

CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

1. OA No.451/95

New Delhi this the 2nd Day of August, 1995.

Hon'ble Mr. N.V. Krishnan, Vice-Chairman (A)  
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Sunil Kumar  
S/o Sh. Ramesh Kumar,  
R/o A-5, Irwin Hospital,  
New Delhi. ...Applicant

(By Advocate Sh. D.R. Gupta)

Versus

1. Chief Secretary to the  
Govt. of N.C.T. of Delhi,  
5-Sham Nath Marg, Delhi.
2. Dy. Secretary (Admn),  
Govt. of N.C.T. of Delhi,  
(Legislative Assembly Sectt.),  
Old Sectt., Delhi.

...Respondents

(By Advocate Sh. Raj Singh)

2. OA-457/95

Raja Ram,  
S/o Sh. Kanta Ram,  
R/o 1835, Timarpur,  
Delhi. ...Applicant

(By Advocate Sh. D.R. Gupta)

Versus

1. Chief Secretary to the  
Govt. of N.C.T. of Delhi,  
5-Sham Nath Marg, Delhi.
2. Dy. Secretary (Admn),  
Govt. of N.C.T. of Delhi,  
(Legislative Assembly Sectt.),  
Old Sectt., Delhi.

...Respondents

(By Advocate Sh. Surat Singh)

ORDER(ORAL)  
(Hon'ble Mr. N.V. Krishnan)

The applicants before us in the two OAs are seeking a direction to the second respondent - the Deputy Secretary (Admn.), Government of National Capital Territory of Delhi, Legislative Assembly Secretariat, Old Delhi to reinduct the applicants as a

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casual worker and to consider them for grant ~~of~~ temporary status and regularisation in accordance with the scheme formulated by the respondents and other consequential reliefs. When notice was issued a reply was filed by the respondents in which it was stated that jurisdiction of this Tribunal in regard to adjudication is not denied. However, when the matter came up for admission the learned counsel for the respondents contended that we have no jurisdiction in the matter in view of the specific provisions of Section 2 (d) of the Administrative Tribunals Act, 1985.

2. It is in regard to this objection we have heard the learned counsel for the parties at great length. Section 2 of the Act, in so far as it is relevant, reads as follows:-

"2. Act not to apply to certain persons.--The provisions of this Act shall not apply to--

- (a) xxx xxx xxx xxx
- (c) xxx xxx xxx xxx

(d) any person appointed to the secretarial staff of either House of Parliament or to the secretarial staff of any State Legislature or a House thereof or, in the case of a Union Territory having a Legislature, of that Legislature."

3. It is thus clear the provisions of that Act under which alone we have jurisdiction will not apply to a person appointed to the secretariat staff of a Legislature of a Union Territory which has such a Legislature. By virtue of Article 239-AA of the Constitution a Legislature for the National Capital Territory has been created.

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4. If that Legislature has a secretariat then persons appointed to that secretariat are outside our purview in terms of Section 2 of the Act.

5. It is clear from the OA that the applicant Sunil Kumar in OA-451/95 was a casual labour whose services were terminated by an order dated 20.2.95 issued by the Deputy Secretary (Administration) Government of National Capital Territory of Delhi Legislative Assembly secretariat and it is on that ground that he has sought a direction, referred to earlier.

6. It is on these facts that the question is to be considered. The learned counsel for the applicant was referring to the various provisions of the Constitution as well as the Government of National Capital Territory of Delhi Act, 1991. He also produced for our perusal an unnumbered sanction which appears to have been issued after 6.4.95, as would be evident from the contents thereof relating to "creation of posts for the secretariat of the Legislative Assembly of National Capital Territory of Delhi." It is made clear that sanction for the creation of those posts is accorded to the Lieutenant Governor with the approval of the Central Government conveyed in the Ministry of Home Affairs letter dated 29.3.95. His contention is that the posts in the Assembly Secretariat are not created or filled up by the Speaker of the Legislative Assembly, as is done in the case of the States in respect of whom Article 187

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of the Constitution would apply. All the appointees are mere Government employees and, therefore, there is no bar to our jurisdiction because there is no separate secretariat of the Assembly.

7. We have heard the learned counsel for the parties at length.

8. In our view the issue is simple. It is seen from Section 2 of the Act that our jurisdiction is barred not merely in respect of persons who are appointed by certain constitutional authorities, e.g., the Supreme Court or the High Court or the Houses of Parliament but our jurisdiction is also barred in respect of the persons who are merely Government employees like members of the Naval, Military or Air Force or any other Armed Force of the Union. In the present case, we are not required to determine whether the staff of the Union Territory of Delhi working in the Legislative Assembly have been appointed by the Speaker of the Delhi Assembly and, therefore, they are on par with the staff of the secretariat of the Houses of Parliament. In our view, even if they have been appointed by the Government, our jurisdiction has been excluded by Section 2 (d). In the circumstances, we cannot issue any direction to the second respondent - Deputy Secretary (Admn.) Government of N.C.T. of Delhi Legislative Assembly Secretariat in respect of the reliefs claimed.

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9. We are also unable to agree with the learned counsel for the applicants that the legislature of the NCT of Delhi has no secretariat of its own. On the contrary, the sanction issued on 6.4.95, referred to in para 6 makes it clear that there is a separate secretariat for the Legislative Assembly. That apart, even the designation of respondent No.2 makes this position clear.

10. The facts are similar in the other OA-457/95.

11. Therefore, we are satisfied that these OAs are not maintainable before us for want of jurisdiction. Accordingly, the Registry is directed to return one set of application to each applicant, retaining the other application for record, in order to enable the applicants to prefer the claims before the appropriate forum. The O.A. is disposed of accordingly. No costs.

(Smt. Lakshmi Swaminathan)  
Member(J)

(N.V. Krishnan)  
Vice-Chairman(A)

'Sanju'

True Copy  
Attested  
PM - 2/2/81

Compt Officer  
Central Administrative Tribunal  
Opposite Bench, Parliament House  
Connaught Place New Delhi-110001