

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH:
AT HYDERABAD

O.A.No.96 OF 1999.

DATE OF ORDER:26-2-1999.

BETWEEN:

1. A.Narasimha Murthy,	6. Bulla Mohana Rao.
2. Ch.Ramakrishna.	7. Ganapathi Raju VarmaRaju.
3. Dharmavarapu Raju.	8. Jalagadugula Venkata-
4. Mandapati Tejewara Rao.	Ramana Rao.
5. Malla Appala Naidu.	9. M.Eswara Rao.

.....Applicants

and

1. Union of India, rep., by its Secretary, Ministry of Defence, New Delhi.
2. Chief of Naval Staff, Naval Head Quarters, New Delhi.
3. Flag Officer Commanding-in-Chief, Eastern Naval Command, Visakhapatnam-14.
4. Commanding Officer, INS Circars, Visakhapatnam-14.

.....Respondents

COUNSEL FOR THE APPLICANTS :: Mr.P.B.Vijay Kumar

COUNSEL FOR THE RESPONDENTS :: Mr.B.Narasimha Sharma

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

A N D

THE HON'BLE SRI B.S.JAI PARAMESWARA, MEMBER (JUDL)

: ORDER :

ORAL ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (A))

Heard Mr.P.B.Vijay Kumar, learned Counsel for
the Applicants and Mr.B.Narasimha Sharma, learned
Standing Counsel for the Respondents.

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2. There are nine applicants in this OA. They are working in the Civilian Unit run Canteen under Defence Ministry meant for the use of servicemen, Ex-servicemen and Civilian employees as casual staff since a long time. It appears that some casual appointments under the Government is going to be made. The applicants submit that they should be posted and regularised on that basis instead of taking candidates from the outside market.

3. This OA is filed praying for a direction to the respondents to appoint/treat them as the employees of the Central Government with all the benefits with effect from the date of their joining taking into consideration their service or in the alternative direct the respondents to appoint them as against the unit-run canteens in preference to freshers and finally to improve the conditions of service of these canteen staff by extending the benefits on par with the Central Government employees.

4. The applicants in this OA are working as casual staff in the Civilian Unit run Canteen and they are paid from the Non-public Funds. Hence, this Tribunal has no jurisdiction to pass any orders on the prayer of the applicants. However, if any post is going to be filled either on casual basis or regularly, the applicants should also be considered if they apply for the same alongwith others in view of the Judgment of the Supreme Court in THE EXCISE SUPERINTENDENT, MALKAPATNAM, KRISHNA DISTRICT Vs KBN. VISHWESHWAR RAO & OTHERS (reported in 1996(6) SCALE 676).

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5. Following the extant rules in the selection, this OA cannot be dealt for treating them as Central Government employees as the material available in the OA is very deficient.

6. The applicants also submit that they may be allowed to continue in the Civilian Unit run Canteen. We have no direction to give in this connection. However, in view of the fact they are working for a long time, their cases may be considered by the respondents sympathetically.

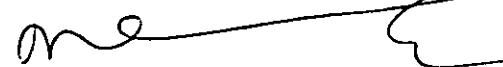
7. The OA is disposed of at the admission stage itself. No costs.



(B.S.JAI PARAMESHWAR)

MEMBER (JUDL)

26.2.99



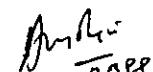
(R.RANGARAJAN)

MEMBER (ADMN)

DATED: this the 26th day of February, 1999

Dictated to steno in the Open Court

DSN


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2/2/99

9/3/99
Ist and IIInd Court.

Copy to:

1. ADHNO
2. HHRP M(A)
3. HSSD M(D)
4. D.R. (A) ✓
5. SPARE ✓

Typed By
Compared by

Checked by
Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH:HYDERABAD.

THE HON'BLE MR. JUSTICE D. H. NASIR:
VICE-CHAIRMAN

THE HON'BLE H. RAJENDRA PRASAD:
MEMBER (A)

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

THE HON'BLE MR. B. S. JAI PARAMESHWARI:
MEMBER (J)

DATED: 21-2-99

ORDER/JUDGMENT

M.A./R.A/C.P.NO.

IN

C.A.NO : 96/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

(8 copies)

केन्द्रीय Central प्रशासनिक Administrative ट्रिब्युनल प्रबंध / DESPATCH	प्रशासनिक अधिकरण Administrative Tribunal / DESPATCH
- 9 MAR 1999	
हैदराबाद आयरिट HYDERABAD BENCH	

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 96/99

Date of Order : 1.10.99

BETWEEN :

1. A.Narasimha Murthy
2. Ch.Ramakrishna
3. Dharmavarapu Raju
4. Mandapati Tejeswara Rao
5. Malla Appala Naidu
6. Bulla Mohana Rao
7. Ganapathi Raju Varma Raju
8. Jalagadugula Venkata Ramana Rao
9. M.Eswara Rao

.. Applicants.

AND

1. Union of India, rep. by
its Secretary,
Ministry of Defence,
New Delhi.
2. Chief of Naval Staff,
Naval Head Quarters,
New Delhi.
3. Flag Officer Commanding in Chief,
Eastern Naval Command, Visakhapatnam.
4. Commanding Officer, INS Circars,
Visakhapatnam.

.. Respondents.

- - -

Counsel for the Applicant .. Mr.P.B.Vijayakumar

Counsel for the Respondents .. Mr.B.N.Sharma

- - -

CORAM :

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

- - -
O R D E R

X As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

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Mr. P.B.Vijaya Kumar, learned counsel for the applicant and Mr. M.C.Jacob for Mr.B.N.Sharma, learned standing counsel for the respondents.

2. This OA was disposed of by order dated 26.2.99 (A-2).. Paras-4, 5, 6 and 7 are relevant and which are re-produced below :-

"4. The applicants in this OA are working as casual staff in the Civilian Unit run Canteen and they are paid from the Non-public funds. Hence, this Tribunal has no jurisdiction to pass any orders on the prayer of the applicants. However, if any post is going to be filled either on casual basis or regularly, the applicants should also be considered if they apply for the same along with others in view of the judgement of the Supreme Court in THE EXCISE SUPER INTENDENT, MALKAPATNAM, KRISHNA DISTRICT Vs. KBN.VISHWESHWAR RAO & OTHERS (reported in 1996 (6) SCALE 676).

5. Following the extant rules in the selection, this OA cannot be dealt for treating them as Central Government employees as the material available in the OA is very deficient. .

6. The applicants also submit that they may be allowed to continue in the Civilian Unit run Canteen. We have no direction to give in this connection. However, in view of the fact they are working for a long time, their case may be considered by the respondents sympathetically.

7. The OA is disposed of at the admission stage itself. No costs".

3. Against this order the applicant approached the Appellate Court by filing W.P. No.11912/99. That W.P. was disposed of with the following direction :-

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"The contention of the petitioners is that even though they are working as casual labourers in the Civilian Unit run Canteen, which is being run by the Central Government their services have not been regularised by the Central Government and that they are entitled to be considered for appointment to the post being filledup by the Central Government. The vital issue is as to whether the funds flow from the Government, then, per force the petitioners are to be deemed as Government staff and are entitled for consideration for the posts, which they are seeking for. On the other hand, if the funds to run the canteen flow from the private agency, then the petitioners cannot have any right. The said issue has to be decided as a finding of fact basing on material on record. This finding having not been recorded after inviting the counter from the Government and perusing the material on record, the impugned order is set aside and the matter is remanded to the Tribunal to issue notice to the respondents calling for a counter, hear either side and record a finding of fact as mentioned above basing upon the relevant material and if the said relevant material is not filed, to call for the same from the file of the respondents and decide the issue."

4. In view of the above the OA was remitted back for considering the case after receipt of the reply from the respondent organisation. The respondents have filed a reply dated 1.10.99. Paras- 2 and 3 of the reply are relevant. These 2 paras are reproduced below :-

2. The contention of the petitioners that they are working as casual labourers in the Civilian Unit Run Canteen which is run by Central Government and that their services have not been regularised is incorrect. It is stated and clarified that Unit Run Canteens are established for providing the parent Unit

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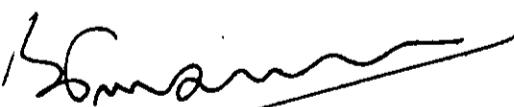
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with Non-Public Funds through 'Self Help' for Welfare activities of the men and their families. It is also stated that these Unit Run Canteens are established from Non Public Funds (Private sources). This Canteen was set up in 1985 by taking loan of Rs.50,000/- from Command Welfare and Amenities Fund which is again a Non-Public Fund.

3. It is further submitted that there is no statutory or legal obligation by the establishment to Supervise and Control the workers and details thereon and as such no relationship of Master and servant between the establishment and workers in the canteen. It is further submitted that in view of the FB decision of the Hon'ble Tribunal (1997) 36 ATC 440 (Danbir Singh and others Vs. Officer Commanding and others) this OA is liable to be dismissed for want of jurisdiction".

5. From the above it is evident that there is no need to review the judgement passed by this Tribunal dated 26.2.99. Hence that judgement holds good. The ~~at para 2~~ paras-4,5,6 and 7, which are reproduced above stands good.

6. The OA is disposed of. No costs.


 (B.S. JAI PARAMESHWAR)
 Member (Judl.)

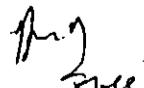
1.10.99


 (R.RANGARAJAN)
 Member (Admn.)

Dated : 1st October, 1999

(Dictated in Open Court)

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1ST AND 2ND COURT

25/10/99

COPY TO :-

1. HONORABLE CHIEF JUSTICE
2. HONORABLE MR. JUSTICE
3. HONORABLE MR. JUSTICE
4. HONORABLE MR. JUSTICE
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE - CHAIRMAN

THE HON'BLE MR. R. R. RINGARAJAN
MEMBER (ADMM.)

THE HON'BLE MR. B. S. JAI PARAMESWAR
MEMBER (JUDL.)

* * *

DATE OF ORDER: 11/10/99

MAILED CP. NO.

IN
CIV. NO. 96/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

CP. CLOSED

RA CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS

