



2024:DHC:9010-DB



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

Date of decision: 21.11.2024

+ W.P.(C) 16161/2024

VIMLESH

.....Petitioner

Through: Mr. M. Padhi, Adv.

versus

UNION OF INDIA AND OTHERS

.....Respondents

Through: Mr. Vatsal Joshi, SPC with Mr.
Hussain Adil Taqvi, Adv. and
Major Anish Muralidhar.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (ORAL)

CM APPL. 67895/2024

1. Allowed, subject to all just exceptions.
2. Application stands disposed of

W.P.(C) 16161/2024, CM APPL. 67894/2024

3. This petition has been filed by the petitioner praying for a direction to the respondents to reinstate the petitioner to the post of Billing Clerk-cum-Cashier at the Unit Run Canteen (in short, 'URC') situated at the Integrated Headquarter (IHQ) of Ministry of Defence (Army) Camp, Shanker Vihar, Rao Tula Ram Marg, New Delhi.
4. The learned counsel for the respondent nos. 1 to 4, who appears

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on advance notice, submits that the URC is not “State” within the meaning of Article 12 of the Constitution of India and, therefore, the present writ petition is not maintainable. In support of his plea, he places reliance on the Judgment of the High Court of Kerala in **Jaya Kumar & Ors. v. Union of India & Ors.**, 2024 SCC OnLine Ker 933, wherein placing reliance on the judgments of this Court in **Sombir Singh v. Union of India**, 2014 SCC OnLine Del 2769, and **Layak Ram v. Quarter Master General & Ors.**, 1999 SCC OnLine Del 531, the High Court of Kerala held as under:-

“28. To summarise, it can be safely inferred that URC is not a state or authority with the meaning of Article 12 of the Constitution of India. The canteen is not the creation of any statute or legislature. The Ministry of Defence has nothing to do with the canteen or its employees. The funds of the URCs are not provided by the Consolidated Fund of India, and they are from the Regimental non-public fund or by loans from the CSD departments. There is no pervasive control by the Government in the running of a canteen. As per the documents produced through the counter affidavit, it can be seen that the canteen is a private establishment that provides necessary items such as groceries at a cheaper rate to the army personnel, retired as well as widows. The salaries are paid from the profit earned from the sales.

29. In view of the discussions made above, I am of the firm opinion that the writ petitions are not maintainable as URC does not come under the definition of State under Article 12 of the Constitution of India, and therefore the writ petitions are dismissed as not maintainable. However, liberty is given to the petitioners to move to the appropriate forum for redressal of their grievance, if so advised.”



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5. Though the learned counsel for the petitioner submits that given the difference of opinion in the Judgments of the Supreme Court in ***R. R. Pillai (Dead) through LRs vs. Commanding Officer HQ, SAC (U) & Ors.***, (2009) 13 SCC 311 and ***Union of India vs. Mohd. Aslam***, (2001) 1 SCC 720, the issue has been referred to the larger Bench of the Supreme Court, we are of the view that we are bound by the judgments of our own Court, which have been referred to hereinabove, and which have consistently held that the URCs are not “State” or an authority within the meaning of Article 12 of the Constitution of India. Consequently, we hold that the present petition is not maintainable.

6. The petition is, accordingly, dismissed along with the pending application with liberty to the petitioner to avail of remedies in accordance with law.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 21, 2024/ss/sk/SJ

Click here to check corrigendum, if any