, New Delhi.
2. General Officer Commanding
I/C Southern Command,
Pune - 411 001.
3. The Commandant
Armed Forces Medical College
Pune - 411 040.

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4. Dean
Armed Forces Medical College
Pune - 411 040.

5. President,
Mess Committee
Armed Forces Medical College
Pune - 411 040.

By Advocate Shri Ravi Shetty
for Shri R.K. Shetty, C.G.S.C. ... Respondents.

ORDER

(Per: Shri M.R.Kolhatkar, Member(A))

In all the 17 cases the facts are identical. All the employees are working in the Armed Forces Medical College and as the contentions are identical, they are disposed of by a common judgement.

2. The contention of the counsel for applicants is that the 17 employees in question have been working for varying periods from 31 years to 3 years. Shri P.R. Nair, Cashier has been working since 1966. Shri Onkar is working from 1-3-1994. The prayer is to regularise them in the respective position and to allow them the benefit of the principle of 'equal pay for equal work'. It has been pointed out that services of all the applicants are without a break. The counsel for the applicants relief on the judgement of the Hon'ble Supreme Court in State of Haryana & Ors. vs. Piara Singh & Ors. 1992 (4) SCC p. 118 and in particular Para 51 of the same. According to him, it is settled by the judgement that is a casual labourer is continued for a fairly long spell, say two or three years, a presumption may arise that there is regular need for his services. The effort must be to regularise such employee as far as possible. He also relief on the judgement of the Bombay High Court in State of Maharashtra Vs. Private Party (Writ Petition 92) in which the petitioner who was working as a Muster Assistant in Irrigation Department of Govt.of Maharashtra

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was directed to be regularised in the said or equivalent post. He furtner relief on another Bombay High Court judgement in Writ Petition 475 (Nandkumar K.S. vs. State of Maharashtra) in which the applicant who was working continuously for 12 years in the Office of Dairy Manager, Solapur was directed to be confirmed in the post held by him. The said directions were also given for remaining 14 workers in the same office.

3. Counsel for the applicant also points out that the fact that employees are regular employees is evidenced by the reply of the respondents.

4. Counsel for the respondents contends that this issue is no longer res-integra as this Tribunal in O.A.NO.153/94 and other 9 OAs. (Mrs. Subamma Venkat & Ors. vs. Union of India & Ors.) decided on 7-10-1997 has dismissed the OAs.holding that the applicants were employees of the President, Mess Committee and not of the Armed Forces Medical College and they were not civilians and they do not hold any civil post referred to in Para 5 of that judgement.

5. That judgement also relief on the judgement of tne Central Administrative Tribunal, Allahabad Bench, Madras Bench and Ernakulam Bench (OA.NO.213/88 R.D. Shukla vs. Union of India, OA.NO.170/86 K.A. Joseph vs. Union of India & Ors. and O.A.NO.308/90 K.M.Xavier vs. Union of India & Ors.).

6. Counsel for the applicant in rejoinder states that the judgement in Subamma Venkat vs. Union of India & Ors. O.A.NO.153/94 was delivered ex parte the applicant and that some of the applicants therein have sought review of tne judgement and he has been instructed to file a review petition. He therefore prays that judgement in the present case may be dererred till the review period is over. Moreover, tne majority of applicants in Subamma Venkat and linked batch of applications were employees of Nursing Cadet Mess and not the Medical Cadets Mess and therefore the same

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may not be a binding precedent. He stated that the employees are paid by CDA.

7. I am, however, required to follow the doctrine of precedent, according to which a judgement of a Division Bench of which I was a Member on an identical issue is binding on me. That judgement also noted in Para 2 thereof that one applicant, viz. Applicant in OA.NO.1181/96 was engaged as Masaljee with the President, Mess Committee, Armed Forces Medical College, Pune and others were engaged in the Nursing Cadet Mess but still the Tribunal held that the applicants were similarly placed, prayers were similar and chose to dispose of all the OAs. by a common judgement. Regarding the intention to file review petition, that by itself makes no difference and the judgement is binding as soon as it is pronounced. The parties may file a review petition or challenge the judgement otherwise in an appropriate forum but that does not retract from the binding nature of the precedent.

8. All the same I note the fact that some applicants intend to file review petition and I, therefore, dispose of these OAs. by passing the following order. OAs. are dismissed by following the ratio of Subamma Venkat and other OAs. and for the same reasons. If a review petition against that judgement came to be filed and the Tribunal allows the Review Petition, the applicants in these OAs. also are at liberty to seek review of the present orders. No order as to cost.

Sd/-

(M.R.KOLHATKAR)
MEMBER (A).