

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BNECH

ORIGINAL APPLICATIONS NO. 304 to 308/99

Dated this the 23rd Day of July 2001.

Coram : Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Smt. Shanta Shastri, Member (A).

1. Rajan Uphaya Karala,
Labourer, aged 60 years
 2. Dinanath Rama Kambli,
Labourer, aged 44 years
 3. Shrnappa Gawdappa Mutungi,
Labourer, aged 60 years
 4. Pandurang Anna Nagvekar,
Labourer, aged 55 years
 5. Madhu Rama Parsekar,
Labourer, aged 60 years
 6. Rajan Nanv Moraskar,
Labourer, aged 35 years.
 7. Raju Chinnaya Gawda,
Labourer, aged 40 years.
 8. Transport and Dock Workers Union,
through its General Secretary
with office at Kossambe Bldg.,
C/8, 2nd Floor, Swatantra Path,
Vasco da Gama, Goa.
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1. Anand Urkundappa Saipagu,
Labourer, aged 39 years.
 2. Anjinya Hamumaya Kavali,
Labourer, aged 35 years.
 3. Laxmi Dattaram Naik,
Labourer, aged 35 years.
 4. Suarthamma Paddiya Harijan,
Labourer, aged 28 years.
 5. Nagamma Achaiah Kalivile,
Labourer, aged 28 years.
 6. Ambubiai Eknath Shinde,
Labourer, aged 40 years.

.. Applicants
in OA 304/99

7. Kalawa Hanumanta Ungadie,
Labourer, aged 32 years.
8. Nilawa Devappa Harijan,
Labourer, aged 35 years.
9. Sitabai Bhagwantappa Rathod,
Labourer, aged 38 years.
10. Shantabai Laxman Rathod,
Labourer, aged 35 years.
11. Transport and Dock Workers Union,
through its General Secretary,
with office at Kossambe Bldg.,
C/8, 2nd Floor, Swatantra Path,
Vasco da Gama, Goa.

.. Applicants in
O.A. 305/99.

1. Pushpa Uttam Rawat,
Labourer, aged 39 year..
2. Gangappa Gadigappa Harijan,
Labourer, aged 23 years.
3. Sunderaj Maridas Earla,
Labourer, aged 19 years.
4. Transport and Dock Workers Union,
through its General Secretary,
with office at Kossambe Bldg.,
C/8, 2nd Floor, Swatantra Patja,
Vasco da Gama, Goa.

.. Applicants in
O.A. 306/99.

1. Paddaya Hanumanthappa Harijan
Labourer, aged 36 years.
2. Venkatesh Eriya Garli,
Labourer, aged 33 years.
3. Gaddigappa Gangappa Harijan
Labourer, aged 47 years.
4. Achaiah Chinnappa Kalivile,
Labourer, aged 30 years.
5. Smt. Venkatamma Maridas Erla,
Labourer, aged 37 years.
6. Lakshamma Paddiyanna Gaddi,
Labourer, aged 50 years.
7. Bagyamma Prakash Bokala,
Labourer, aged 29 years.
8. Rathamma Gaddigappa Harijan,
Labourer, aged 33 years.

9. Ellamma Timanna Bhovie,
Labourer, aged 42 years.
10. Smt. Rajshree Krisna Pednekar,
Labourer, aged 39 years.
11. Vijaya Raju Gawda,
Labourer, aged 27 years.
12. Laximamma Marimuthu Mundaliya,
Labourer, aged 48 years.
13. Transport and Dock Workers Union,
through its General Secretary.

Applicants in
OA 307/99

1. Prabhakar Ram Parsekhar,
Labourer, aged 40 years.
2. Satish Anand Jogi,
Labourer, aged 35 years.
3. Tukaram Anna Nagvekar,
Labourer, aged 60 years.
4. Laximan Mukund Nagvekar,
Labourer, aged 55 years.
5. Transport and Dock Workers Union,
through its General Secretary.

... Applicants in
OA 308/99

All the applicants are C/o
Transport and Dock Workers Union

By Advocate Shri M.B. D'Costa.

Vs.

1. I.N.S. Hansa, through
Officer in Charge/
Administrative Officer,
Varunapuri, Mangor Hill,
Vasco da Gama, Goa.
2. Union of India,
through the Secretary,
Ministry of Defence,
New Delhi.

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3. Officer-in-Charge/
Administrative officer,
Varunapuri, Mangor Hill,
Vasco da Gama.

..... Respondents

By A.C.G.S.C. Shri V.S. Masurkar.

O R D E R (ORAL)

Hon'ble Smt. Shanta Shastri.

Member (A)

Shri Kamat appears for Shti M.B. D'Costa for the applicants and Shri V.S. Masurkar for the respondents in all these OAs. As the issue involved and the relief sought in all these OAs is similar, we have proceeded to dispose of these OAs by a common order.

2. The applicants are casual employees at Varunapuri where Sailors quarters working in INS Hansa are located. The applicants have prayed for regularisation of their services with all financial benefits.

3. The respondents have taken the preliminary plea that the applicants are not Government servants and they have not been employed by INS Hansa, they do not hold any civil posts and therefore, they are not entitled to any relief and this Tribunal has no jurisdiction. // The learned counsel for the respondents submits that the applicants are employed as watchmen on daily wages basis in the sailors quarters at Varunapuri near INS Hansa. They do jobs such as keeping the areas surrounding the sailors' residence clean, cutting grass, cleaning toilets, disposing of garbage and other such domestic tases. They are paid

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from the contributions of the sailors for this purpose. Such payments are neither subsidised nor paid from any public funds. They have not even alleged anywhere in the OA that they are being paid from the Consolidated Fund of India or from any other Public Fund. On the contrary they have admitted that they are being paid from the contribution made by the sailors. Some of the applicants have already crossed the age of 60 years. The applicants were neither recruited as per recruitment rules nor through the Employment Exchange. The question of regularising them does not arise.

4. The applicants have already ¹ taken their plea of being workman before the Conciliation Machinery provided in the Industrial Disputes Act 1947. It has been held that they are not workmen in terms of the ID Act, 1947. The applicants had also filed a case in the High Court of Goa for similar relief, but later on withdrew the case and have filed the present OA.

5. The learned counsel reiterates that this Tribunal has no jurisdiction in the matter as the applicants are not holding civil posts.

6. The learned counsel for the applicants submits that ~~at~~ the last hearing, he had been advised to produce material in support of their claim of holding civil posts. The learned counsel admits that the applicants are unable to produce any material in support of their

claim except that the applicants have been issued Identity Cards by the INS Hansa. The only document which can be relied upon according to the applicants is the order dated 24.01.1998 of the Ministry of Labour wherein it has been recorded as follows:-

" It is found that the workmen are working with INS Hansa which is a part of Indian Navy, a wing of the Defence service and as such is a soverian function. As such the activities of INS Hansa cannot be that of an Industry under ID Act. "


7. The learned counsel for the respondents rebuts the same and states that the mere phrase "working with INS Hansa" by itself does not establish that the applicants are employees of the INS Hansa. The findings given by the Labour Ministry was based purely on the report of the Labour Commissioner with no inputs from the Ministry of Defence, under which, INS Hansa is established.

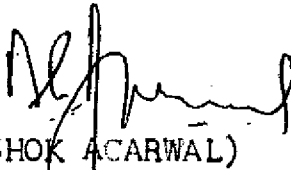
8. The identity passes are issued in the interest of security as the sailors' quarters are located next door to the INS Hansa, which is an operational ^{premier} air establishment of the Navy.

9. The learned counsel for the respondents, therefore urges that this Tribunal has no jurisdiction in this matter. In support of this he is relying on the judgment in Union of India Vs. ^hCotelala and others reported in 1999 (1) SCC 554.

10. We have heard the learned counsel for both sides and have perused the pleadings. It is clear that the applicants are not holders of civil posts. The applicants have failed to produce any convincing material/documentary proof in support of their contention that they are employed by the INS Hansa, under the Ministry of Defence. They have not denied that they are being paid from the contribution of the sailors. Mere holding of identity passes issued by the INS Hansa as rightly pointed out by the respondents does not make them employees of that establishment. In the facts and circumstances of the case the applicants, not being holders of civil posts, cannot come to this Tribunal for redressal of their grievances. Following the judgment in the case of Chotelala (supra) as cited by the respondents we have to hold that the Tribunal has no jurisdiction to entertain these applications.

11. All these OAs are, therefore, dismissed with no order as to costs.


(SHANTA SHASTRY)
MEMBER (A)


(ASHOK ACARWAL)
CHAIRMAN

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