

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 589/97

Date of Decision: 29/4/98

**Sukhdeo Ram Rai**

Applicant.

**Dr. A. Shivade**

Advocate for  
Applicant.

Versus

**National Defence Academy & Anr,**

Respondent(s)

**Shri R. K. Shetty**

Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri. **Justice R.G.Vaidyanatha, V.C.**

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

- (1) To be referred to the Reporter or not? *yes*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *NO*

*R. G. Vaidyanatha*  
(R.G.VAIDYANATHA)  
VICE CHAIRMAN

abp.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GULESTAN BLDG.NO.6, PRESCOT RD, 4TH FLR, FORT,  
MUMBAI - 400 001.

ORIGINAL APPLICATION NO.589/97.

DATED THE 29TH DAY OF APRIL, 1998.

CORAM : Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.  
Hon'ble Shri P.F.Srivastava, Member(A).

Sukhdeo Ram Rai,  
Milker,  
Residing at Milkers' Quarters,  
18/3, N.D.A. Khadakvasla,  
Pune-411 023.

... Applicant.

By Advocate Shri A.Shivade

V/s.

1. National Defence Academy,  
through the Commandant,  
N.D.A., Khadakvasla,  
Pune - 411 023.
2. The Commandant,  
National Defence Academy,  
Khadakvasla, Pune - 411 023.

... Respondents.

By Advocate Shri R.K.Shetty.

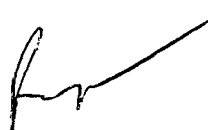
I O R D E R I

I Per Shri R.G.Vaidyanatha,V.C. I

This is an application filed by the applicant for regularisation of his service in the respondents' department and for consequential reliefs. Respondents have filed reply opposing the OA. We have heard the learned counsel appearing on both the sides regarding admission.

2. The applicant is working as a Milker in the Dairy Farm in the NDA premises at Khadakvasla, Pune., and he is working since 1984. There are number of posts of Chowkidar in NDA. The respondents have not regularised or confirmed the services of the applicant till now, hence the applicant has filed this OA for confirmation in service and for other consequential benefits.

3. Respondents in their reply have taken a plea that the applicant is working in the milk dairy which is run by Regimental fund and therefore the applicant is not a Civil



servant and not entitled to any relief from this Tribunal under the Administrative Tribunals Act.

4. The Learned Counsel for applicant <sup>has</sup> produced some documents on record <sup>to show</sup> that the applicant is a civil servant and entitled to be regularised having worked for nearly 14 years. On the other hand, the learned counsel for respondents states that the applicant is being paid from regimental funds and not from public funds and therefore the applicant cannot claim the benefit of civil servant and therefore the present OA is not maintainable.

5. Though both counsel have raised number of points, both on merits and <sup>maintainability</sup> arguments, we find that the question <sup>has</sup> been decided by number of decisions of this Tribunal where identical questions were raised and <sup>it was</sup> held that persons who are paid from regimental funds are not civil servants and that they cannot approach Administrative Tribunal for any relief in service matters.

6. The learned counsel for <sup>respondents</sup> applicant brought to our notice the decision of this Tribunal in OA No.162/87 dt. 8/2/90 (Mrs. Mariamma George v/s. Wing Commander) where an identical question arose for consideration. That was a case of Accounts clerk cum Typist at Service Institute maintained by Airforce Unit at Thane. This Tribunal observed that the applicant in that case is being paid from regimental fund and is not a civil servant and therefore the original application filed by <sup>her</sup> ~~his~~ is not maintainable.

7. The learned counsel for respondents has produced copies of judgements of different benches of this Tribunal on identical matters.

IN OA-213/88, (R.D. Shukla v/s. Union of India) the Division Bench of this Tribunal at Allahabad was concerned with the question of employees of Red Eagle Canteen which was run by regimental fund <sup>and it</sup> was disposed of by a lengthy order <sup>and</sup> the Tribunal has directed that persons who are paid from



regimental fund are not civil servants and they cannot approach the Central Administrative Tribunal for relief.

In OA-170/86 in the case of K.A. Joseph & Ors v/s. Chief of Naval Staff and Ors, Madras Bench of this Tribunal in its order dated 16/6/87 held that Malis who are working in the Sports ground are not Government servants since they are paid from regimental funds. This post of Malis were engaged on casual basis and were paid from regimental funds and therefore they cannot claim to be civil servant <sup>and</sup> as the original application filed by them is not maintainable.

Then we have another decision of the Ernakulam Bench of this Tribunal in OA-308/90 and other cases (K.M. Xavier v/s. Union of India) vide judgement dated 30/7/90 held that the Bus conductors of the Naval School Bus are not civil servants since they <sup>are</sup> paid out of regimental funds and the original application filed by them claiming service benefits before the Tribunal is not maintainable.

8. The respondents have also produced a copy of the order of this Tribunal in OA-153/94 and connected matters (Mrs. Subamma Venkat and Ors. v/s. Union of India & Ors) dated 9/10/97, where this Tribunal has held that the workers namely Bearers, Cooks, Safaiwalas working in the Nursing Cadet Mess are not civil servants as they are not paid from public funds but they are paid from regimental funds and therefore they are not Government servants and hence the OAs are not maintainable.

9. It is therefore seen from the above <sup>that consistent</sup> views <sup>who</sup> taken that the employees/are not paid from public funds but from regimental funds, cannot claim the right of civil servant and cannot approach this Tribunal for any relief. Number of documents produced by respondents show that Milk Dairy Farm in the NDA complex is maintained and paid out of regimental funds and not from public funds. <sup>Hence</sup> But in our view the present applicant cannot claim to be a civil servant and therefore

this present OA filed in this Tribunal is not maintainable.

10. In the result, OA is rejected at the admission stage for want of jurisdiction. However, this order is

without prejudice to applicant to approach appropriate

<sup>forum</sup> ~~form~~ to obtain redressal according to law. At this stage,

the learned counsel for applicant prays that the Interim

relief granted in this case may be <sup>extended</sup> ~~granted~~ for some time

to enable applicant to take appropriate steps. The learned

counsel for respondents opposes extension of Interim Relief.

After hearing both sides, in the interest of justice,

we direct that Interim order passed in this case dated

27/5/97 and which is being extended from time to time till

today is extended till 30/6/98. In the circumstances of the

case, there will be no orders as to costs.



(P.P. SRIVASTAVA)  
MEMBER (A)



(R.G. VAIDYANATHA)  
VICE CHAIRMAN

abp.