

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH**

...

**OA No. 290/00509/2016 with MA  
No.290/00334/2016 &  
OA No.290/00510/2016 with MA  
No.290/00335/2016**

RESERVED ON :10.07.2019  
PRONOUNCED ON : 22.07.2019

**CORAM:**

**HON'BLE MRS. HINA P.SHAH, MEMBER (J)  
HON'BLE MS. ARCHANA NIGAM, MEMBER (A)**

OA No.290/00509/2016 with MA No.290/00334/2016

Kapil Dev son of Shri Hari Ram, aged about 37 years,  
resident near roadways wksp, naya nagar Harijan Basti,  
Jodhpur (Raj.)

...Applicant

(By Advocate: Shri Anirudh Purohit)

Versus

1. Union of India through Secretary, Ministry of Defence,  
Raisina Hills, South Block, New Delhi.
2. Directorate General Armed Force Medical Services  
(Headquarters), New Delhi.
3. Commandant, Sainik Aspatal, Military Hospital, Jodhpur

...Respondents

(By Advocate: Shri Rameshwar Dave)

OA No.290/00510/2016 with MA No.290/00335/2016

Tara Chand s/o Shri Suresh Chand, aged about 36 years,  
resident of Prithvipura Harijan Basti, Rasala Road, Jodhpur  
(Raj.)

...Applicant

(By Advocate: Shri Anirudh Purohit)

Versus

1. Union of India through Secretary, Ministry of Defence, Raisina Hills, South Block, New Delhi.
2. Directorate General Armed Force Medical Service (Headquarters), New Delhi.
3. Commandant, Sainik Aspatal, Military Hospital, Jodhpur

...Respondents

(By Advocate: Shri Rameshwar Dave)

**ORDER**

**Per Mrs. Hina P.Shah**

Heard the learned counsel for the parties and perused the record.

2. The applicants in both these OAs have challenged the impugned order dated 16.8.2014 (Ann.A/1 in both the OAs) by which their services were terminated. They have prayed that the impugned orders be quashed and set-aside and they may be reinstated.

3. The applicants were contractual labours appointed for a fixed period on a fixed payment. The said contractual engagement was reviewed from time to time. The respondents have raised preliminary objection to the effect that they were paid from the interest generated from the Army Group Insurance Fund, as such, they were not holder

of a civil post and this Tribunal has no jurisdiction to adjudicate the matter. It is also noticed that the applicants in these OAs on one side seek redressal of their grievance under Industrial Disputes Act, 1947 and on the other side, they are claiming benefit of a civil servant under the provisions of Administrative Tribunals Act, 1985.

4. The applicants have also filed Misc. Applications for condonation of delay in filing these OAs. They have submitted that they were terminated in the year 2014 by the respondents vide verbal order and the applicant could not challenge their termination at the relevant time in the absence of any termination order by the authorities. The applicants come from an indigent background and in the absence of legal help they were not aware of the appropriate course of action to challenge their verbal termination order.

The respondents have resisted the claim of condonation of delay stating that the applicants were terminated vide order dated 16.8.2014, but they have filed the OAs in the year 2016 without any cogent reason for the delay. Other similarly situated persons were terminated through the same order and they have challenged the same

well within time, but the applicants have negligently and willingly did not file the OAs in time.

5. Considered the rival contentions of the parties.

6. The controversy involved in both the OAs has already been decided by this Tribunal vide order dated 19.07.2019 passed in OA No. 440/2014 and 3 other OAs whereby after considering the matter in detail, it has been held that since the applicants were paid from the interest generated from the Army Group Insurance Fund and not from the public fund, therefore, they were not civil servants and this Tribunal has no jurisdiction. In the aforesaid cases, this Tribunal has relied upon the ratio decided by the Hon'ble Apex Court in the case of **Union of India and Ors. vs. Chotelal**, AIR 1999 SUPREME COURT 378. The applicants in the present OAs are similarly situated, therefore, the order passed in the aforesaid OAs is squarely applicable. Hence, both the OAs are liable to be dismissed on the ground of jurisdiction.

7. Though the applicants have filed Misc. Applications for condonation of delay in filing the present OAs, but since the OAs are liable to be dismissed on the ground of jurisdiction,

therefore, the Misc. Applications filed for condonation of delay have become infructuous.

8. Accordingly, both the OAs with MAs are dismissed with no order as to costs.

**(ARCHANA NIGAM)**  
**ADMV. MEMBER**

**(HINA P.SHAH)**  
**JUDL. MEMBER**

R/