

Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.2941/2014
with
O.A.No.2942/2014

Order Reserved on: 28.07.2016
Order pronounced on 08.08.2016

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Dr. Birendra Kumar Sinha, Member (A)

O.A.No.2941/2014:

Smt. Surja Negi W/o S.S.Negi
Aged about 52 years
UDC Delhi Area Station
Canteen NOIDA
r/o B-193 Sector 51
Kendrya Vihar
NOIDA, UP – 201313. Applicant

(By Advocate: Sh. J.P.Manhas)

Versus

1. Union of India
Through Secretary
Ministry of Defence
South Block
New Delhi – 110 011.
2. The General Officer Commanding Chief
Western Command
Chandimandir
Haryana – 134 107.
3. The General Officer Commanding Chief

Delhi Area Delhi Cantt.
New Delhi.

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Respondents

(By Advocate: Sh. Ashish Nischal for R1 and R2 and Sh. P. Shivarajan for Sh. Ankur Chhibber for R3)

with

O.A.No.2942/2014:

Hony Nb/Sub (Retd)
Suraj Pal Singh
S/o Bal Kishan
Aged about 57 years
Accountant Delhi Area
Station Canteen Noida
R/o 365A-Abhey Khand-III
Indrapuram
Ghaziabad, (UP)
Pin Code No.201009.

.... Applicant

(By Advocate: Sh. J.P. Manhas)

Versus

1. Union of India
Through Secretary
Ministry of Defence
South Block
New Delhi – 110 011.

2. The General Officer Commanding Chief
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Respondents

(By Advocate: Sh. Ashish Nischal for R1 and R2 and Sh. P. Shivarajan for Sh. Ankur Chhibber for R3)

O R D E R (Common)

By V. Ajay Kumar, Member (J):

Since, in both the aforesaid OAs, the question of law and facts are identical, they are being disposed of by this common order.

2. In both the aforesaid OAs, the applicants who were working in the Unit Run Canteens of the Respondents, filed the same, aggrieved by their termination from service.
3. When the OAs were taken up for hearing, the learned counsel for the respondents has submitted that this Tribunal has no jurisdiction to entertain the OAs as this Tribunal has no jurisdiction in respect of the service matters of Unit Run Canteen employees.
4. In **Union of India v. M. Aslam**, (2001) 1 SCC 720, the Hon'ble Apex Court held that the employees of Unit Run Canteens of the Armed Forces are government employees. Doubting the correctness of the said decision, **R.R.Pillai (Dead) through LRs v. Commanding Officer, HQ SAC (U) and Others**, (2009) 13 SCC 311, was referred to a three Judge Bench. The Hon'ble Apex Court in **R.R.Pillai** (supra), overruled **M. Aslam** (supra), and while holding that the same was not correctly decided, further held that the employees of Unit Run Canteens are not government servants.

5. In **Union of India & Others v. Gobinda Prasad Mula**, (2012)

13 SCC 565, the respondent was employed as Manager in Unit Run Canteen of Air Force Station in Kumbhigram, Assam. When he was terminated from service, he questioned the termination order by filing an OA before the Central Administrative Tribunal, Calcutta Bench, and when a preliminary objection of jurisdiction on the ground that the respondent not being a public servant was raised, the Tribunal relying upon **M. Aslam** (supra), held that the OA is maintainable and also allowed the OA on merits. The Writ Petition filed against the said order was also dismissed on merits. However, the Hon'ble Apex Court following **R.R.Pillai** (supra), while allowing the appeal of the Union of India, observed as under:

"9. The bone of contention so canvassed before us relates to the question of Respondent holding a civil post and thus being subject to the jurisdiction of the Tribunal. However, from the discussions in the impugned judgment and order of the High Court no indication could be gathered as to whether the Appellants herein had canvassed the issue pertaining to the jurisdiction of the Tribunal to entertain the application filed by an employee working in a URC or not. However, we are informed, by learned Additional Solicitor General, of such issue being canvassed before the High Court but not considered. Be that as it may.

10. We have perused the observations made by the Tribunal insofar as the answer to the preliminary objection raised by the Appellants, i.e., to hold that the Respondent herein holds a civil post relying upon the observations made in Aslam's case (supra), is concerned. The said decision has now been overruled by the decision of three Judge Bench of this Court in R.R. Pillai's case (supra), wherein this Court has specifically observed that an employee working in a URC canteen is not the holder of a civil post. The relevant paragraphs are extracted below :

"12. The factors highlighted to distinguish Chotelal's case ((1999) 1 SCC 554 : (AIR 1999 SC 376 : 1999 AIR SCW 29) in our considered opinion are without any material. There was no scope for making any distinction factually between Aslam's case and Chotelal's case. In our view, therefore, Aslam case was not correctly decided.

15. It is to be noted that financial assistance is given, but interest and penal interest are charged. URCs can also borrow from financial institutions. The reference is answered by holding that employees of URCs are not government servants."

11. In view of the observations made in the abovesaid decision, in our view, the Tribunal was not justified in entertaining the application filed by the Respondent and should not have answered the prayer in the application in favour of the Respondent.

12. Resultantly, while allowing this appeal, we set aside the orders passed by the Tribunal and the High Court in Original Application No.789 of 2008, dated 07.07.2004 and Writ Petition No.788 of 2004, dated 22.07.2008, respectively. We further reserve liberty to the respondent, if he so desires, to approach the appropriate forum for redressal of all his grievances. No order as to costs. Ordered accordingly."

6. This Tribunal also in the identical circumstances dismissed OA No.4258/2014 by its Order dated 15.07.2016, by following the aforesaid decisions of the Hon'ble Apex Court, and the relevant paragraph of which is extracted below:

"8. In the circumstances and in view of the decision of the Hon'ble Apex Court in **R.R.Pillai** (supra), the applicant who is an employee of the Unit Run Canteen of the Armed Forces cannot be treated as a Government servant and accordingly, the OA is dismissed for want of jurisdiction. However, this order shall not preclude the applicant from approaching a competent Court for redressal of his grievances, in accordance with law. No costs."

7. In the circumstances and for parity of reasons, both the OAs are dismissed for want of jurisdiction. However, this order shall not preclude the applicant from approaching a competent Court for redressal of his grievances, in accordance with law. No costs.

(Dr. Birendra Kumar Sinha)
Member (A)

(V. Ajay Kumar)
Member (J)