
(2000) 04 DEL CK 0038
In the Delhi High Court
Case No : CWP NO. 6083 OF 1999

A.H.Q. Canteen Employees Association	Vs	APPELLANT
U.O.I. and Others		RESPONDENT

Date of Decision : 04-04-2000

Acts Referred:

Citation : (2000) 86 FLR 448

Hon'ble Judges : A.K. Sikri, J

Bench : Single Bench

Advocate : Mr. N.N. Dhingra, Proxy Counse, for the Appellant; Mr. K.C. Dubey, Proxy Counsel, for the Respondent

Judgement

A.K. Sikri, J.—Rule.

In this case petitioner which is association of AHQ canteen employees has prayed for the following directions:

- a) direct the respondents by way of an order/writ/direction in the nature of mandamus to declare the civilian employees of the petitioner canteen as Central Government employees;
- b) direct the respondents to pay all the benefits such as salary/allowances etc. to the civilian employees of the petitioner canteen at par with other Central Government employees w.e.f. 1.10.1991 i.e. the w.e.f. the Hon'ble Supreme Court granted benefits to the civilian employees of the non-statutory canteens.

2. In the case of Layak Ram Vs. Quarter Master General and Others, , a view has already been taken that such canteens are not amenable to writ jurisdiction. Petitioner disputes this position. However even if it is presumed that writ petition is maintainable, admittedly petitioner has alternate efficacious remedy open to it under the provisions of Industrial Dispute Act. In the aforesaid case of Layak Ram (Supra) after relying upon various judgments of Supreme Court as well as this Court, it was held that the petitioner should approach the machinery

provided under the Industrial Dispute Act. So far as prayer (a) in this writ petition is concerned, petitioners cannot claim themselves to be Central Government employees. However for seeking benefit of salary/allowances at par with Central Government, appropriate remedy for the petitioner is to approach Industrial Tribunal more so when it refuses disputed question of facts and can be appropriately dealt with by the Industrial Tribunal. In fact it may be mentioned that in various writ petitions filed by the canteen employees of departmental canteens under the Central Government, Supreme Court had directed all such employees to approach Industrial Tribunal for adjudication of their disputes. Some of the cases where such orders were passed are as under :

"These are three writ petitions under Article 32 of the Constitution, all filed on behalf of the workers employed in non-statutory recognised canteens writ petition No. 16081 of 1984 is filed on behalf of the workers employed in the canteens of National Small Scale Industries Corporation (NSIC). Writ Petition No. 16082 is filed on behalf of the workers in the canteens of the Food Corporation of India (FCI) and writ petitioner No. 11211 of 1985 is filed on behalf of the workers in the canteens of the Minerals and Metals Trading Corporation of India (MMTC).

In writ petition No. 16081 of 1984, which is filed on behalf of NSIC canteen workers, the relief claimed is that the canteen workers be treated on par with the Central Government employees and be granted the same status as that of civil servants with all the benefits and pay scales with effect from 1st October, 1979 or the pay scales mentioned in paragraph 15 of the writ petition. The canteen workers in this petition have contended that though the canteen in which they work is a non-statutory one, it is run or managed by the Government of India.

Writ petition No. 16082 of 1984, which is the petition filed by the canteen workers of the FCI is nothing but a copy of the petition filed by the canteens workers of the NSIC. The same averments are made non-statutory canteens was decided on the facts in those cases including the provisions of the Railway Manual, the notifications and circulars issued by the Railway Board from time to time and other documents which pertained to the workers employed in the said canteens. None of this material which was taken into consideration there has relevant to the workers concerned in the present canteens. On the other hand, there are disputed facts in the present case which cannot be resolved in a writ petition under Article 32. We, Therefore, find that this Court is not the proper forum to decide the present disputes. However, we cannot lose sight of the fact that these petitions have been pending before this Court since 1984-85. We, Therefore, direct the Delhi Administration to refer the Industrial/Disputes between the petitioner-Canteen Mazdoor Sabha and the respondent National Small Scale Industries Corporation in writ petition No. 16081 of 1984 to the Industrial Tribunal u/s 10(1)(d) of the Industrial Disputes Act, 1947 within four weeks from today.

Similarly, we direct the Central Government to refer the Industrial dispute between the petitioner Canteen Mazdoor Sabha and respondent FCI in writ

petition No. 16082 of 1984 and the Industrial Dispute between the petitioner Canteen Mazdoor Sabha and respondent - MMTC in writ petition No. 11211 of 1985 to the Industrial Tribunal u/s 10(1)(d) of the Industrial Disputes Act, 1947 within four weeks from today.

The Industrial Tribunals will dispose of the said disputes as far as possible within nine months from the date of reference to the dispute to them keeping in mind the fact that these disputes have been pending since 1984-85.

The writ petitions are disposed of accordingly with no order as to costs."

3. In these circumstances, this writ petition is dismissed with liberty to the petitioners to approach Industrial Tribunal for the aforesaid claim. Rule is discharged.

No order as to costs.