CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No.290/00417/2015

Jodhpur, this the 6th May, 2019

CORAM

Hon'ble Smt Hina P. Shah, Judicial Member
Hon'ble Ms Archana Nigam, Administrative Member

Jethu Singh S/o Shri Gopal Singh, aged 37 years, Billing Operator cum Cashier, 24 Infantry Division CSD Canteen, 24 Infantry Division Bikaner, R/o Near Shanti General Stores, East of Soor Sagar, Dhobi Dhora, Bikaner.

.....Applicant

By Advocate : Mr Vijay Mehta.

Versus

(1) Union of India through the Secretary, Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.
(2) Col., Q 24 Infantry Division, Bikaner.

.....Respondents

By Advocate : Mr B.L. Tiwari.

ORDER (Oral)

Per Smt. Hina P. Shah

Heard.

The applicant preferred the present OA seeking quashing and setting aside his verbal termination order dated 03/10/2015 while working on the post of Billing Operator cum Cashier, 24 Infantry Division CSD Canteen, 24 Infantry Division Bikaner and to reinstate him with complete back wages.

2. The applicant submits that he has been appointed by the order of Chairman Central Canteen, HQ 24 Inf Div C/o 56 APO

issued by Lt Col/Canteen Officer vide no. B511/Civilian/Canteen dated 05.03.1997 (Annex. A/1) and was being paid salary every month by cheque. The respondent No. 2 was pressing hard on the applicant as well as other similarly situated employees to execute agreement in favour of 24 Inf Div to treat him as a contractual employee who has been appointed for a period of one year. However, applicant refused to execute the same and therefore, his services have been terminated by the respondent No. 2 vide verbal order dated 03.10.2015. The plea of the applicant is that he is a permanent civilian defence employee and action of the respondents terminating his services after so many years is arbitrary, discriminatory and violaltive of Articles 14 & 16 of the Constitution of India.

3. The respondents filed reply on 01.12.2015 stating therein that the applicant was contractual employee of Unit Run Canteen (URC) and thus was not holding any civil post connected with the affairs of Union of India. Hence, he is not entitled to submit this Original Application before Central Administrative Tribunal and the same deserves to be dismissed for want of jurisdiction.

4. During course of hearing today, Mr Vijay Mehta learned counsel for the applicant concedes the view taken by Hon'ble Supreme Court in the case of **Union of India v. Mohd. Aslam** reported in 2001 (1) SCC 720 that Unit Run Canteens can be treated as an instrumentality of the State. This judgment was

subsequently overruled by Larger Bench of Apex Court in case of **R.R. Pillai (D) through LRs v. Commanding Officer, Headquarters, Southern Air Command** (U) reported in 2009 (13) SCC 311, that employees of Unit Run Canteens (URCs) are not engaged by the Army authorities and they are not Government servants. However, by the time the present OA has been filed by the applicant, the Hon'ble Supreme Court in the case of **Union of India & Ors v. Dalu Ram**, reported in 2019 (160) FLR 992 has categorically held that employees of regimental canteens are neither Government servants nor are they engaged in connection with a civil post under the Union, therefore, the Central Administrative Tribunal has no jurisdiction to entertain the claim under section 14 of the Administrative Tribunals Act, 1985. He, however, prays that delay in approaching the appropriate forum may be condoned by this Tribunal.

5. In view of Hon'ble Supreme Court's judgment in Dalu Ram's case (supra), it is clear that Central Administrative Tribunal has no jurisdiction under section 14 of the Administrative Tribunals Act, 1985 to entertain the claim of employees of Unit Run Canteen or CSDs or Regimental Canteens. The prayer of the applicant that likely delay in approaching the appropriate forum be condoned as the same occurred due to pendency of the OA in this Tribunal. The question of delay cannot be considered by this Tribunal as it would solely be prerogative of the forum, which the applicant

wishes to approach. The applicant can raise these pleas before appropriate forum while seeking condonation of delay. This Tribunal can only record the fact that present Original Application has been presented before us on 12.10.2015.

6. In view of discussions hereinabove made, the present OA is not maintainable for want of jurisdiction and the same is dismissed with no order as to costs.

[Archana Nigam]
Administrative Member

[Hina P. Shah]
Judicial Member

Ss/-