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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1584 of 2003

New Delhi, this the ^{26th} day of February, 2004

HON'BLE MR.KULDIP SINGH.MEMBER(JUDL)
HON'BLE S.A. SINGH, MEMBER (A).

1. Prem Singh
S/o Khet Ram
R/o B-60/2A Gali No.9,
Sashi Garden, Mayur Vihar,
Phase-I, Delhi-110 091.
2. Ganesh Kumar
S/o Shri Chander Mohan
R/o B-60/2A Gali No.9,
Sashi Garden, Mayur Vihar,
Phase-I, Delhi-110 091.
3. Shayam Lal
S/o Parkash Chander
R/o B-60/2A Gali No.9,
Sashi Garden, Mayur Vihar,
Phase-I, Delhi-110 091.
4. Balram
S/o Shri Ram Kishan
R/o B-60/2A Gali No.9,
Sashi Garden, Mayur Vihar,
Phase-I, Delhi-110 091.
5. Babu Lal

S/o Shri Arjun Singh
R/o B-60/2A Gali No.9,
Sashi Garden, Mayur Vihar,
Phase-I, Delhi-110 091.
6. Kalyan Singh
S/o Shri Surjeet Singh
R/o B-60/2A Gali No.9,
Sashi Garden, Mayur Vihar,
Phase-I, Delhi-110 091. . . .Applicants

By Advocate: Ms. Sumedha Sharma, proxy counsel for
Shri Sachin Chauhan, Counsel).

Versus

1. Union of India through
Its Secretary,
Ministry of Defence,
New Delhi.
2. Air Force Commanding.
Air Headquarters,
New Delhi.
3. Wing Commander,
Chief Administrative Officer,
Air Force Station, Race Course,
New Delhi. . . .Respondents

(By Advocate: Shri B.S. Jain)

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O R D E R

By Hon'ble Mr. Kuldip Singh, Member (Judl)

This is a joint application filed by 6 applicants as they are aggrieved by the orders whereby the services of the applicants have been terminated without giving any show cause notice.

2. The applicants allege that they were appointed as Conductor/Driver in the Welfare Bus Office run by Air Force Station, New Delhi and applicants were confirmed in the said posts in the year May, 1997 and May, 1998 respectively. When the applicants were about to complete 4-5 years of service they too have attained the status of permanent employees as they were rendering their job efficiently and diligently but their services had been terminated in violation of the principles of natural justice and by now the applicants have also crossed the age limit for appointment in Group 'C' and 'D' which is causing harm to the applicants.

3. The orders of termination is stated to be vitiated as the same has not been passed in accordance with the rules and passed on the whims and fancies of the department. Thus it is stated that the applicants are entitled to be reinstated.

4. Respondents are contesting the OA. They have filed a short counter-affidavit and submitted that the applicants are neither Government servants nor ex-Government servants. They were appointed as per appointment letters Annexure R-1 collectively. Similar

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orders have been issued to all the applicants. It is also submitted that the applicants were appointed on non-public fund employees (welfare fund) which is contributed by the beneficiary Air force personnel. This venture is a welfare oriented and is known as Service Institute Welfare Bus Venture. It was made clear to them that they were not Government employees. Thus it is submitted that since the applicants are neither Government employees nor ex-Government employees so this Tribunal has no jurisdiction to try the OA of the private employees.

5. On merits also it is submitted that the Service Institute Welfare bus venture had 11 buses. The number of buses was reduced to 7 in pursuance of the Hon'ble Supreme Court orders on clean fuel policy and aging of diesel buses and consequently the services of applicants were terminated as their services were not required so it is prayed that the OA be dismissed.

6. The applicants have filed a rejoinder wherein it is stated that the case of the applicants in respect to the jurisdiction is squarely covered by the judgment of the Hon'ble Tribunal. Jodhpur Bench dated 7.2.1996.

7. It is further stated that the Principal Bench has also been taking the cases of persons like the applicants in different OAs and the judgment passed by the Hon'ble Tribunal even has been complied with by the respondents. Section 14 of the AT Act confers jurisdiction in respect of (a) Recruitment, and matters concerning recruitment, to any All India Service or to

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any civil service of the Union or a Civil post under the Union or to a post connected with defence or in the defence services, being in either case, a post filled by a civilian.

8. The matter was heard.

9. Shri Sachin Chauhan did not appear on the date of hearing. However, Mrs. Sumedha Sharma appeared for him. The learned counsel appearing for the respondents submitted that since the lists of appointment in respect of all those employees clearly mention that the appointment of the applicants is under no public funds and they are not Government employee so this Tribunal has no jurisdiction. Though the applicant in their rejoinder submitted that under Section 14 matters pertaining to recruitment can also be taken up by this Tribunal so this Tribunal can take up this matter and it is under jurisdiction, powers and authority of the CAT to decide this issue.

10. The applicant has also relied upon the judgment of the Jodhpur Bench of this Tribunal which has also been annexed along with the rejoinder.

11. The applicants in that case were working as Salesman, Accounts Clerk, Asstt. Accounts Clerk. Incharge of Liquor and Watermen. Assistant Manager and Manager in the various scales of pay prescribed for such officials under the Standing Orders issued by the Director Organisation, Air Headquarters dated 28.1.1994. All those applicants were paid the basic salary plus DA and

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HRA @ 10% of basic pay and Rs.20/- fixed as CCA in case of Air Force Canteens. However, in the Army Canteens they are paid consolidated salary in the scale of pay prescribed for various grades of employees but no DA. HRA and CCA are paid. Those employees are not enjoying other benefits available to the Central Government servants like central pay scales, DA etc. while the Air Force canteen employees are subscribers of Provident Fund and insurance, the same is not available for the employees of the Army Canteens and based on the judgment given by the Hon'ble Supreme Court in the case of Canteen Employees, their past services were ordered to be taken into consideration before those employees were regularised.

12. But we find that in this case the said judgment is not applicable at all because in this case the applicants were never engaged by the Government and at the time of appointment they were specifically informed about the fact that as they were not being engaged by the Government nor they were paid salary through Union of India funds but they are being paid salary from the private funds as such they are not Government employees at all. Thus the applicants cannot claim the benefit of the judgment given by the Jodhpur Bench.


13. On the contrary the terms and conditions on which the applicants were appointed clearly show that they were being paid from the Welfare Fund that itself goes to show that the applicants were engaged by some private agency connected with the Air Force and had never

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17.6.

been holding any civil posts under the Government of India or under the Ministry of Defence. Thus they are not covered under Section 14 of the A.T. Act and this court has no jurisdiction to try this matter. Hence the OA has to be dismissed for want of jurisdiction

14. Accordingly, the OA is dismissed for want of jurisdiction. No costs.


(S.A. SINGH)
MEMBER (A)


(KULDIP SINGH)
MEMBER (J)

Rakesh