REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
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Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 11 AUG 1988

APPLICATION NOS. 969 to 980 & 1054 to 1059/88(F)

Applicants

Shri S.V. Patil & 17 Ors V/s

Respondents

The Secretary, M/o Defence & 3 Ors

To

1. Shri S.V. Patil
303/38, Patil Mala
Belgaum

2. Shri Vasudeo Sawant
R/o Gawali Wada
Nanawadi
Belgaum

3. Shri Shivappa Huddar

4. Shri Bhagwan Raul

(Sl Nos 3 & 4 -

Cooks in 'A' & 'B' Mess
R/o Infantry School
Belgaum)

5. Shri Yessayya Kandayya
R/o Devaka Building
Ramaswamy Avenue
Nanawadi
Belgaum

6. Shri Basil Charles
R/o 5/8, Yashwant Bhavan
Nanawadi
Belgaum

7. Shri Shrikant Kharade
C/o Shri R.M. Shinde
H.No. 3, 'B' Madras Street
Camp - Belgaum

8. Shri Parashram B. Belgaonkar
445, Nazar Camp No. 3
M. Vadagoan
Belgaum

9. Shri A.Y. Shinde
C/o Shri Subadagadu Kadam
Ajagoankar Chawal
Nanawadi
Belgaum

10. Shri B.L. Kalange
BC No. 62/10, Hussainiwala Road
Camp - Belgaum

11. Shri M. Jairajan
B.C. No. 92/A, Church Road
Camp - Belgaum

12. Shri Gundu @ Gundappa Mallappa Sadian
Cook in 'A' & 'B' Mess
R/o Infantry School
Belgaum

13. Shri Gopal Mayappa Patil
353, Mahadevar Road
Croos No. 2
Belgaum

14. Miss Saista D. Bagshahi
A/3, Class IV Government Quarters
Vishweswarayya Nagar
Belgaum

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15. Shri Rajaram Mallu Mangirgekar
44, Bhandur Galli
Belgaum

16. Shri Appu Laxman Patil

17. Shri Nagesh Babu Torgal

(Sl Nos. 16 & 17 -

Bar Waiters in 'A' & 'B' Mess
R/o Infantry School
Belgaum)

18. Shri Shivangouda R. Patil
Cook in 'A' & 'B' Mess
R/o Infantry School
Belgaum

19. Shri S.R. Shinde
Advocate
No. 73, Laxmi Nivas
7th Cross, Malleswaram
Bangalore - 560 003

20. The Secretary
Ministry of Defence
South Block
New Delhi - 110 011

21. The Secretary
Army Headquarters
MI - 7 Branch
New Delhi

22. The Commandant
Infantry School
Mhow
Madhya Pradesh

23. The Commander
Junior Leader's Wing
Infantry School
Belgaum

24. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

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Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of the ORDER passed by this Tribunal in the above applications on 2-8-88.

DEPUTY REGISTRAR
(JUDICIAL)

Encl : As stated

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 2nd DAY OF AUGUST, 1988

Present : Hon'ble Sri Justice K.S.Puttaswamy — Vice Chairman

Hon'ble Sri P.Srinivasan — Member (A)

A.Nos. 969 to 980 and 1054 to 1059/1988.

1. S.V.Patil
   Mess Clerk Grade I 'A' Mess in
   The Infantry School, Belgaum,
   R/o No. 303/38, Patil Mala,
   Belgaum.

2. Vasudeo Sawant,
   working as Wailter No.I in
   'A' & 'B' Mess, R/o Gawali
   Wada, Nanawadi, Belgaum.

3. Shivappa Huddar,
   working as Cook in 'A'
   & 'B' Mess, R/o Infantry
   School, Belgaum.

4. Bhagwan Raul,
   working as Cook in 'A'
   & 'B' Mess, R/o Infantry
   School, Belgaum.

5. Yessayya Kandayya,
   working as Gardener (Mali)
   R/o Devaka Bldg, Ramswamy
   Avenue, Nanawadi,
   Belgaum.

6. Basil Charles,
   working as Barman in 'A'
   & 'B' Mess, R/o 5/8, Yeshwant
   Bhavan, Nanawadi, Belgaum.

7. Shrikant Kharada,
   working as Cook in 'A'
   & 'B' Mess, R/o C/o R.M.Shinde,
   H.No.3 'B', Madras Street,
   Camp - Belgaum.

8. Parashram B.Belgaonkar,
   working as Mess Clerk 'A'
   & 'B' Mess, R/o 445, Nazar Camp
   No.3, M.Vadagaon, Belgaum.

9. A.Y.Shinde,
   working as Waiter No.1 in
   'A' & 'B' Mess, R/o C/o
   Subadagadu Kadam,
   Ajgaonkar Chawal, Nanawadi,
   Belgaum.

10. B.L.Kalange,
    working as Mess Clerk in 'A'
    & 'B' Mess, Hussainiwala Road,
    R/o BC No.62/10, Camp -
    Belgaum.

11. M.Jairajan,
w/a Barman in A & B Mess,
R/o BC No.92/A, Church Rd.,
Camp - Belgaum.

12. Gundu @ Gundappa Mallappa Sadian,
w/a Cook in A & B Mess,
R/o Infantry school,
Belgaum.

13. Gopal Mayappa Patil,
w/a Waiter in A & B Mess,
r/o 353, Mahadevar Road,
cross No.2, Belgaum.

14. Appu Laxman Patil, w/a Bar Waiter,

15. Shivangouda R.Patil, w/a Cook,

16. Nagesh Babu Torgal, w/a Waiter,

17. Miss Saista D.Bagshahi, w/a Mess Clerk,

18. Rajaram Mallu Hangirgekar, w/a Mess Clerk,

(Applicants 14 to 18 working in A & B Mess
R/o Infantry School, Belgaum). .... Applicants

(Shri S.R.Shinde ... Advocate)

Vs.

1. The Central Government of India,
Defence Department,
(Defence Ministry) represented
by its Secretary & Commissioner,
New Delhi.

2. The Army Headquarters by its
Secretary, MI & Branch,
New Delhi.

3. The Infantry School,
represented by its Commandant,
at Mhow (MP).

4. The Infantry School,
Junior Leader's Wing,
represented by its Commandar,
Belgaum. ... Respondents

(Shri M.Vasudeva Rao ... Advocate)

These applications having come up for hearing today, Hon'ble Vice Chairman made the following :

These are applications made by the applicants under Section 19 of the Administrative Tribunals Act, 1985 ('the Act').

2. In the military cantonment of Belgaum, there were two messes, designated as 'A' and 'B' Messes, serving the officer students of the Indian Army, who undergo different types of military training. The applicants and a few others who have not approached us, have been working in one or the other capacity in those messes for different periods. But in order to decide the question of jurisdiction of this Tribunal, that looms large, it is not necessary to ascertain these details. For some time past, the messes have been closed down and the services of all the applicants have been dispensed with or terminated. Hence, in these separate but identical applications, the applicants have sought for appropriate directions.

3. The applicants have asserted that they were and are regular civilian employees of the Union of India borne on the establishment of the Junior Leaders' Wing, Belgaum, and therefore, they were entitled to the reliefs sought by them.

4. On these applications, we ordered notices to the respondents to show cause as to why they should not be admitted. In response to the same, the respondents have entered appearance through Shri M.Vasudeva Rao, learned Addl. CGSC, and have filed their reply.

5. In their reply, the respondents have asserted that the two messes, in which the applicants were employed, were

...4/-

not maintained and financed by Government of India, but were exclusively maintained and run by the student officers themselves, as their own private organisation, and therefore, the applicants were not civil servants of the Union of India. On this stand, the respondents have urged that the Tribunal has no jurisdiction to entertain these applications. On merits, the respondents have asserted that the two messes had been closed down as the training establishment at Belgaum had been shifted to Mhow, situated in the State of Madhya Pradesh.

6. Shri S.R.Shinde, learned counsel for the applicants, contends that the applicants had been appointed and were working as civil servants of the Union of India, and the termination of their services overnight being illegal, improper and unjust, this Tribunal had jurisdiction and power to adjudicate their service disputes under the Act.

7. Shri Rao refuting the contentions of Shri Shinde, contends that the applicants were not civil servants of the Union of India, and therefore, this Tribunal had no jurisdiction to adjudicate the service dispute of the applicants, the termination of whose services were justified and legal.

8. In their reply, the respondents have explained in detail the nature and the organisation of the two messes, where the applicants were employed. From what has been stated by the respondents, the correctness of which cannot be doubted, it is clear that the two messes were only maintained by the student officers themselves and were not

...5/-

establishments maintained by the Government of India. On this it follows that the applicants were not civil servants of the Union of India. Every one of the documents relied on by Shri Shinde do not really help us to hold otherwise. If that be so, then these applications made before us are not maintainable.

9. Even otherwise, we find that these messes themselves had been closed down on the shifting of training establishment to a different place, viz. to Mhow. This then, being the factual position, we cannot help the applicants even if we had jurisdiction to adjudicate their grievances.

10. Shri Shinde urges that some of the applicants had put in more than 15 years of service, and all/them, were now unemployed, and this Tribunal should issue appropriate directions for their alternate employment.

11. Shri Rao without admitting the details of services of the applicants, opposes this direction sought by Shri Shinde.

12. On the view we have earlier expressed, we cannot deal with this aspect at all. We, therefore, decline to deal with the same. But notwithstanding, the same, we consider it proper to recommend to the respondents that they to do their best to rehabilitate the applicants by exploring all such avenues as are open to them. We do hope and trust that they will do so notwithstanding the rejection of the applications.

13. In the light of our above discussion, we hold that

...6/-

these applications are liable to be rejected. We, therefore, reject these applications. But in the circumstances of the cases, we direct the parties to bear their own costs.

Sd/-
VICE CHAIRMAN 2/8/1988.

Sd/-
MEMBER (A) 2/8/88

dms/an.

TRUE COPY

DEPUTY REGISTRAR (JDL) 11/8
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE