

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 327/93
Transfer Application No.

Date of Decision : 4.7.95

Ashok Sitram Lomte and 4 others,

Petitioner

Shri B. Dattamurthy

Advocate for the
Petitioners

Versus

Union of India and others.

Respondents

Shri R.K. Shetty

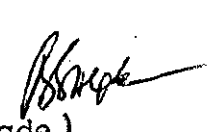
Advocate for the
respondents

C O R A M :

The Hon'ble Shri B.S. Hegde, Member (J)

The Hon'ble Shri P.P. Srivastava, Member (A)

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?


(B.S. Hegde)
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 327/93

Ashok Sit^aram Lamte and four others

... Applicants.

V/s.

Union of India through
the Deputy Secretary,
Directorate General of
Employment and Training,
Ministry of Labour,
Government of India,
New Delhi.

The Director,
Advanced Training Institute
V.N. Purav Marg, Shion,
Bombay.

The Chairman,
A.T.I. Departmental
Staff Canteen,
Advanced Training
Institute, Bombay.

The Director (Canteens)
Department of Personnel
& Training, North Block
New Delhi.

... Respondents.

CORAM: Hon'ble Shri B.S. Hegde, Member (J)

Hon'ble Shri P.P. Srivastava, Member (A)

Appearance:

Shri B. Dattamurthy, counsel
for the applicant.

Shri R.K. Shetty, counsel
for the respondents.

JUDGEMENT

Dated: 4.2.95

¶ Per Shri B.S. Hegde, Member (J) ¶

Applicants in this Application has
challenged the termination orders dated 15.3.93 and
12.4.93 respectively. The applicants were working
right from 1985 onwards till their termination.
Accordingly they prayed that the termination orders
be quashed and they should be taken back in service
with immediate effect, and to issue directions to the
respondents to regularise the services of the
applicants.

...2...

2.1- The respondents in their reply denied the contention of the applicants and stated that the applicants were taken on daily casual workers and the applicants were not employees of respondents. The issue involved in this O.A. leads to creation of posts which is not permissible under the policy of the Government. The applicants were engaged by the Departmental Staff Canteen on daily wage basis only on working days and paid from the canteen income which is running on 'No Profit - No Loss basis.' No wages have been paid from the consolidated fund of India. This Departmental canteen are controlled by a Managing Committee of this Institute with effect from 9.9.1978. The co- Operative Canteen was approved by Directorate of Canteen as Type 'C' with 8 sanctioned canteen staff. Thereby it is not open to the respondents to create any new post in order to accommodate the applicants. Accordingly the services were terminated.

3. Heard Shri B. Dattamurthy, counsel for the applicant and Shri R.K. Shetty, counsel for the respondents.


4. Admittedly the applicant's services were terminated on 12.4.93. The contention of the learned counsel for the applicant is that instead of regularisation of the applicants service after putting in nearly six to eight years, abruptly their services were terminated. The contention is not tenable in view of the fact that the Co-operative canteen has been approved by the Directorate of Cantees as Type 'C' and was granted the status of Departmental canteen and for want of any vacancy, the respondents could not keep the applicants in service. Accordingly, as per the impugned order dated 12.4.93 the applicants services were terminated.


5. We have heard the rival contention of the parties and perused the pleadings. The learned counsel for the applicant has drawn our attention to the decision of the Principal Bench on 4.2.94 in O.A. 1686/93 Bishamber Dutt and others V/s. Union of India and others where a similar issue was raised and the Tribunal after considering the contention passed the following order. Which reads as below:

" The learned counsel for the applicants has urged that this is a fit case where we should give a specific direction to the respondents to consider their cases for first giving them temporary status and thereafter considering them for regularisation within a specified time.' This request appears to be reasonable. We accordingly direct the authority concerned to consider the cases of the applicant for being given temporary status in accordance with the scheme dated 10.9.1993 within a period of three months from the date of presentation of a certified copy of this order by any of the applicants before it. Thereafter, the applicants shall be considered for regularisation of their services, if an when permanent vacancy arises. It goes without saying that the cases of the applicants shall be considered on merit and in accordance with law"

6. In that case, the applicants were in service ^{when} ~~and~~ they approached the Tribunal and considering the contention of the parties the Tribunal gave a direction. In the present case the applicant's service have already been terminated .

7. In the facts and circumstances of the case, we can only give a direction to the respondents that as and when they employ people for Departmental Canteen the applicants case should be considered for employment in the capacity that the applicants were working prior to their termination, according to the Rules. With the above direction O.A. is disposed of. There shall be no order as to costs.'


(P.P. Srivastava)
Member (A)


(B.S. Hegde)
Member (J)

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