

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision : 17.04.2018*

+ **WP(C) 3422/2018**

UNIT RUN CANTEEN EMPLOYEES WELFARE
ASSOCIATION (REGD.) Petitioner

Through: Mr.Mohak Bhadana and Mr.Ankush
Diwan, Advocates

versus

UNION OF INDIA & ORS. ..Respondents

Through: Mr.Gaurant Kanth, Central Govt.
Standing Counsel with Ms.Eshita Baruah,
Advocate.

CORAM:
HON'BLE MR. JUSTICE VINOD GOEL

VINOD GOEL, J. (Oral)

1. On an advance copy of the writ petition having been served on the respondents, Mr.Gaurang Kanth, learned Central Government Standing Counsel has put in his appearance.

2. The impugned order dated 28.08.2017 issued by the Deputy Director, Government of India, Ministry of Labour and Employment, found that the dispute raised by the petitioner with the respondents No.2 and 3 is not a fit case for reference to the Central Government Industrial Tribunal, New Delhi (CGIT) for adjudication following the judgment of the **Hon'ble Supreme Court in R.R.Pillai (dead) through LRs vs. Commanding Officer HQ SAC(U) & Ors.** in Civil Appeal No.3495/2005.

3. The impugned order dated 28.08.2017 reads as under:-

“Sub- ID between the workmen Sh. Subhas Chander S/o Sh. Balbir Singh and 6 (six) others through Unit Run Canteen Employees Welfare Association, Delhi against 1. The Secretary, Ministry of Defence, Union of India, South Block 2. Deputy Director General Services.

Sir,

I am directed to refer to the failure of conciliation report No.ALC-II/8(45)/16-NK dated 27/12/2017 from the ALC, Delhi received in this Ministry on 30/12/2016, on the above mentioned subject and to say that, prima facie, this ministry does not consider this dispute fit for adjudication for the following reasons.

“The decision of three Judges Bench of Hon’ble Supreme Court in R.R.Pillai (Dead) vs. Commanding Officers HQ SAC(U) and others in Civil Appeal No.3495 of 2005. The Management formulated fresh guidelines and terms and conditions of services of Regular Civilian Employees of Unit Run Canteen dated 11.8.2014. The workmen are being paid the salary as per revised scales but without any allowance like DA, HRA and CCA. The dispute raised by workmen Sh.Subhash Chander S/o Sh. Balbir Singh and 6 others through their Union against the management of Ministry of Defence and Deputy Director, General Canteen Services with regard to non-grant of allowance like DA, HRA etc. is not fit for reference because the employees of Unit Run Canteens are not govt. employees at par with employees of CSD Depot, who are govt. employees.”

As per the portion explained above it is not fit case for reference to the CGIT, New Delhi for adjudication.”

4. Learned counsel for the petitioner submits that the pay and benefits of Unit Run Canteen Employees are governed by the rules issued by the Army Headquarters and for that reason the respondent No.2 is the employer of the employees of Unit Run Canteen. He submits that the respondent No.1 while refusing to refer the dispute to CGIT misinterpreted the judgment of the **Hon'ble Supreme Court in R.R.Pillai's case (supra)**. He submits that it is a genuine industrial dispute between the petitioner and respondents No.2 and 3 which reflects unreasonable disparity of the pay-scales, other emoluments and benefits extended to their counterparts working in Canteen Store Department (in short 'CSD').

5. Learned counsel for the respondents rely upon judgment of the **Hon'ble Supreme Court in R.R.Pillai's case (supra)**. The larger Bench in this case overruled its judgment in **Union of India vs. Mohd. Aslam 2001 (1) SCC 720**. Paragraph 8, 9 and 11 of the judgment in **R.R.Pillai's case (supra)** reads as under:-

"8. In the case of Aslam's case (supra) a Bench of this court proceeded on incorrect factual premises inasmuch as after noticing that the URCs are not funded from the Consolidated Fund of India, it went wrong in concluding that the URCs are funded by CSD as well as the articles were supplied by the CSD. Unfortunately, it did not notice that no such funding is made by the CSD. Further, only refundable loans can be granted by the CSD to URCs at the rate of interest laid down by it from time to time upon the application of URCs seeking financial assistance. URCs can also take from other Non Public Funds. Further observation

regarding supply is also not correct. **URCs, in fact, purchase articles from CSD depots and it is not an automatic supply and relation between URCs and CSDs is that of buyer and seller and not of principal and the agent. This Court further went wrong in holding that URCs are parts of CSDs when it has been clearly stated that URCs are purely private ventures and their employees are by no stretch of imagination employees of the Government or CSD.** Additionally, in Aslam's case (supra) reference was made to Chandra Raha and Ors. V. Life Insurance Corporation of India (1995 Supp (2) SCC 611). The Bench hearing the matter unfortunately did not notice that there was no statutory obligation on the part of the Central Government to provide canteen services to its employees. The profits generated from the URCs are not credited to the Consolidated Funds, but are distributed to the Non Public Funds which are used by the units for the welfare of the troops. As per para 1454 of the 5 Regulations for the Air Force, 1964 the losses incurred by the non public funds are not to be borne by the State.

9. The factors highlighted to distinguish Chotelal's case (supra) in our considered opinion are without any material. There was no scope for making any distinction factually between Aslam's case (supra) and Chotelelal's case (supra). In our view, therefore, Aslam's case (supra) was not correctly decided.

11. It is to be noted that financial assistance is given, but interest and penal interest are charged. The URCs can also borrow from financial institutions. The reference is answered by holding that employees of URCs are not government servants."

6. In view of the decision of the Hon'ble Supreme Court in **R.R.Pillai's** case (supra), it is clear enough that the Unit Run Canteen is purely a private venture and its employees are by no stretch of

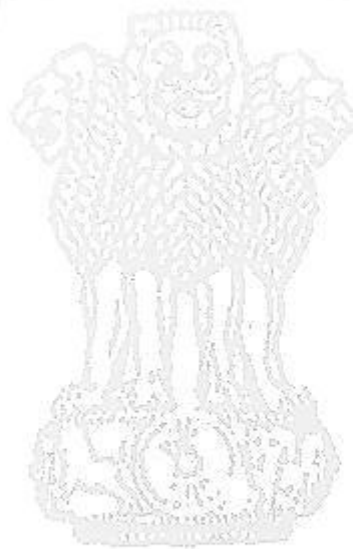
imagination are the employees of Government or CSD and therefore the reference to CGIT was rightly refused by the impugned order.

7. There is no merit in the writ petition and the same is dismissed.

(VINOD GOEL)
JUDGE

APRIL 17, 2018
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HIGH COURT OF DELHI



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