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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH,
HYDERABAD.

..
O.A.No.1241/1996.

Date of decision: 21st November, 1997.
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Between:

1. Smt. K. D. Vinolia.
2. S.Subha.
3. B.S.Kameswari.
4. T.Satyamma.
5. R.Lakshamma.
6. D.Saradamma.
7. G.Kanthamma.
8. A.Laxamma.
9. B.Gandamma.
- 10.R.Balamma.

Applicants.

And

- 1.Director of Telecommunications, Sanchar Bhavan,
New Delhi.
- 2.The Chief General Manager, Telecommunications,
Hyderabad -1.
- 3.Divisional Engineer, Telecommunications Trunks
and SSX, Hyderabad.

Respondents.

Counsel for the applicants: Sri K.K.Chakravarthy.

Counsel for the respondents: Sri N.V.Raghava Reddy.

Coram:

Hon'ble Sri R. Rangarajan, Member (A)

Hon'ble Sri B.S. Jai Parameshwar, Member (J)

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O.A.No.1241/1996.

(Per Hon'ble Sri R.Rangarajan, Member (A).
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Héard Sri K.K.Chakravarthi for the applicants
and Sri N.V.Raghava Reddy for the respondents.

There are 10 applicants in this O.A. They
are working as Supervisors/Ayahs in Creche of Telephone
Bhavan, Khairatabad. The applicants submit that they
are working since 1981 continuously. They were
appointed by the 3rd Respondent, the Divisional Engineer,
Telecommunications Trunks & SSX, Hyderabad. Initially,
they were paid Rs.250/- per mensem for Supervisor and
Rs.100/- for Ayahs at the time of appointment. Later,
Supervisor is now
it was raised and the ~~draw~~/drawing ~~now~~ Rs.800/- and
the Ayah is drawing Rs.400/- p.m. It is also stated in
the O.A , that after several demands and continuous
representations in 1991, they have been given honorarium
and medical expenses comprising of Rs.340/- for Supervisors
and Rs.330/- for Ayahs. The Supervising Authority for them
is the Secretary and Senior Supervisor, Telephone Bhavan.
This O.A., is filed for a declaration that the
action of the respondent Nos., 2 and 3 in not regularising
their services on par with the casual mazdoors of Telecom
Department is illegal, arbitrary and contrary to rules

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respondents
and consequently directing them to regularise their
services with all consequential benefits. An
interim order was passed on 31--10--1997 which
reads as follows:

- i) The reply by the respondents should be
filed within three weeks.
- ii) If the applicants are to be terminated,
they should be terminated after a lapse
of ten days from the date of issue of
termination order
- iii) If the applicants, if so advised may
approach this Tribunal after receipt of the
proposed termination for redressal of
their grievance according to law.

A reply has been filed in this O.A. The
main contention of the respondents is that the
applicants are not Government employees and hence
this Tribunal has no jurisdiction to deal with this
case. It is, ^{subtly} ~~however~~, stated that the applicants
are the employees of the Telecom Staff Welfare Board
and that therefore, they cannot be treated as employees
of the Telecom Department.

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The learned counsel for the applicants contends that the applicants in this O.A., are being paid from the Revenue Heads of the Telecom Department. They are under the control of the Departmental Officers of the Telecom Department. Hence they have to be treated as Employees of Department of Telecommunications. He further submits that their case has been covered by the Judgment of the Apex Court reported in BOMBAY TELECOM CANTEEN EMPLOYEES ASSOCIATION Vs. UNION OF INDIA (1997(2)S.C.S.L.J. 189).

Anybody employed in the Government is to be given an appropriate scale of pay. No Government employee will be given a consolidated pay. The scales of pay have been decided by the Expert Committee Viz., the Pay Commission every now and then. Till 1-1-1996 the scales of pay were governed by the Scales prescribed by the IV Pay Commission and accepted by the Government. From 1-1-1996 onwards the Government Employees are being paid at the accepted recommendations of the Pay Scales of the V Pay Commission. In the IV Pay Commission or the V Pay Commission there were no fixed scales or consolidated pay recommended to the Central Government employees. The fixed scale was only at the level of the Secretary to the Government of India.

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For all the categories below that of the Secretary to the Government of India, there are definite scales of Pay. The scales of pay starts from the Group "D".

As per the ~~III~~ Pay Commission Group "D" employees were given the scale of pay of Rs.196~~---232~~. There was **pay for Employees** no fixed ~~consolidated~~ scales of the Government.

The applicants themselves state in the application that the Supervisors and Aiahs were given the fixed

~~Sum.~~
~~scale~~. They have not shown any of the rules or instructions that the employees being paid consolidated amount ~~are~~ by the Government shall be termed as Government employees.// The learned counsel for the applicants submit that there is no irregularity if an employee is paid in the fixed scale. This reply is not at all convincing and cannot be a reason to accept the contention of the applicants that they are Government servants even though they are given the fixed ~~Sum.~~
~~scale~~

(as per pay.

It is clearly stated in the reply that the

Creche has been operated for the benefit of the employees ^{and} that the Creche is under the control of the Telecom Welfare Board. There are number of Welfare measures,

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not only in the Telecom Department but also in other Departments. The Railway Department is maintaining subsidised canteens for the benefit of the Railway Employees.

The employees of the C.S.D. Canteen supplying consumable and other household articles are not treated as Government Employees who work under the control of the Defence Authority namely Officers of Army/Navy/Air Force.

Railways have got number of Organisations for the benefit of the employees. The Co-operative Consumers' Society is one of them. Recently the Apex Court has given a verdict that they cannot be treated as Railway Employees. The case cited by the learned counsel for the applicants is in regard to the Civil Employees of certain Departments.

Continued litigation was going on for a very long time in order to consider the canteen employees supplying food articles to the staff of the Government departments as Government employees. After a lot of deliberations the Apex Court has given a direction that the employees in the Canteen supplying food articles maintained by Railways whether statutory or non-statutory under certain circumstances are to be treated as

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Railway Employees. Similar direction was also given to the other Departments. Hence an appropriate classification was given in respect of Canteen employees supplying food articles to the staff in Government Department to treat them as Government employees. But that decision of the Apex Court cannot be treated as a common or universal direction to all the employees ^{working} under the other Welfare Organisations under the control of the Government Departments. Those organisations for the benefit of the employees are run by a Board from the money ear-marked for running those establishments. The present organisation viz., Cfeche is one such organisation and the persons employed in the Creche cannot be treated as Government employees. Hence the case relied on by the counsel for the applicants (1997 (2)SCSLJ 189) has no relevance to the present case.

In view of what is stated we are convinced that the applicants herein are not Government employees and hence this Tribunal has no jurisdiction to deal with that case.


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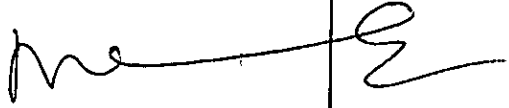
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In the result, the O.A., is returned for
presentation before the appropriate Judicial Forum.

No costs.

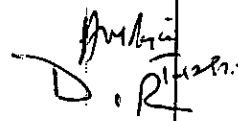

B.S. JAI PARAMESHWAR,
MEMBER (J)

21.11.97


R. RANGARAJAN,
Member (A)

Date: 21--11-1997.

Dictated in open Court.


D. R. Pushpa.

SSS.

OA.1241/96

Copy to:-

1. The Director of Telecommunications, Sanchar Bhavan, New Delhi.
2. The Chief General Manager, Telecommunications, Hyderabad.
3. The Divisional Engineer, Telecommunications, Trunks and SSX, Hyderabad.
4. One copy to Mr. K.K. Chakravarthy, Advocate, CAT., Hyd.
5. One copy to Mr. N.V. Raghava Reddy, Addl. CGSC., CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate.

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9/12/92

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M (J)

Dated: 21/11/92

~~ORDER/JUDGMENT~~

~~M.A./R.A./C.A. NO.~~

in
D.A. NO. 1241/96

Admitted and Interim Directions
Issued.

Allowed

OA is returned

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

YLKR

II Court

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
ब्रेवेल/DESPATCH
- 5 DEC 1992
हैदराबाद न्यायपीठ
HYDERABAD BENCH