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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH.

Original Application Nos. 331/93, 701/93, 728/93.

~~Transfer Application No.~~

Date of decision 30.9.1993

Shri Parisuami Kumar & Anr. Petitioners

Shri D.N.Deshmane Advocate for the Petitioner

Versus

Union of India & Ors. Respondent

Shri V.S.Masurkar Advocate for the Respondent(s)

Coram :

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

The Hon'ble Shri M.Y.Priolkar, Member (A)

1. Whether the 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 it needs to be circulated to other Benches of the Tribunal ?

(M.Y.PRIOLKAR)
MEMBER (A)

(M.S.DESHPANDE)
VICE CHAIRMAN

(6)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NOs. 331/93, 701/93, 728/93.

1. Shri Pariswami Kumar
2. " " "
3. Shri T.B.Gurung — Applicants

V/S.

Union of India & Ors. ... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande
Hon'ble Member (A) Shri M.Y.Priolkar

Appearance

Shri D.N.Deshmane
Advocate
for the Applicants

Shri V.S.Masurkar
Advocate
for the Respondents

ORAL JUDGEMENT Dated: 30.8.1993

(PER: M.S.Deshpande, Vice Chairman)

In all these three applications the applicants who have been transferred from the place of posting feeling aggrieved by the order directing them to hand over the residential accommodation which have been allotted to them have approached this Tribunal for relief because according to them under the rules which are applicable to them for quarters are entitled to retain the quarter till the end of current School Session.

2. The applicants are drivers and according to them they are Civilians and would not come under the definition of Force and therefore they are entitled to seek relief from the Tribunal under the provisions of Administrative Tribunals Act.

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3. Preliminary objections have been raised by the respondents that the applicants belong to armed forces. Under Section 2 (a) the jurisdiction of the Tribunal will be excluded because the Act will not apply to any member of the naval, military or air forces or of any other armed forces of the Union. Under Section 4(1) of the Army Act, The Central Government may, by notification, apply with or without modification, all or any of the provisions of this Act to any force raised and maintained in India under the authority of that Government and suspend the operation of any other enactment for the time being applicable to the said force. Under the Notification (Ex.'R-2') by S.R.O. 122 under the caption No.III. Application of the Act to Civil GT Coys etc. under the Ministry of Defence Notification No. S.R.O. 122 dated 22.7.1950 as amended by S.R.O. 282 dated 17.8.1960, the Central Government was pleased to apply all the provisions of the Army Act to Civil General Transport Companies and Independent Transport Platoons being a force raised and maintained in India under the authority of the Central Government. Under S.R.O. 182 dated 21.4.1951, Accommodation was mentioned in clause (e) and for drivers the accommodation was to be provided as per their ranks. It is noteworthy that S.R.O. 122 as it stood dated 22.7.1950 was amended by S.R.O. 282 of 1960 and whatever may be found in the Army Instructions dated 21.4.1951 it would go to exclude the category of Drivers from the terms and conditions of service would not come in the way of the respondents. Under the title below S.R.O. No. 1255, Drivers have been quoted Sepoy and Non-Commissioned Officers.

4. On behalf of the applicants, our attention was drawn to the letter issued by the Army Headquarters on 10.2.1977 addressed to the Headquarters Eastern Command in reply to their letter informing that the civilians are governed by

the Army Act for the purpose of discipline only and for the rest of the matter relating to the terms and conditions of their services, they are subject to AI 182/51 and treated as other Central Defence Civilians for all intents and purposes. The letter was issued on the subject of participation of Civilian General Transport Personnel in parade and games and it was stated that their participation may be on a voluntary and not obligatory basis. In any event, whatever may be stated in the letter of Army Headquarters cannot take away the effect of the Notification of the Central Government under the provisions of Army Act and it is difficult for us to hold that the applicants do not belong to Armed Forces Act as contemplated under Section 2 (a) of the Administrative Tribunals Act. The view that we are taking is in accordance with the decision of the Bombay High Court in Writ Petition No. 472 of 1981 decided on 29.1.1982, the Learned Chief Justice who spoke for the Bench observed at the end of Para 8 : "We are unable to see any reason why several such organisations like Civil General Transport Companies under consideration connected with defence services having close connection with the regular army should be excluded from the purview of its connotation." It is also observed in Para 13 that it was not disputed before them that this Civil General Transport Company has been treated as a "force" since the time when the first notification was issued under section 5 of the Act of 1911 in the month of June 1946. We are respectfully agree with this view.

5. The learned counsel for the applicant, however, referred us to the decision of a Division Bench of Delhi High Court in II (1988) ATLT (HC)(SN) 38 Surinder Nath vs. Union of India & Ors. which is in respect of the petitioner who was in Delhi Police and it was held that merely because one branch of the police force is armed, the same cannot come within the ambit of any other "armed forces of the Union" because it was used in a different context that decision did not touch the point which we are

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called upon to discuss here. We, therefore, hold that as the applicants come within the purview of the Army Act under Section 2 (a) of the Administrative Tribunals Act, we have no jurisdiction to entertain these applications. The applications are dismissed. Interim relief to continue for one month.

(M.Y.PRIOLKAR)
MEMBER (A)

(M.S.DESHPANDE)
VICE CHAIRMAN

mrj.