

2023 LiveLaw (SC) 795

IN THE SUPREME COURT OF INDIA
VIKRAM NATH; J., AHSANUDDIN AMANULLAH; J.
Civil Appeal No(s). 1214/2011; 14-09-2023
UNION OF INDIA & ORS. versus VINOD KUMAR

Armed Forces - Are civilian employees of Armed Forces Unit Run Canteens (URCs) Government Servants? - The matter refers to Larger Bench. (Para 6 – 8)

For Appellant(s) Mr. Vikramjeet Banerjee, A.S.G. Ms. Vaishali Verma, Adv. Ms. Kiran Suri, Adv. Mr. Rajan Kumar Chourasia, Adv. Mr. Ayush Anand, Adv. Mr. V V V Pattabhiram, Adv. Mr. Surendra Kumar Gupta, Adv. Mr. Arvind Kumar Sharma, AOR

For Respondent(s) Mr. R. Basant, Sr. Adv. Mr. Arvind Kumar Shukla, Adv. Ms. Reetu Sharma, AOR Mr. Nihal Ahmad, Adv. Mr. Mannu Krishnan, Adv. Mr. Shantanu Shukla, Adv. Ms. Susmita Devi Ghimiray, Adv. Ms. Siddhi Singhal, Adv.

ORDER

IA No. 178325/2023 is allowed.

2. The impugned order passed by the High Court of Delhi dated 2nd April, 2009 dismissed the writ petition of the Union of India, affirming the order passed by the Tribunal, on the ground that it was covered by a Two Judge Bench judgment of this Court in the case of Mohd. Aslam titled ‘*Union of India vs. Mohd Aslam*’ reported in [2001] 1 SCC 720.

3. Learned counsel for the appellant-Union of India has placed reliance upon a Three Judge Bench Judgment of this Court in ‘*R.R. Pillai (Dead) through LRs. Vs. Commanding Officer, HQS, Southern Air Command(U) & Others.*’ reported in [2009] 13 SCC 311 which in specific terms states that Mohd. Aslam referred to above was not correctly decided. Placing reliance on the above, R.R. Pillai judgment, learned counsel for the appellant-Union of India states that the appeal of Union of India deserves to be allowed.

4. On the other hand, Shri R. Basant, learned senior counsel for the respondent and Shri Arvind Kumar Shukla, learned counsel for the newly impleaded party(s) have relied upon an order dated 5th February, 2001 passed in Civil Appeal No. 5795 of 2000 by a Three Judge Bench approving and following the judgment in the case of Mohd. Aslam (Supra).

5. The order dated 5th February, 2001 reads as follows: -

“The L.R.s of deceased Respondent No. 2 are brought on record.

The respondents are the employees of the Unit Run Canteen at Jodhpur. The question involved in this case is fully covered by the judgment of this Court in Union of India & Ors. V. M. Aslam & Ors. [C.A. Nos. 1039-1040 of 1999].

This Civil Appeal accordingly stands disposed of in terms of the said judgment.”

6. In view of the above, learned counsel for the respondent submits that their being a conflict between two Three Judge Bench judgments of the Court; one affirming Mohd. Aslam judgment’s view and the other disapproving the same, the matter requires to be considered by a Larger Bench.

7. Although learned counsel for the Union of India submits that the order dated 5th February, 2001 is a non-speaking order but then she cannot deny the fact that the order dated 5th February, 2001 passed in a Civil Appeal specifically approved and followed the case in the Mohd. Aslam.

8. In that view of the matter, we find ourselves in difficulty and accordingly, we are of the view that the matter requires consideration by a Larger Bench.
9. Let the matter be placed before Hon'ble the Chief Justice of India for passing appropriate orders.

© All Rights Reserved @LiveLaw Media Pvt. Ltd.

*Disclaimer: Always check with the original copy of judgment from the Court website. Access it [here](#)