

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

Original Application No.632/95

DATE OF DECISION: 25.7.2001

CORAM: HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE CHAIRMAN (J)
HON'BLE SHRI V.K. MAJOTRA, MEMBER (A)

1. S/Shri R.R.Dhawade
2. B.T.Jagtap
3. S.D. Pillai
4. D.B. Dhawade
5. G.S. Salve
6. Moolchand
7. D.S.Paigude
8. D.K.Gade
9. P.Pinho
10. S.K.Dhawade
11. Babu Ram
12. C.P.Patole
13. K.L.Bechwade
14. S.D.Joshi
15. H.S.Rawat
16. Vijay Dravid
17. Prem Singh
18. M.K.Sutar
19. C.G.Thite
20. M.Mendonza



21. N.N.Astekar
22. R.H.Sonawane
23. P.Bankar
24. E.K.Munuswamy
25. N. Singh
26. D.S.Desai
27. S.L.Dhawkar
28. G.R.Salunki
29. D.M.Wavle
30. S.R. Jawalkar
31. Raguvira
32. V. Prakash
33. N. Gopal
34. D.E. Wanjale
35. R.Singh
36. S.S.Dhawan
37. R.Somvanshi
38. V.G.Kamble
39. A.Balmiki
40. S.D.Salunki
41. E.V.Samble
42. B.R.Sharma
43. D.N.Vharwad
44. L.K.Sakhare



45. G.Ratnam
46. K.Gurraiyya
47. P.Karke
48. H.K.Dhangat
49. L.L.Ragi
50. S.M.Kamble
51. R.N.Walhekar
52. L.F.D'souza
53. H.B.Chetry
54. K.D.Jawalkar
55. M.A.Ali
56. L.J. Dhebe
57. S.D.Dhawade
58. M.G.Kamble
59. S.R.Sathe
60. P.D.Waragade
61. S.V.Deshmukh
62. Kalpeshwar
63. Vidhyadhnan
64. Kushal Singh
65. Mani Ram
66. Baldev Sigh
67. S.R. Tadvi
68. W.K.Mashi



69. R.B.Kadam
70. A.D.Dhabade
71. V.K.Bahadur
72. Paul Fernandes
73. P.Kumar
74. A.T.Thombre
75. Sanjay Kadu
76. M.C.Gogai
77. K. Mohandas
78. V. Kannan
79. A.K.Naikuwade
80. D.R.Thombe
81. K.K.Pillai
82. N.K.Sakhare
83. S.S.Kunjeer
84. G.B.Dhorekar
85. T.G.More
86. P.K.Shashikumar
87. Mujeeb Nizar
88. D. Singh
89. Rakesh Chand
90. R.D.Wanjale
91. R.M.Pillai



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- 92. K. Yadaih
- 93. A.M. Dhumal
- 94. S.R.Mandge
- 95. R.P.Shellar
- 96. Munna Lal

..... Applicants

(All the Applicants are working
as "Mess Waiters" in the National
Defence Academy, Khadakwasla,
Pune, 411 025.)

(Applicants by Shri S.P.Saxena, Advocate)

vs.

- 1. Union of India
through the Secretary
Ministry of Defence,
New delhi 110 011.
- 2. The Director General of
Military Training
General Staff Branch,
Army Headquarters,
DHQ P.O.
New Delhi 110 011.



3. The Commandant

National Defence Academy,

Khadakwasla,

Pune 411 025.

..... Respondents

(Respondents by Shri R.K.Shetty, Advocate)

O R D E R (ORAL)

[Per: V.K. Majotra, Member (A)]

The Applicants, 96 in number are Govt.Group 'D' employees working as Mess Waiters in the National Defence Academy, Khadakwasla, Pune (NDA). They are aggrieved that the respondents have been detailing them for duty for about 17 hours per day instead of 8 hours per day and 40 hours per week. Their further ^{Grievance} ~~further-grieved~~ is that they are not given any weekly off, or 16 gazetted holidays, thereby they are being exploited and also not adequately compensated for extra hours put in by them. They have sought the following reliefs:

"8 (b). To direct the respondents to publish/notify the working hours for the applicants, for each working day and also the "weekly off" day, in keeping with the Central Government Rules and on par with I.M.A.;

(c) To direct the respondents to allow the applicants to avail off/holiday on the 16 Gazetted paid holidays in each year and in case they are detailed on such paid holidays, the applicants be paid overtime for such holidays.

(d) To direct the respondents to pay overtime to the applicants, if they are detailed for duty beyond 8 hours per day or 40 hours per week.

(e) To direct the respondents to pay appropriate compensation to all the applicants for the extra hours of work extracted illegally from them for years together in the past."

However, the learned counsel for the applicants stated during the course of the arguments that the applicants would be satisfied if the reliefs claimed are accorded prospectively.

3. The respondents in their written statement and various affidavits filed by them have stoutly contradicted the claims made by the applicants.

4. We have heard the learned counsel on both sides and considered the pleadings of the respective parties exchanged between them since 1995 as also the material on record.

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It has been stated in the reply affidavit filed on 17.8.1988 by the respondents that a Study Group has been constituted and issues were likely to be settled by the respondents as early as possible.

5. The learned counsel for the respondents admitted that the Study Group has not been able to complete its study and make any recommendations on the alleged problems under consideration in the present OA. The learned counsel of the respondents particularly drew our attention to respondents affidavit filed on 30.5.2001. It is stated therein that earlier the recommendations had made vague submissions and commissions in the reply affidavits of 6.1.2001 and 12.2.2001. It is further stated that the applicants were fully aware that they were required to work with staggered working hours or spreadover working hours. Having accepted such working conditions at the time of their appointments they cannot turn around and complain against them. It was contended through Ex. R.3 that the Applicants have been placed in scales recommended by the Fifth Pay Commission along with DA, CCA, HRA, and have been provided half pay leave, casual leave, public holidays, annual holidays and other fringe benefits.

6. The learned counsel for the applicant have drawn our attention to respondents affidavit filed on 2.2.2001 wherein the respondents have admitted that the spread over duties of 98 Waiters in a day is: 49 Waiters--15 hrs, 34--10 1/2 hrs and 15 Waiters -- 8 hrs. He contended that this kind of spreadover of duty hours of such a large number of applicants is nothing but exploitation of labour.


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7. We are constrained to mention that the Study Group constituted more than 5 years ago has not finalised its recommendations on the working hours of the applicants till date. In this background the learned counsel for the applicant suggested that an independent Commission could be instituted to study the problems afresh so that a final decision on the issues involved in the present OA can be taken up by the respondents. The learned counsel for the respondents stated that in view of the facilities provided to the applicants at present there is no justification for constitution of any further Committee to look into the grievances of the applicants.

8. We are unable to agree with the learned counsel for the respondents because whatever facilities have been accorded to the applicants at present they have been provided without completion of the work study which had been set up by the respondents themselves more than 5 years ago. This only indicates that the present state of affairs is only an adhoc measure adopted by the respondents and is not based on any scientific Work Study. In our considered view, the present matter can be disposed of by directing the respondents to constitute a Committee to go into the issues involved in the present OA within a specified time frame. Accordingly we, direct the respondents as follows:

(a) Respondents No.1 i.e. the Secretary
Ministry of Defence shall constitute a Committee
comprising (i) the Commandant, National Defence

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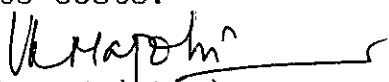
Academy, Pune (ii) Additional Financial Advisor, Ministry of Defence, New Delhi (iii) Director of Administration, Ministry of Defence, New Delhi, to consider the issues and claims contained in this O.A. in accordance with the rules and regulations issued from time to time.

(b) The Committee shall finalise its recommendations as expeditiously as possible, in any case, within a period of six months from the date of receipt of a copy of these orders.


(c) Before finalising the recommendations the Committee would give an opportunity of being heard to two nominees from amongst the applicants.

(d) The respondents shall consider the recommendations of the Committee as stated above and take final decision within a month about the benefits to be granted to the applicants from the date of receipt of a copy of this order by the respondents.

9. The O.A. is disposed of in the above terms. No orders as to costs.


(V.K. Majotra)
Member (A)

sj*


(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)