

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 1100/98

Date of Decision: 29th July '99

Shri.Krishna S.Shety and others.

Applicant.

Shri P.A.Prabhakaran.

Advocate for
Applicant.

Versus

The Chief Post Master General and anr. Respondent(s)

Shri V.S.Masurkar.

Advocate for
Respondent(s)

CORAM.

Hon'ble Shri. S.L. Jain Member(J).

Hon'ble Shri.

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

Ex-DII
(S.L.JAIN)
Member (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAY

ORIGINAL APPLICATION NO. 1100/98

the 29th day of July, 1999.

CORAM:

Hon'ble Shri S.L.Jain, Member(J)

1. Krishna S.Shety
Room No 302, Govind Niwas,
Ramkrishna Nagar
Chinch Pada Road,
Katemnivali Kalyan(East),
Thane.
2. Shivanna S.Shetty
B.S.Ghag Chawl Room No.1,
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Santacruz (East)
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3. Balkrishna S.Shetty
Room No.50, 1st Floor,
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T.J.Road, Sewri,
Mumbai.
4. Chimaji RChawl,
Room No.8,
Golibar Road, Khar(East)
Mumbai.
Mumbai.
5. Raghunath G. Dhandrut
Shivshakti Chawl Committee,
Ghandhi Nagar Kurar Village
Cutting No.10, Malad (East)
Mumbai.
6. Suresh S. Shetty.
HEM 121/1 Shastri Nagar
Opp. Kalamandir,
Shastri Nagar
Bandra(East)
Mumbai.
7. Eknath G.Dhandrut,
Chawl No.E-23, Room No.227,
Soin Pratiksha Nagar,
Mumbai.
8. Narayan P.Naskar
Shankar Desai Chawl
Tanaji Nagar(Hanuman Tekdi)
Malad(East)
Mumbai.

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9. Sudhakar N.Naskar
Central Railway Quarters,
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10. Ankush B.Naskar
C/o Raaaghunath G.Dhandrut
Shivshakti Chawl Committee
Ghandi Nagar Kukrar Village
Cutting No.10,Malad(East)
Mumbai.
11. Sudhakar A.Shetty
Room No Chawl No.5
Anil and Anant Estate
Village Road,Bhandup(West)
Mumbai.
12. Mrs.Pushpa S.Shriyam
widow of Shekhar P.Shriyam
Room No.20,Bhagiashri Colony
Gopalkrishna Nagar,Chakki Naka,
Poona Link Road,Kalyan(East)
Thana.Applicants

By Advocate Shri P.A.Prabhakaran.

V/s.

1. The Chief Post Master General
Maharashtra Circle
General Post Office
Mumbai.
Representing the Union of India.
2. The Chief Post Master
Kalbadesvi Head Post Office
Mumbai.Respondents.

By Advocate Shri V.S.Masurkar.

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ORDER

Per Shri S.L.Jain,Member(J)

This is an application under Section 19 of the Administrative Tribunals Act 1985 for direction to the respondents to pay salary for the period 13.11.1992 to 21.12.1992, interest there on payable on GPF amount alongwith costs.

2. The canteen was managed by the Kalbadevi Post & Telegraph Office Co-Operative Canteen Society Ltd. In November 1992 the Managing Committee closed down the canteen, the applicants however continued to report to work, mark their presence in a separate sheet of paper and submitted it in the office of respondent No.2 and obtained acknowledgements every day commencing from 13.11.1992 to 21.12.1992. The claim of the applicants for their salary/wages was rejected by the respondents on 25.8.1998 on the ground that it pertain to the period when co-operative Managing Committee was governing the functioning of the Co-operative Canteen and the said canteen now stands converted into departmental canteen with effect from 1.1.1994 and as such any claim for payment of salaries during functioning of Co-operative Managing Committee, cannot be considered by the departmental canteen, claim is made too late and barred by time.

3. The applicants claim that they are Government employees, their claim is rejected only on 25.8.1998 hence within limitation as they filed the OA on 21.12.1998.

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4. The respondents resisted the claim on the same grounds stated above along with the fact that the applicants have not worked in the said period, hence they are not entitled to the salary.
5. The learned counsel for the applicants relied on (1991) 15 ATC 77 B.L. Agarwal V/s Union of India and others decided by CAT Jodhpur, (1991), 18 ATC 149 Ananta Kumar Mondal V/s Union of India and others decided by CAT Calcutta and argued that limitation for filing the application commences from final rejection of the representations/claim. I agree to the said proposition of law. In the present case claim is rejected on 25.8.1998 and OA is filed within one year of the said rejection i.e. on 21.12.1998. Hence it is hereby held that the claim is not barred by limitation.

The learned counsel for the applicant relied on office Memorandum dated 29th January 1992 issued by Ministry of Personnel, Public Grievances and Pension (Department of Personal and Training) Government of India No. 12/5/91-Dir(c). The relevant portion of the same is as under:

"Consequent upon the said judgement of the Hon'ble Supreme Court, it has been decided that the employees of the Non-statutory Departmental/ Cooperative canteens/Tiffin rooms located in Central Government Offices should be treated as Government servants with effect from 1.10.1991. The employees of these canteens may, therefore, be extended all benefits as are available to other Central Government employees of comparable status from 1.10.1991 except GPF, Pension and Group Insurance Scheme in respect of which a separate communication will follow.

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These instructions may be implemented with due care and scrutiny in consultation with the internal Finance of your Ministry. Due care may be taken so that the benefits of these instructions are granted only to the employees of on statutory Departmental/Coperative canteens tiffin rooms andcated in Central Government offices and to whom the subsidy/loan is being granted by your Ministry. As the pay and allowances of the employees of these canteens who will be treated as Central Government servants with effect from 1.10.1991 will be borne by the Administration the pracaice of granting a subsidy to meet 70% of the wage bill of the staff of these canteens and the grant of interest free loan to meet 30% balance thereof stands dis-continued from 1.10.1991.

The expenditure on payment of Pay and Allowances' to the employees of Canteens is to be booked under a new sub-head 'Departmental Canteens' below minor head "Other Expenditure" under the major head of account to which the revenue expenditure of the related Ministry/Department is ordinarily debited and exhibited as such in the Detailed Demands for

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Grants. This expenditure has to be absorbed from within the ceilings of non-plan expenditure approved by the Ministry of Finance/this regard, a copy of Ministry of Finance (Budget Div) O.M. No.F.2(26)-B(CDN/92 dated 24.1.1992 is Div) O.M.No.F.2(26)-B(CDN)/92 dated 24.1.1992 is enclosed).

6. Looking to the said instructions based on the judgement of Apex Court of Land, the applicants are Government servants since 1.10.1991 and the liability to pay the salary for the period 13.11.1992 to 21.12.1992 is of the respondents and not the Managing committee Co-operative.

7. The learned counsel for the respondents argued that the said canteen is converted into departmental canteen only on 1.1.1994,hence respondents are not liable to pay for the period 13.11.1992 to 21.12.1992. These are two facts - 1. Treating the employees as Government servants and 2. converting the canteen to departmental canteen. For the second fact, the respondents were ~~not~~

~~entitled to take~~ the date for the first fact, as ~~they were~~

~~at liberty to choose another date but the said date cannot be~~
~~the date for the first fact.~~

8. The learned counsel for the respondents further argued that the employees/applicants have not worked for the said period. In my opinion, it is to be looked that when the Managing committee closed the canteen, the applicants were not allowed toot For the act of the Managing Committee, the applicants can neither be penalised. They were available for work but the same was not provided to them.

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9. In the result, the OA deserves to be allowed, is allowed. The respondents are ordered to pay the salary for the period 13.11.1992 to 21.12.1992 to the applicants alongwith interest @12% per annum commencing from 22.12.1992 till the actual payment with costs of the petition amounting to Rs. 650/- (Legal practitioners' fee Rs. 500/- + other expenses Rs.150/-) within one month of service of the copy of the order.

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MEMBER(J)

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