

(35)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. No. 419/94.

Dt. of Decision : 30.6.94.

1. Nausena Baugh Maintenance workers
Union, Visakhapatnam, rep. by its
S/o. Secretary, A. Suryanarayana,
years, resident of Malkapuram,
Visakhapatnam - 11.

2. A. Suryanarayana

.. Applicants

Vs

1. The Flag Officer Commander-In-Chief,
Eastern Naval Command,
Visakhapatnam,
District.

2. The Commanding Officer,
INS Circars, Eastern Naval Command,
Visakhapatnam,
Visakhapatnam District.

3. The Administrative Officer,
Nausena Baugh,
Eastern Naval Command,
Visakhapatnam,
Visakhapatnam District.

.. Respondents.

Counsel for the Applicants : Mr. N. Ram Mohana Rao

Counsel for the Respondents : Mr. V. Shimanna, Addl. CGSC.

CORAM:

THE HON'BLE SHRI A.B. GORTHI : MEMBER (ADMN.)

THE HON'BLE SHRI T. CHANDRASEKHARA REDDY : MEMBER (JUDL.)

O.A.No.419/94.

Date of Judgement :

Judgement

(As per Hon'ble Shri A.B.Gerthi, Member(A))

The applicants herein are employed as Safaiwallahs, Watchmen,Gardeners etc., for the maintenance of Nausena Baugh, which is a residential complex for the sailors of Headquarters, Eastern Naval Command, Visakhapatnam. They were appointed in 1978 and have been working continuously but now they apprehend that their services are likely to be arbitrarily terminated by the Administrative Officer of Nausena Baugh.

2. In the counter affidavit filed by the respondents it is stated that the applicants are not Govt. servants and that they are purely in the domestic service of the residents of Nausena Baugh. From the monies collected from the residents of Nausena Baugh, payment of salaries to the applicants was being made. Neither Headquarters, Eastern Naval Command nor Union of India (Ministry of Defence) has anything to do with the appointment of the applicants much less in control over their functioning.

Learned counsel for the applicants referred to Akhil Bharatiya Social Karmachari Sangh, Railways Vs. Union of India, AIR 1981 SC 298 and Daily Rated Casual Labour employed under P&T Department Vs Union of India, AIR 1987 SC 2342.

4. The main contention of the applicants' counsel is that the respondents having utilised the services of the applicants for a long period of time should have taken steps to formulate a scheme for regularisation of applicants' services.

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5. On the question whether the applicants were holding any civil post or can be said to be in the service of Union of India so as to bring the O.A. within the jurisdiction of the Tribunal, learned counsel for the applicants stated that notwithstanding the fact that the applicants were not being paid from public funds, keeping in view the peculiar circumstances of the case they should be deemed to be in the service of Union of India. Nausena Baugh being a residential complex of Defence employees, and it being a prohibited area, easy ingress to everyone is not permissible. All the applicants were issued with identification documents.

The nature of duties performed by the applicants is such as ought to have been performed by ~~themselves~~ regularly appointed workers. After all, maintenance of Nausena Baugh should essentially be governmental responsibility and as such the respondents are not justified in resorting to engagement of workers under private semi arrangement as is being done. Even if the applicants cannot be said to be Govt. servants, the contention of the applicants' counsel is that it is the bounden duty of the respondents to treat them as such. Finally, Shri N. Rama Mohana Rao contended that even if we hold that the applicants cannot invoke the jurisdiction of the Tribunal, we may at least give a direction to the respondents to formulate a scheme for the regular absorption of the applicants, as has been often recommended by the Supreme Court in several important cases pertaining to Casual Labour and Daily Rated Workers.

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6. In Union of India Vs. Tejram Parashramji Bombhate & Ors. AIR 1992 SC 570, the question for consideration was whether the School Teachers of the Secondary School established by the employees of Ordnance Factory were in the service of the Central Government. In that context it was observed as under:-

"5. Secondly, the respondents are not paid by the Central Government. They are not holding any appointment under the Central Government. There is no relationship of master and servant between the Central Government and the respondents. The respondents are employed in the Secondary School by local arrangement made by the officer. Central Government is accountable to such arrangement by the local officers.

6. Thirdly, S.14 of the Administrative Tribunals Act, 1985 confers no jurisdiction, power and authority on the Tribunal to deal with the service matters of the employees like the respondents."

7. In the instant case, there cannot be any doubt that the applicants were appointed by the Administrative Officer of Nausena Baugh and that they were being paid from the amounts collected by the residents of Nausena Baugh. The Central Government or for that matter even the Naval Headquarters have no control over the engagements of the applicants or their working in Nausena Baugh. In view of this, the applicants cannot invoke the jurisdiction of the Tribunal under section 14 of the Administrative Tribunals Act, 1985. As we are of the opinion that the Tribunal has no jurisdiction to entertain this application, we must hold that it will not be proper for us to give even advisory directions to the respondents as to the better management

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of the Nausena Baugh complex or as regards amelioration of the working conditions of the applicants. In the result, the O.A. is dismissed.

8. No order as to costs.

T. C. R.
(T. Chandrasekhar Reddy)
Member (J).

A. B. Gorthi
(A. B. Gorthi)
Member (A).

Dated: 30 June, 1994.

br.

Amulya
30-6-94
DEPUTY REGISTRAR (J)

Copy to:-

1. The Flag Officer Commander in Chief, Eastern Naval Command, Visakhapatnam, Visakhapatnam District.
2. The Commanding Officer, INS Circars, Eastern Naval Command, Visakhapatnam, Visakhapatnam District.
3. The Administrative Officer, Nausena Baugh, Eastern Naval Command, Visakhapatnam, Visakhapatnam District.
4. One copy to Mr. N. Ram Mohan Rao, Advocate, CAT, Hyderabad.
5. One copy to Mr. V. Bhimanna, Addl. CGSC, CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.

One copy to
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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO,
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. G. RTHI : MEMBER(A)

AND

THE HON'BLE MR. T. CHANDRASEKAR REDDY
MEMBER(CUDL)

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER(A)

Dated: 30-6-1994.

ORDER/JUDGMENT:

M.A./R.A/C.A. No.

in

O.A.No. 419/94

T.A.No.

(W.P.)

Admitted and Interim Directions
Issued.

Allowed

Disposed of with directions

Dismissed.

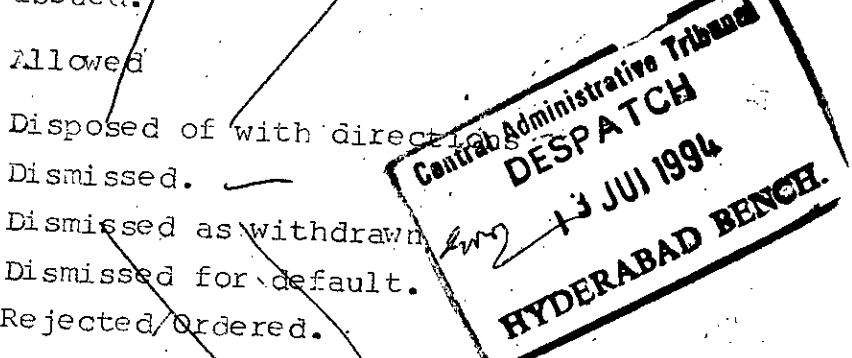
Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered.

No order as to costs.

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26/7/94