

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

30

---

**ORDERS OF THE BENCH**

---

**Date of Order: 11.09.2012**

MA No. 225/2012 (OA No. 316/2008)

Mr. Mahender Singh, counsel for applicants.  
Mr. D.C. Sharma, counsel for respondents.

MA No. 225/2012

Heard on the Misc. Application for restoration of the Original Application. Having considered the submissions made on behalf of the respective parties, and the reasons stated in the Misc. Application for seeking restoration of the Original Application, we are fully satisfied with the reasons stated. Thus, the Misc. Application for restoration of the Original Application stands allowed. The Original Application is restored to its original number and status and is taken up for final disposal today itself.

OA No. 316/2008

Heard learned counsel for the parties. O.A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.

*Anil Kumar*  
(ANIL KUMAR)  
MEMBER (A)

*K.S. Rathore*  
(JUSTICE K.S. RATHORE)  
MEMBER (J)

Kumawat

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 316/2008

**DATE OF ORDER:** 11.09.2012

**CORAM**

**HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER**  
**HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER**

1. Raghuraj Singh S/o H. Capt Baney Singh (Retd), aged about 49 years, R/o E-42, Prem Nagar, Jhotwara, Jaipur.
2. N.K. Jain, S/o Shri B.L. Jain, aged about 51 years, R/o 13/55, Swarn Path, Mansarovar, Jaipur - 302020.
3. Mahender Singh S/o Hav Devi Singh (Retd), aged about 45 years, R/o PM-65, Prakash Nagar, No Dukan Kalwad Road, Jaipur.
4. Rakesh Kumar S/o Shri Ram Chander Saini, aged about 42 years, R/o 15-A, Jagdamba Colony, Dherka Balaji, Jaipur.
5. S.S. Chauhan S/o Shri Jagdish Singh Chauhan, aged about 40 years, R/o 17-C/1, Jagdamba Nagar.
6. Ld. Rajendra Singh S/o Shri Mangej Singh, aged about 42 years, R/o C-30, Friends Colony, Sirsi Road, Panchyawala, Jaipur.
7. Kanhiya Lal S/o Shri Ganesh Ram, aged about 44 years, R/o 53, Jagdamba Colony, Dherka Balaji, Jaipur.
8. P.B. Shaji S/o Shri Bhaskaran, aged about 39 years, R/o Plot No. 182, Indra Colony, Bani Park, Jaipur.
9. Verkey Devasia S/o Shri Ouseph Devasia, aged about 56 years, R/o Plot No. 36, Joi Narayan Puri, Niwaru Road, Jhotwara, Jaipur.
10. Bhagwan Singh S/o Shri Laxman Singh, aged about 25 years, R/o 8, New Colony, Pankha, Jhotwara, Jaipur.

...Applicants

Mr. Mahender Singh, counsel for applicants.

**VERSUS**

1. Union of India through Secretary, Ministry of Defence, New Delhi.
2. Managing Committee Chinkara Canteen, Sub-area Head Quarter, Bani Park, Jaipur through its Chairman.
3. OIC Canteen, Chinkara Canteen, Bani Park, Jaipur.

... Respondents


Mr. D.C. Sharma, counsel for respondents.

**ORDER (ORAL)**

Learned counsel appearing for the respondents placed reliance upon the order passed by this Bench of the Tribunal in the case of **Jitendra Singh Mawar vs. Union of India & Ors.** (O.A. No. 164/2011) on 29<sup>th</sup> November, 2011. He submits that the controversy involved in the present case is squarely covered by the order dated 29<sup>th</sup> November, 2011 passed by this Bench of the Tribunal in the case of Jitendra Singh Mawar vs. Union of India & Ors. (supra).

2. Learned counsel for the respondents further submits that the present O.A. is not maintainable as the applicants are employees of the Unit Run Canteens (URCs) and as such the subject matter of the order against which the applicants are seeking redressal is not within the jurisdiction of this Tribunal. The present O.A. has been filed by the applicants with a prayer to quash the order dated 31<sup>st</sup> July, 2008 whereby the applicants were ordered to be from Chinkara Canteen Main, Bani Park, Jaipur to Jhunjhunu, Behror, Sikar, etc., respectively.

3. This Bench of the Tribunal in the case of **Jitendra Singh Mawar vs. Union of India & Ors.** (supra), by applying the ratio decided by the Hon'ble Supreme Court in the case of R.R. Pillai by L.Rs. vs. Commanding Officer H.Q.S.A.C. (U) & Ors. reported in AIR 2010 SC 188, has considered the same issue that the applicants are the employees of the Unit Run Canteens (URCs) and the service matters of the employees of the Unit Run Canteens including all matters relating to the conditions of their



service are in no way connected with any of the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or as the case may be, of any corporation or society owned or controlled by the Government, as respects, remuneration (including allowances), pension and other retirement benefits, tenure including confirmation, seniority promotion, revision, premature retirement and superannuation, leave of any kind, disciplinary matters or any other matter whatsoever. It is also not disputed that the Canteen Service Depot and Unit Run Canteens are not one and the same thing. The Unit Run Canteens are purely a unit level venture within the units/sub-units of the Armed Forces to sell items purchased from the Area Canteen Services Depots. Such canteens are not even funded by the Consolidated Funds of India or any public funds. The sale proceeds of the Unit Run Canteens are remitted to the regimental funds and are utilized for the welfare activities within the unit.

4. The Hon'ble Supreme Court in the case of **R.R. Pillai by LR's vs. Commanding Officer H.Q.S.A.C. (U) & Ors.** reported in AIR 2010 SC 188 has observed as under: -

"8. In the case of Aslam's case, (2001 AIR SCW 134)(supra) a Bench of this Court proceeded on incorrect factual premises inasmuch as after noticing that the URCs are not funded from the Consolidated Fund of India, it went wrong in concluding that the URCs are funded by CSD as well as the articles were supplied by the CSD. Unfortunately, it did not notice that no such funding is made by the CSD. Further, only refundable loans can be granted by the CSD to URCs at the rate of interest laid



down by it from time to time upon the application of URCs seeking financial assistance. URCs can also take from other Non-Public Funds. Further observation regarding supply is also not correct. URCs, in fact, purchase articles from CSD depots and it is not an automatic supply and relation between URCs and CSDs is that of buyer and seller and not of principal and the agent. This Court further went wrong in holding that URCs are parts of CSDs when it has been clearly stated that URCs are purely private ventures and their employees are by no stretch of imagination employees of the Government or CSD. Additionally, in Aslam's case (supra) reference was made to Chandra Raha and Ors. v. Life Insurance Corporation of India (1995) Supp (2) SCC 611 : (1995 AIR SCW 2609). The Bench hearing the matter unfortunately did not notice that there was no statutory obligation on the part of the Central Government to provide canteen services to its employees. The profits generated from the URCs are not credited to the Consolidated Funds, but are distributed to the Non Public Funds which are used by the units for the welfare of the troops. As per para 1454 of the Regulations for the Air Force, 1964 the losses incurred by the non public funds are not to be borne by the State.


10. The question whether the URC can be treated as an instrumentality of the State does not fall for consideration as that aspect has not been considered by CAT or the High Court. Apparently, on that score alone we could have dismissed the appeal. But we find that the High Court placed reliance on Rule 24 to deny the effect of the appointment. From Rule 4 read with Rule 2 it is clear classification that all employees are first on probation and they shall be treated as temporary employees. After completion of five years they might be declared as permanent employees. They do not get the status of the Government employee at any stage. In Aslam's case (supra) CAT's order was passed in 1995. By that time



1999 Rules were not in existence and 1884 rules were operative."

5. As per the ratio decided by the Hon'ble Supreme Court (supra), it is settled that the employees of the Unit Run Canteens do not get the status of Government employees at any stage and the URCs are purely private ventures and their employees are by no stretch of imagination employees of the Government or CSD, and in view of this fact, the applicants in the present Original Application cannot invoke the jurisdiction of this Tribunal under Section 14 of the Administrative Tribunals Act, 1985. Therefore, the Original Application deserves to be dismissed as having not maintainable in the light of the judgment rendered by the Hon'ble Supreme Court in the case of **R.R. Pillai by L.Rs. vs. Commanding Officer H.Q.S.A.C. (U) & Ors.** (supra), as well as ratio decided by this Bench of the Tribunal in the case of **Jitendra Singh Mawar vs. Union of India & Ors.** (supra) by following the ratio decided by the Hon'ble Supreme Court in the aforesaid case.

6. Accordingly, the present Original Application stands dismissed as not maintainable with no order as to costs.

  
(ANIL KUMAR)  
MEMBER (A)

  
(JUSTICE K.S. RATHORE)  
MEMBER (J)