

**Central Administrative Tribunal
Principal Bench**

OA- 1608/2013

Order Reserved on: 30.08.2018
Order Pronounced on: 06.09.2018

**Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)**

1. Phool Chand Yadav
S/o Sh. Ram Raj Yadav
R/o Qtr. No. 6, Block 91
Behind Base Hospital
Delhi Cantt – 10.
2. Jagdish Kumar
S/o Chandi Ram
R/o T-3 Kothi, Base Hospital Officers Mess
Kirby Place, Delhi Cantt.
3. Bali Ram
S/o Late Kishan Ram
R/o Qtr. No.3, Officers Mess Staff Quarters
Base Hospital, Delhi Cantt – 10
4. Anand Kumar
S/o Govind Kumar
Kothi-3, Staff Quarter Officers Mess
Base Hospital, Delhi Cantt – 10.
5. Jahed Ali
S/o Iman Ali
Kothi-3, Staff Quarter Officers Mess
Base Hospital
Delhi Cantt – 10.
6. Bahadu Ram
S/o Jait Ram
Staff Quarter Base Hospital
Delhi Cantt – 10.
7. Ramesh Kumar
S/o Umed Ram
Staff Quarter Base Hospital
Delhi Cantt – 10.

8. Prithbi Pal
S/o Late Prem Ram
Officers Mess Base Hospital
Delhi Cantt – 10.
9. Anand Kumar
S/o Rajinder Kumar
R/o Officers Mess Base Hospital
Delhi Cantt – 10.
10. Rohit Thapa
S/o Harish Chand
R/o No. 3, Base Hospital, Officers Mess
Delhi Cantt – 10.
11. Raj Kumar
S/o Fakir Chand
R/o B-362, Jharera Village
Delhi Cantt – 10.
12. Baldev Singh Gusain
S/o Late Sh. Kalyan Singh
R/o Officers Mess Base Hospital
Delhi Cantt – 10.
13. Arjun Kumar Pal
S/o Daya Ram Pal
R/o Block – 90, Qtr. No. 8-08
Behind Base Hospital
Delhi Cantt – 10.
14. Vijay Kumar Pal
S/o Suraj Deen Pal
Kothi – 3, Officers Mess Base Hospital
Delhi Cantt – 10.
15. Pankaj Kumar
S/o Sh. Kundan Lal
R/o Officers Mess Base Hospital
Delhi Cantt – 10.
16. Smt. Shakuntala
W/o Late Ram Singh
R/o Servant Quarter
Delhi Cantt – 10.
17. Ravinder Kumar
S/o Anup Ram

R/o 15-Kothi Base Hospital
 Quarters Kirbi Place
 Delhi Cantt – 10.

18. Mahesh Kumar
 S/o Late Mohan Ram
 R/o Base Hospital Officers Mess
 Delhi Cantt – 10.

19. Ramesh Kumar
 S/o Dunger Ram
 R/o Staff Quarter
 Officers Mess Base Hospital
 Delhi Cantt – 10.Applicants

(By Advocate : Mr. SK Pandey for Mr. Sudhanshu Rai)

Versus

1. Union of India
 Through the Secretary
 Ministry of Defence, New Delhi.

2. The Chairperson
 Mess Committee
 Officers Mess
 Base Hospital, Delhi Cantt – 10.

3. Mess Secretary
 Officers Mess
 Base Hospital, Delhi Cantt – 10.

....Respondents

(By Advocate : Mr. BL Wanchoo)

ORDER

Hon'ble Ms. Nita Chowdhury, Member (A)

The applicants have filed this Original Application (OA), seeking the following reliefs:-

“a. Regularize the service of all the applicants with all consequential benefits.

b. Any other relief which this Hon'ble Tribunal may deem fit and proper may also be passed."

2. It is the case of the applicants that even after long years of service in the Officers Mess, Base Hospital, Delhi Cantt,, their services are not being regularized. The applicants in their OA have stated that they are working under the instructions of Mess Secretary, who is appointed by the Mess Committee headed by the Chairman whose post is held by a person of Major General Rank. It is further averred that they are being paid by the Mess Secretary under whose supervision and order, all the applicants perform duties.

3. During the course of arguments, the learned counsel for the respondents has raised a preliminary objection about the jurisdiction of the Central Administrative Tribunal over the dispute involved in this case inasmuch as the applicants are wholly employed by the officer's Mess, Base Hospital, Delhi Cantt as casual labour on daily basis. He has further drawn our attention to Annexure R-1 as to their employment in which it is categorically stated that the employees in the Officers' Mess would be on ad hoc for three months and if their performance is good, then they will be employed through

contractor (outsourced). It is also evident from Annexure R-1 that the wages for their employees are to be charged off from Servant Wages Head of Officers' Mess Account.

4. It is also noted that the applicants are not able to produce any documents which shows that they were employed by the respondents with terms of engagement.

5. The respondents have also annexed R-2 to their reply clearly indicating that in order to meet the expenditure as a result of the revised emoluments in respect of Mess Staff, the subscription with regard dining members and non-dining members have been proposed to be increased. As such, it is clear that the salary of the applicants is paid from the officer's mess fund and not from the public exchequer.

6. It is undisputed fact that the Mess is managed by a Committee of seven members, namely President Mess Committee, Mess Secretary, Food Member, Wine Member, Property Member, Garden Member appointed at the quarterly Mess Meeting amongst the officers members of the Mess and the Commandant of the hospital being senior most officer of the unit is the ex-officio Chairman of the Mess.

7. In view of the above factual position, we come to a definite conclusion that there is no master and servant

relationship between the applicants and respondents. As such, the matters relating to employment by private contractor do not come within the jurisdiction of this Tribunal. Accordingly, we do not find any merit in the OA and the same is dismissed for lack of jurisdiction in view of Section 14 of the Administrative Tribunals Act, 1985.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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