

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI**

**OA NO.631/2013  
MA NO.472/2013  
MA NO.514/2014**

Order reserved on 14.02.2017  
Order pronounced on 21.02.2017

**HON'BLE DR BRAHM AVTAR AGRAWAL, MEMBER (J)**

1. Jagat Ram Joshi.  
Vill. Astar, P.O. Kothi,  
Tehsil-Chakrata,  
Distt. Dehradun,  
Uttarakhand.
2. V.D. Tripathi,  
New Colony, Saharanpur Road,  
Herbertypur, Distt. Dehradun,  
Uttarakhand.
3. H.K. Naithani,  
D-366, Rajender Nagar,  
Roorkee, Distt. Haridwar,  
Uttarakhand.
4. Shiv Kumar,  
A-16, First Floor,  
Dayanand Colony,  
Lajpat Nagar,  
New Delhi. ....Applicants

(By Advocate: Mr. Krishna Kumar Mishra for Mr. Padma Kumar S)

**VERSUS**

1. Union of India through  
the Special Secretary,  
Cabinet Secretariat,  
CGO Complex, New Delhi.
2. Director General (R),  
Cabinet Secretariat,  
East Block V, Level 4,  
R.K. Puram, New Delhi-66.

3. Inspect General SFF  
Office of the IG SFF,  
East Block V, Level 4,  
R.K. Puram,  
New Delhi-66.
4. Secretary,  
DOP&T, North Block,  
New Delhi-1.
5. Secretary,  
Department of Expenditure,  
Ministry of Finance,  
North Block, New Delhi-1. ...Respondents

(By Advocate: Mr. Manjeet Singh Reen)

**:ORDER:**

**MA Nos.472/2013 and 514/2014**

The MA No.472/2013 filed under rule 4(5)(a), CAT (Procedure) Rules 1987 and the MA No.514/2014 for bringing on record the respondents' additional affidavit stand allowed.

**OA No.631/2013**

The four applicants, employed to manage the Saving Scheme Deposit (SSD) Fund created by the Special Frontier Force (SFF) personnel through their personal contributions, have filed the instant OA seeking the following reliefs:

- "(a) Quash and set aside the Order dated 13.12.2012 and direct the respondents to treat the applicants as regular employees with all consequential benefits.
- (b) Direct the respondents to count the past service rendered by them from the initial date of appointment as regular service for purposes as applicable to all Central Government employees.
- (c) any other relief which this Hon'ble Tribunal may be pleased to allow."

(sic)

2. The impugned order dated 13.12.2012 (Annexure A-1) reads as under:

**"REQUEST FOR REGULARIZATION OF SERVICE AND GRANT OF ALL CONSEQUENTIAL BENEFITS ON RETIREMENT"**

1. Reference your application dated 13 Sep 2012 on the above mentioned subject.

2. As per appointment Order, you were appointed on temporary basis as a clerk to maintain SSD Fund Accounts of HQ Est No.22, - a contributory saving fund of SFF Force Personnel where no public/govt funds are involved. In the appointment order, it was clearly mentioned that your services may be terminated any time without giving any notice and you would have no claim whatsoever for permanency in this Organization. Even while extending benefits of Fourth Pay Commission, you were apprised that the benefits were being extended to you as one time measure and no comparisons or analogy would be drawn with the scales recommended by Fourth Pay Commissions in any future reference. You were engaged to look after the SSD fund for which no post was sanctioned by the Govt. and no advertisement was published for filling of the post of clerk. Even no selection procedure has been laid down by the Govt. Moreover, no Recruitment Rules have been framed/made for your recruitment/promotion etc. by the HQ Est No.22/HQ SFF. The pay and allowances are paid out of the profit earned from the investment of savings of SFF Force Personnel in bank/financial institutions after paying due interest to the subscribers. No Govt. finance is involved as is the case in Govt. servants pay and allowances. It is wrong and incorrect to imagine that there exists approval of any authority of the Govt. for your pay & allowances. Hence, no burden of pensionary benefits as requested by you can be borne by the Govt.

3. Regarding similarly with Govt. service in terms and conditions of employment laid down by Commandant, HQ Est No.22, the benefits were extended to you to facilitate official functioning and not to equate you with Govt. officials. The other benefits extended to you were purely on humanitarian ground and to enable good working environment. Mere extension of benefits similar to Govt. employees does not equate you to Govt. employees in every respect as claimed by you. It is also incorrect to say that you have been provided medical treatment in SFF hospitals (MH). It was only in case of emergency that medical treatment was extended as is the practice even for any civilian in emergency when Govt. Hospitals are expected to render immediate medical assistance. As far as two other Govt. officials working in SSD fund are concerned, it is the prerogative of head of the Organization to post any official in any section/branch to improve the functioning. This cannot be taken as alibi for equating you with Govt. officials.

4. From time to time, you have been conveyed that your services are not Govt. service and you are employed merely to

look after SSD fund contributed by SFF Force personnel. No provision was made in terms and conditions of your service to convert into Govt. service. Regarding working regularly for many years, it is mentioned that such working does not bestow any right or privilege to convert to Govt. service. As far as contribution to SSD fund is concerned most of the private sectors bodies draw the same analogy with Govt. organization and contribute to provident fund schemes for employees. Your contribution is to SSD fund which is being run on the analogy of provident fund scheme, however no contribution is involved in this fund from the Govt. and most public/private organization are in some way or the other covered with different insurances schemes whether it is GIS or CGEGIS or by another insurance scheme. Your contribution to SSD fund, GIS had been purely voluntary and you were never asked by any authority to contribute to these schemes. You were aware of its benefits well that is why you contributed to these schemes. Mere contribution to these schemes does not entitle you to become a Govt. servant.

5. In view of foregoing, the request referred by you is unsustainable and does not qualify you to become Govt. servant."

(sic)

3. The matter in controversy has been considered and adjudicated upon by this Tribunal by its order dated 04.10.2016 in the OAs Nos.60/2013 (Rajkaran Singh Vs. UOI & Ors.) and 459/2013 (Rajkaran Singh & Ors. Vs. UOI & Ors.) and the learned counsel for the parties are *ad idem* on suggesting disposal of the instant OA in terms of the said order.

4. It has been held in the aforesaid order of the Tribunal as under:

"12. Here, there are no rules governing the service conditions of the applicants; there are no recruitment rules; their recruitment was not made under an advertisement issued where people at large were given opportunity of appearing; there is no question of obligation under Factories Act for running SSD, as it is not covered under the definition of factory; and the service performed is not a statutory service but SSD is a voluntary contribution made by SSF employees. Therefore, applying these principles to the facts of the present case, it is difficult to conceive that how the employees working in the SSD become Government employees. It is true that the unit officers have all persuasive control over the employees. However, this is not

subject to rules or any statutory obligations. It is all ad hoc in nature. It is also true that master-servant relationship exists between the employees and the unit officers but that does not extend to the Government and is more akin to employing private persons.

...

15. Therefore, we find that there is absolutely no ground on the basis of which the applicants can be treated as Government employees in Pensionable Establishment. The OAs are, therefore, dismissed without costs."

5. In the light of the above, the instant OA does not deserve to succeed. The OA is, therefore, dismissed. No order as to costs.

**(DR BRAHM AVTAR AGRAWAL)**  
**MEMBER (J)**

/JK/