

(2018) 09 CAT CK 0191

In the Central Administrative Tribunal

Case No : Original Application No. 1608 Of 2013

Phool Chand Yadav And Ors

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 06-09-2018

Acts Referred:

Administrative Tribunals Act, 1985 — Section 14

Citation : (2018) 09 CAT CK 0191

Hon'ble Judges : Nita Chowdhury, Member (A); S.N. Terdal, J

Bench : Division Bench

Advocate : SK Pandey, Sudhanshu Rai, BL Wanchoo

Final Decision : Dismissed

Judgement

Nita Chowdhury, Member (A)

1. 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.