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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

Regn. No. OA 983/88

Date of Decision:- 14.6.88

Shri Raja Ram & Others

....

Applicants

Vs.

Union of India & Others

....

Respondents

CORAM: Hon'ble Mr. Justice J.D. Jain, Vice Chairman.  
Hon'ble Mr. Kaushal Kumar, Administrative Member.

For the Applicants:- Shri M. Chandrasekharan, Counsel.

For the respondents:- Shri Dinesh Agnani, Advocate.

(Oral)

The applicant, Shri Raja Ram and others, numbering 15 in all, who have filed this application under Section 19 of the Administrative Tribunals Act (hereinafter referred to as 'The Act'), have challenged the validity and legality of order dated 19.5.88 whereby they have been transferred to Civil Aerodrome situated at different places. All the applicants are at present employed as Fire Operators under National Airport Authority (for short 'the Authority') under the Aerodrome Officer, Safdarjung Airport, New Delhi. The respondents arraigned by the applicants inter alia include N.A.A. and Director of Aerodrome, N.A.A., and also Director General of Civil Aviation, N.A.A. besides Union of India etc.. The question which arises instantly for consideration is whether this Tribunal has jurisdiction to entertain and try this application.

2. Admittedly, the Authority is a statutory body having been created under the National Airports Authority Act, 1985. However, the applicants like other staff employed by the respondent No. 2 are on deputation from the Central Government and that is why the applicants have filed this application in this Tribunal.

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2. It is frankly conceded by the learned counsel for the applicants that no Notification under Section 14(2) of the Act has been issued to extend the jurisdiction of this Tribunal over the service matters of the employees of the Authority. So the question that falls for consideration is whether the applicants are still Central Government Employees and whether they are entitled to make this application under Section 19 of the Act.

3. The submission of the learned counsel for the applicants, however, is that the applicants will be deemed to be Central Government Employees, even though on deputation with Respondent No. 2, by virtue of provisions contained in Section 13(3) of the National Airports Authority Act, 1985, which runs as under:-

"Every employee holding any office under the Director-General of Civil Aviation immediately before the commencement of this Act solely or mainly for or in connection with such affairs of the Directorate General of Civil Aviation as are relevant to the functions of the Authority under this Act as may be determined by the Central Government shall be treated as on deputation with the Authority but shall hold his office in the Authority by the same tenure and upon the same terms and conditions of service as respects remuneration...."

(emphasis supplied)

4. To be precise, the learned counsel for the applicants has canvassed that there being no change/alteration in the service conditions of the applicants, they are entitled to seek redress from this Tribunal like any other Central Government servant. However, on a consideration of the matter, we are unable to accede to this contention.

5. Evidently, even according to Section 13(3) of the National Airports Authority Act, 1985, the applicants are on deputation with the authority. It is implicit in every deputation that the deputationist does not lose his lien and does not forego his other terms and conditions of service in the parent Department so long the deputation continues and he is not eventually absorbed in the statutory body or any other Government body etc. That way, Section 13(3) of the aforesaid Act is in perfect harmony and conformity with the general provisions of law on deputations and

the mere fact that the applicants continue to be Central Government employees are on account of their lien being retained there or that they are on 'foreign service' as deputationists with a statutory body like the Authority will not detract from the nature of their status as deputationists. So, for all intents and purposes, the Authority will have overall control and supervision over the applicants so long as they continue there on deputation. The Authority as such is competent to transfer the applicant in due course of its business and can also initiate disciplinary proceedings etc. if and when there is an allegation of misconduct against the applicants or any one of them. The mere fact that rules and regulations have not yet been framed by the Authority and the "Transfer Policy" devised by the Civil Aviation Department of the Govt. of India is still being followed would not in any manner detract from this legal position. It may be pertinent in this context to advert to Section 10 of the National Airports Authority Act which provides that "for the purpose of enabling it efficiently to discharge its functions under the Act, the Authority shall, subject to the provisions of Section 13 and to such rules as may be made in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as it may consider necessary." No doubt, this provision is subject to Section 13 of the said Act, but the fact remains that the applicants have been employed by the Authority by virtue of powers conferred under Section 10(1) of the Act, on deputation.

6. It is pointed out by the learned counsel for the applicants that no appointment letters as such have been issued by the Authority to the effect that they will be treated on deputation. This contention is, however, controverted by the learned counsel for the respondents who contends that such letters have, in fact,

been issued. All the same, we need not go into this aspect of the matter because by virtue of the statutory provision contained in Section 13(3) of the National Airports Authority Act, 1985 itself, the applicants have to be treated on deputation and coupled with the provisions of Section 10, adverted above, there can be no manner of doubt that at present, the controlling authority/disciplinary authority of the applicant is the authority and not the Central Government. It is in consonance with the general principles of deputation. Certainly, the Authority is not amenable to the jurisdiction of this Tribunal and in the event, the impugned order is found to be vitiated by any illegality, impropriety or malafide etc., this Tribunal will not be in a position to give any relief to the applicants as against the Authority, whose order is under challenge in this application. Evidently, the Central Government cannot be directed by this Tribunal to cancel the impugned order of transfer because as at present, they are under the control of the Authority. A bare perusal of Section 14 of the Act would reveal that before a person can seek redress in respect of service matter from the Tribunal, he must satisfy all the conditions precedent laid down therein for invoking the jurisdiction of the Tribunal. So, even if the applicants are Central Government servants because of their subsisting lien in the parent cadre, the service matter, in relation to which the relief is sought, must have a nexus with the affairs of the Union. In the instant case, the impugned order of transfer has not been made in connection with the affairs of the Union. It obviously pertains to service of the applicants under the Authority. Looked at from this angle, therefore, there is no escape from the conclusion that this Tribunal has no jurisdiction over the Authority or employees of the Authority, as in the instant case.

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7. Under the circumstances, we direct that this Application be returned to the applicants for presentation to any forum of competent jurisdiction. However, we allow the applicants a week's time to report on duty at their respective places of transfer. This application stands disposed of accordingly.

*K. Kumar*

( Kaushal Kumar )  
Member  
14.6.88

*J. D. Jain*

( J.D. Jain )  
Vice Chairman  
14.6.88