

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 2. 05.2000

OA No.235/96

Nanag Ram S/o Shri Moti Lal Sharma aged 47 years as present working as Tiffin Boy cum Waterman in the office of Assistant Engineer, Circle Telecom Stores Depot, Jaipur.

.. Applicant

Versus

1. Union of India through Secretary, Ministry of Communication, Govt. of India, New Delhi.
2. The Chief General Manager, Telecommunications, Department of Telecommunication, Rajasthan Circle, Jaipur.
3. The Divisional Engineer, Circle Telecom Stores Depot, Jaipur.
4. The Sub Divisional Engineer, Circle Telecom Stores Depot. Deptt. of Telecommunications, Jaipur.

.. Respondents

Mr. Shiv Kumar, counsel for the applicant

Mr. Hemant Gupta, proxy counsel for Mr. M.Rafiq, counsel for the respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

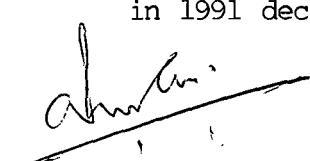
Hon'ble Mr. N.P.Nawani, Administrative Member

ORDER

Per Hon'ble Mr. N.P.Nawani, Administrative Member

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant seeks quashing of the impugned order dated 19.3.1996 retrenching the applicant with the closure of the Tiffin Room facility without adhering to the principle of 'last come first go' which is violative of the Article 21 of the Constitution of India.

2. The applicant contends that he was appointed as Tiffin Boy in the Circle Telecom Store Department, Jaipur on 3.4.1983 and since then serving the Department. Initially he was given Rs. 317/- p.m. and later fixed in the grade of Rs. 196-232, which was revised to Rs. 750-1230 vide order dated 16.2.1987 (Ann.A2) and he is at present drawing Rs. 2049/- as emoluments. His status is that of a permanent Government employee having 13 years of service to his credit. His services have now been retrenched w.e.f. 19.4.1996 on closure of Tiffin Room which was in existence since last 20 years. It is also contended that the Apex Court had awarded the Tiffin Boys, the status of Central Government servants in 1983 and finally in 1991 decided that such employees shall be Central Government employees

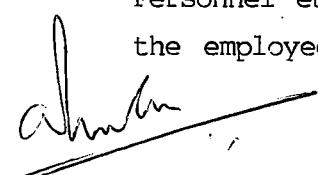


with all benefits. Now with a view to deny this advantage to the applicant, the respondents have closed the Tiffin Room and retrenched him.

3. The respondents have filed a reply. It is stated that though the applicant was drawing Rs. 2049/- as emoluments but it is not correct that his status is that of a permanent Government employee. He was never declared a regular Government employee. As per directions contained in para (4) of the Director (Canteens) DOPT letter No.12/5/91-Dir(C) dated 29.1.1992, only the employees of non-statutory Departmental/Cooperative Canteens/Tiffin Rooms located in Central Government offices and registered with Director (Canteens) are to be treated as Central Government employees w.e.f. 1.10.1991. The Tiffin Room in question not being registered with Director (Canteens), applicant cannot be regularised as Central Government employee. However, the Department of Telecommunications (for short DOT) did approach Director (Canteens) for registration of unregistered Canteens/Tiffin Rooms but he did not do it and DOT issued a letter that there is no scope of registration of unregistered Canteens/Tiffin Rooms in view of the ban. The respondents were, therefore, left with no option but to issue directions to close the unregistered Canteens/Tiffin Rooms and retrench the services of employees as payment of subsidy for pay and allowances was to be discontinued w.e.f. 1.10.1991. It has also been stated in the reply that all the unregistered Canteens/Tiffin Rooms in Rajasthan Circle are to be closed and thus there was no discrimination against the applicant and no violation of Articles 14, 16, 21, 300A, 309 and 311 of the Constitution of India. The services of the applicant was brought to an end after following the provisions of Rule 5 of C.C.S. (Temporary Services) Rules, 1965 and after giving one month's notice.

4. We have heard the learned counsel for the parties and perused the record.

5. Our attention has been drawn to the circular dated 15.5.1997 issued by the DOT in regard to regularisation of unregistered Canteens/Tiffin Rooms and also order dated 21.5.1997 issued by the General Manager, Telecom District, Ajmer as a follow up of the DOT circular under which 5 employees of the Tiffin Room/Cooperative Refreshment Room have been regularised w.e.f. 1.10.1991. It appears that while the benefit has been given in Telecom District Ajmer, the same has not been extended to Jaipur Division. From the circular No. 19-1/97-WL (T) dated 15.5.1997 issued by DOT, it does appear that the Government of India in the Ministry of Personnel etc. has after due consideration, extended the benefit given to the employees of the non-statutory Departmental Canteens to all canteen



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employees of unregistered canteens also subject to the condition that Canteens/Tiffin Rooms were set up before 1.10.1991 and that the employees in the Canteens/Tiffin Rooms were recruited in a proper manner and such recruitment was made on a proper basis. By quoting that very circular which refers to the said circular dated 15.5.1997, it appears that 5 employees of Tiffin Room/Cooperative Refreshment Room of Beawar/Ajmer have been regularised w.e.f. 1.10.1991 vide Notification No.E.24/Tiffin Room/Recruitment/13 dated 21.5.1997 of the Sub Divisional Engineer, Office of the General Manager, Telecom District, Ajmer.

6. If certain employees of the Tiffin Room of Ajmer Telecom District have been regularised on the strength of the DOPT OM of 20.3.1997 and the DOT circular dated 15.5.1997, it is inconceivable that the same benefit will not be extended to employees of the same Department posted in Jaipur Telecom District unless they do not happen to be similarly placed or do not satisfy the two conditions set out in the DOT circular dated 15.5.1997.

7. It also appears that services of certain other Tiffin Boys were regularised by the District Telecom Manager, Sikar after filing of OA Nos. 206 of 1996, 266-268 of 1996 and 270 of 1996 leading to said OAs being declared to have become infructuous by this Bench of the Tribunal.

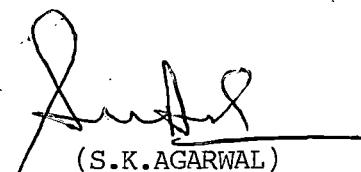
8. In view of above, we dispose of this Original Application with a direction to the respondents to consider the case of regularisation of the applicant in terms of the DOT circular No. 19-1/97-WL(T) dated 15.5.1997. This direction may be carried out within 6 months of the receipt of a copy of this order.

No order as to costs.



(N.P.NAWANI)

Adm. Member



(S.K.AGARWAL)

Judl. Member