

17

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI
OA 2458/97

New Delhi this the 24 th day of September, 1998

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Hon'ble Shri R.K. Ahooja, Member (A)

Dr. K.S. Singh,
Former Director General,
Anthropological Survey of India,
A 40/3, SFS Flats, Saket,
New Delhi-110017.

... Applicant

(By Advocate Shri H.K. Gangwani)

vs.

Union of India and Another
through

1. The Secretary,
Department of Culture,
M/O Human Resource Development,
Shastri Bhawan, New Delhi.
2. The Director,
Anthropological Survey of India,
16, Jawaharlal Nehru Road,
Calcutta-16.
3. The Anthropologist and Head of Office,
Anthropological Survey of India,
West Block II, Wing VI, 1st Floor,
R.K.Puram, New Delhi.
4. The Secretary,
M/O Personnel and Grievances,
Department of Personnel and Training,
North Block, New Delhi.

... Respondents

(By Advocate Shri S.M. Arif)

ORDER

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicant, who retired from Govt. service on super-annuation w.e.f. 31.3.93 has filed this application in the Tribunal seeking a direction to the respondents to release certain payments with interest which, he claims, are due to him under the contract of consultancy which the applicant had entered into with the respondents as Consultant for the period from 1.10.94 till date.

2. The applicant claims that while he was in service as Director General of Anthropological Survey of India in 1984-85

8

he conceptualised the " People of India" project which involved publication of books. The respondents have submitted that on the basis of the data collected for the project, the entire material had been edited by the Senior Officers and later on by the members of a core group, and a total number of 43 volumes have already been made available to the press for publication. The applicant has claimed remuneration for the work he had done on the project, after he had retired from service in terms of the agreement he has referred to in the OA with the respondents w.e.f. 1.10.94. The respondents have disputed the averments made by the applicant ~~to~~ that they have entered into the contract to complete the volumes after the expiry of the consultancy of the applicant on 30.9.94 till which time they have paid him as Consultant.

3. Shri S.M.Arif, learned counsel for the respondents has taken a preliminary objection that the Tribunal has no jurisdiction to adjudicate the present OA as it does not deal with "service matters" of a Government servant as defined under Section 3(q) of the Administrative Tribunals Act, 1985. Learned counsel has, therefore, submitted that under Section 14 of the Act, the Tribunal is not the correct forum since what the applicant is claiming is a contractual obligation which the applicant has entered into after his retirement from Govt. service.

4. Shri H.K.Gangwani, learned counsel for the applicant has submitted written submissions on the aforesaid preliminary objection, which are placed on record. According to him, the applicant was continued by the Govt. as Consultant after his retirement for which he is claiming remuneration, including the amounts due on HRA, Staff Car and a telephone, which was in terms of the agreement entered into by a contract between the parties.

JB

5. We have considered the pleadings and the submissions made by the learned counsel for both the parties on the preliminary objections.

6. Section 3(q) of the Administrative Tribunals Act, 1985 reads as follows:-

"Service matters", in relation to a person, means all matters relating, to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any corporation (or society) owned or controlled by the Government as respects-

Chapter III, Section 14 of the Administrative Tribunals Act provides that the Central Administrative Tribunal has to exercise all the jurisdiction, powers and authority exercisable before 1.11.1985 in relation, inter-alia, of service matters concerning a member of any All India Service or a person appointed to any civil service of Union or any civil post under the Union or a civilian appointed to any defence services or a post connected with defence, and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India.

7. The claims raised by the applicant in the OA relate to a contractual obligations which, he states that the Govt, of India had entered into with him as a Consultant after his retirement. This essentially deals with interpretation and specific performance of the contract, if any, which has been entered into between the parties which has been done after the retirement of the Govt. servant, but does not raise any question of his service conditions as a Govt. servant while in service. Having regard to the provisions of Section 14 read with Section 3(q) of the Administrative Tribunals Act, therefore, we are of the view that the claims raised

in the OA do not come within the provision of " service matters" in relation to a person with regard to his service in connection with the affairs of the Union or of any State. In State of Tamil Nadu and Another Vs. S. Subramaniam (JT 1996(2) SC 114, the Supreme Court has held " that the CAT has only power of judicial review of the administrative action of the appellant on complaints relating to service conditions of employees." In this view of the matter the OA is liable to be dismissed on the ground of lack of jurisdiction of the Tribunal, leaving it open to the applicant to approach the proper forum in respect of the claims raised in the OA.

8. In the result OA is dismissed as barred by jurisdiction under the provisions of the Administrative Tribunals Act, leaving it open to the applicant to pursue his remedies in the proper forum. In the circumstances Registry may return copies of the OA, retaining one for record purposes.

R.K. Ahooja
(R.K. Ahooja)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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