Central Administrative Tribunal
Jabalpur Bench

OA No.570/05
OA No.571/05
OA No.572/05
OA No.573/05
OA No.574/05

Jabalpur this the ..26th day of April 2006

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman
Hon'ble Smt.Meera Chhibber, Judicial Member

OA No.570/05

Bhim Rao
S/o Shri Shyam Rao
Printer, 1 Signal
Training Centre Printing Press
Jabalpur.
R/o 1904 Sidha Nagar
Sidhababa Tola Road,
Radha Krishnan Ward
Hanumantal, Jabalpur. Applicant

(By advocate Shri S.K.Gupta)

Versus

1. Union of India
Ministry of Defence through
Secretary
Raksha Bhavan
New Delhi.

2. Director General of Signals
(Signals 4) General (Staff Branch)
Army Headquarters
DHQ, New Delhi.

3. Commandant Accts. Officer
Headquarters, 1 Signal Training Centre
Jabalpur.

4. Commander Work Engineer
Military Engineering Services

(MES) Supply Road, P.O. 54
Jabalpur. Respondents

(By advocate Shri A.P.Khare on behalf of
Shri M.Chaurasia)

OA No.571/05

Murari Lal Yadav
S/o late Shri Manik Lal Yadav
Compositor
Signal Training Centre
Printing Press, Jabalpur.
R/o Gram Karmeta, Post Purwa
Near Radio Station
Jabalpur. Applicant

(By advocate Shri S.K.Gupta)

Versus

1. Union of India
Ministry of Defence through
Secretary
Raksha Bhavan
New Delhi.

2. Director General of Signals
(Signals 4) General (Staff Branch)
Army Headquarters
DHQ, New Delhi.

3. Commandant Accts. Officer
Headquarters, 1 Signal Training Centre
Jabalpur.

4. Commander Work Engineer
Military Engineering Services
(MES) Supply Road, P.O. 54
Jabalpur. Respondents

(By advocate Shri S.K.Mishra)

OA No.572/05

Tulsi Ram Vishwakarma
S/o Shri Lalji Prasad
Book Binder
Signal Training Centre

Printing Press
Jabalpur
R/o 853, Gali No.4
Beside Punjab Bank, Ghamapura
Jabalpur. Applicant

(By advocate Shri S.K.Gupta)

Versus

1. Union of India
Ministry of Defence through
Secretary
Raksha Bhavan
New Delhi.

2. Director General of Signals
(Signals 4) General (Staff Branch)
Army Headquarters
DHQ, New Delhi.

3. Commandant Accts. Officer
Headquarters, 1 Signal Training Centre
Jabalpur.

4. Commander Work Engineer
Military Engineering Services
(MES) Supply Road, P.O. 54
Jabalpur. Respondents

(By advocate Shri P.Shankaran)

OA No.573/05

Roop Kishor Yadav
S/o Shri Manik Lal Yadav
Compositor
Signal Training Centre
Printing Press
Jabalpur
R/o Gram Karmeta Post-Purwa
Near Radio Station
Jabalpur. Applicant.

(By advocate Shri S.K.Gupta)

Versus

1. Union of India
Ministry of Defence through
Secretary

Raksha Bhavan
New Delhi.

2. Director General of Signals
(Signals 4) General (Staff Branch)
Army Headquarters
DHQ, New Delhi.

3. Commandant Accts. Officer
Headquarters, 1 Signal Training Centre
Jabalpur.

4. Commander Work Engineer
Military Engineering Services
(MES) Supply Road, P.O. 54
Jabalpur. Respondents

(By advocate Shri A.P.Khare)

OA No.574/05

Mahedra Singh
S/o Shri Bhagwat Singh
Cinema Operator
Signal Training Centre
Printing Press
Jabalpur.
R/o H.o.2557/A Shivpuri Katiaya Ghat Road
Post Temar Bhita
Jabalpur. Applicant

(By advocate Shri S.K.Gupta)

Versus

1. Union of India
Ministry of Defence through
Secretary
Raksha Bhavan
New Delhi.

2. Director General of Signals
(Signals 4) General (Staff Branch)
Army Headquarters
DHQ, New Delhi.

3. Commandant Accts. Officer
Headquarters, 1 Signal Training Centre
Jabalpur.

4. Commander Work Engineer
Military Engineering Services
(MES) Supply Road, P.O. 54
Jabalpur. Respondents

(By advocate Shri A.P.Khare on behalf
of Shri M.Chaurasia)

ORDER

By Smt.Meera Chhibber, Judicial Member

In all these OAs, the issue involved is similar, facts are identical and the relief sought is same; therefore all these OAs are disposed of by this common order.

2. By these OA, applicants have challenged their termination order dated 31.5.2005 with a direction to respondents to reinstate them in service.

3. It is stated by applicants that they were appointed as Compositor, Book Binder, Cinema Operator etc.etc. Since all the applicants have been working under the respondents for a number of years, they had attained the status of permanent employees. They were given passes by respondents (Annexure A1). There was no complaint against their work or conduct. Therefore, they could not have been terminated without giving them show cause notice or without holding an enquiry.

4. All the OAs are opposed by respondents. They have submitted that 1 STC Jabalpur is in existence from 20.12.21920. The Centre is responsible for imparting basic military training and technical training to the personnel recruited into the Corps of Signals. The newly recruited personnel while undergoing basic military training and those on technical training are not allowed to visit local market for their basic needs. The Centre has thus started employing contractors to provide such services such as wet canteen, grocery shops, cycle shops, boot maker shops, tailor shops, photographs etc. at fixed rates which are cheaper than the market rates. In order to meet the troops' requirements of printed forms and précis for the recruits and trainees

which are not supplied by the Government, the Centre has established a printing press in 1946 as purely a private set up on a welfare measure and was being run as a troops welfare venture. The printing press is maintained by the Centre purely out of the income being generated from the Regimental fund which are not public funds. No aid from the Government was being received or given for either purchase of equipment or for running the venture. It was bought and being run out of non-public funds. Even the land and building where the printing press is located were not provided by the Government free of cost but the rent and allied charges were being regularly paid to the MES out of the printing press account. The printing press is thus purely a private non-government establishment functioning under Commandant, 1 STC as its patron.

5. They have further submitted that there is no specific sanction of posts or manpower as authorized by the Government to run the printing press as in the case of Government run establishments. Employment of applicants was purely on contractual basis. They were not employed on any sanctioned post by the Government or not paid their salary from the public fund, but from the private fund of the Regimental fund, which is not public fund but a private fund.

6. They have thus submitted that applicants were not appointed to any civil service of the Union or any civil post under the Union or a civilian appointed to any defence services or a post connected with defence. Therefore this OA does not come within the jurisdiction of the Tribunal.

7. They have also explained the reason as to why the services of applicants were terminated. The building in which the press is located was very old and it needed certain structural replacement and repairs to make it safe for continuing occupation. Because of present unsafe condition, the MES authorities have placed the building under special repairs. The repair work may take about 52 weeks. Therefore the work in the printing press had been stopped. As the press was not working and no product is being made, no profits are expected to pay the

monthly pay of civilian regimental employees. Therefore their services were terminated beyond 30.6.2005. Respondents have stated that since applicants are paid from regimental fund, they are not government employees, as such this OA is not maintainable.

8. As far as the passes are concerned, they have explained that such passes are issued as a measure of security.

9. The reply was filed as back as on 9.8.2005 but till date applicants have not controverted the averments made by the respondents, which means in law, the averments made by respondents are deemed to have been accepted by the applicants. The question, that arises in these circumstances is, whether the relief claimed by the applicant can be granted to them or not. Applicants have not annexed any document to show that they were appointed against any civil post by respondents nor have they controverted the detailed reply filed by respondents wherein they have clearly stated that applicants were being engaged on contractual basis and paid from regimental fund and not from government fund. It is thus clear that the applicants do not hold any civil post. Somewhat similar matter with regard to Dhobies of NDA came up before the Hon'ble Supreme Court in the case of UOI Vs.Chotte Lal AIR 1999 SC p.376. It was held that Dhobies of NDA are not holders of any civil posts. They were not being paid from the Consolidated Fund of India, therefore CAT has no jurisdiction to adjudicate service disputes of Dhobies. In the instant case also, respondents have stated categorically that the applicants were not being paid from government fund but were being paid out of non-public funds i.e. from the fund of the Press. It is thus clear that applicants cannot be said to be holding any civil post with respondents. Therefore, their case cannot come within the jurisdiction of this Tribunal. Even otherwise, in a recent judgment delivered by Hon'ble Supreme Court in the case of State of Karnataka Vs. Uma Devi & ors in Civil Appeal No.3595 –3612 of 1999 decided on 4.10.06, it has been held that temporary employees or those working on daily or contractual basis have no enforceable legal right to be

permanently absorbed into service. Therefore, the present applicants who were working merely on contractual basis with the respondents cannot have any enforceable right nor can any such direction be given to reinstate them in service, when the press itself has been closed on account of repair work being carried out, in the building. It is settled law that no direction can be given to engage a person in the absence of availability of work with respondents. The respondents have stated that it is likely to take about 52 weeks to repair the building and no one knows they might re-engage these very applicants if wok is still available, but as on date no direction as sought by the applicant cant be given to them.

10. In view of above, all these OA are dismissed. However, liberty is given to them to approach appropriate forum for redressal of their other grievances in accordance with law.

26/4/06

(Smt.Meera Chhibber)
Judicial Member

(Dr.G.C.Srivastava)
Vice Chairman

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पृष्ठांकन सं ओ/न्या.......................जबलपुर, दि...............
प्रतिलिपि अग्रेषित:—
(1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
(2) आवेदक श्री/श्रीमती/कु.......................के काउंसल
(3) प्रत्यर्थी श्री/श्रीमती/कु.......................के काउंसल
(4) ग्रंथपाल, के.प्र.अ., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

S. K Gupta Advocate 5
M. Chaurasia (2)
A. P Khare (1)
M. K Mishra (1)
P. Shankaran (1)

4/5/06