

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/01062/2019

AND

ORIGINAL APPLICATION NO.170/00844/2019

ORDER RESERVED ON 16.12.2020

DATE OF ORDER: 26.02.2021

CORAM:

HON'BLE SHRI SURESH KUMAR MONGA, MEMBER (J)

(On video conference from Central Administrative Tribunal, Bangalore Bench, Bangalore)

HON'BLE SHRI RAKESH KUMAR GUPTA, MEMBER (A)

(On video conference from Central Administrative Tribunal, Bangalore Bench, Bangalore)

OA No. 170/01062/2019

B. Munijogaiah,
Age: 46 years,
S/o Byraiah,
Ex Gardner,
Indian Statistical Institute
8th Mile Mysore Road,
R.V. College Post,
Bangalore 560 059
Residing at:
No. 27, KNR Nilaya Kota,
Hone Road, Kote,
Kengeri, Bangalore 560 060

....Applicant

(By Advocate Shri P. Kamalesan- through video conference)

Vs.

1. Union of India,
Represented by Secretary,

Ministry of Statistics &
Programme Implementation,
Government of India,
New Delhi 110 001

2. Director,
Indian Statistical Institute,
Kolkatta 790001

3. Head of Indian Statistical Institute,
Bangalore Centre,
8th mile Mysore Road,
R.V. College Post,
Bangalore 560 059

.....Respondents

(By Shri V.N. Holla, Senior Panel Counsel - through video conference)

OA No. 170/008442019

Sri Narayana Gowda
S/o Bettappa,
Aged 45 years,
Working as Gardner,
Indian Statistical Institute
Bangalore Centre,
8th Mile, R.V. College Post,
Bengaluru 560 059
Residing at:
Chittannahalli,
Gejjayaraguppe Post,
Magadi Taluk

....Applicant

(By Advocate Shri P. Kamalesan - through video conference)

Vs.

1. Union of India,
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Ministry of Statistics &
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(By Shri V.N. Holla, Senior Panel Counsel - through video conference)

ORDER

PER: SURESH KUMAR MONGA, MEMBER (J)

By way of this common order we propose to dispose of Original Application No. 1062/2019 and Original Application No. 844/2019 as a common question of law and fact is involved in both these cases. With the consent of learned counsels for the parties, facts are being extracted from OA No. 1062/2019 for the sake of convenience.

2. Plead case of the applicant herein is that the Bangalore Centre of the Indian Statistical Institute had issued a notification dated 23.09.2012 to fill up a post of Gardener on contract basis. The applicant was interviewed and he was selected for the said post. An offer of appointment was issued on 19.02.2013. The term of his services was extended for another year with effect from 28.02.2014. It was still further extended for one more year with effect from 06.03.2015. Thereafter, a fresh notification was issued on 23.02.2016 to fill up the said post of Gardener again on contract basis. The applicant submitted his candidature. He was again selected and re-appointed on contract basis vide letter dated 08.07.2016. Thereafter, term of his services was extended twice upto 12.07.2019. It has further been averred that his conduct was appreciated by the authorities in the Bangalore Centre of the Indian Statistical Institute. It has still further been averred that

a meeting of outsourcing committee was held on 30.11.2016 and the said committee had recommended that if the performance of workers are satisfactory they may be retained without going in for a fresh advertisement.

3. Alleging that his oral termination is unfair and arbitrary, the applicant has invoked the jurisdiction of this Tribunal by way of filing the present Original Application under Section 19 of the Administrative Tribunals Act, 1985 (hereinafter called as the '1985 Act') seeking therein a direction to Respondent No. 3 to allow him to continue on the post of Gardener from 13.07.2019 onwards. A further prayer has been made for issuance of a direction to consider his case for regularization against the vacant post of Gardener/MTS.

4. The respondents by way of filing a joint reply have joined the defence. It has been stated that the present Original Application is not maintainable as this Tribunal has no jurisdiction to entertain the same. Under Section 14 of the '1985 Act', this Tribunal can exercise the jurisdiction in respect of matters enumerated therein. The applicant does not fall under any of the categories enumerated in Section 14 (a), (b) or (c) of the '1985 Act'. The respondent Indian Statistical Institute has not been included in the list of institutions notified by the Central Government in respect of which the Tribunal has the jurisdiction. With these assertions, the jurisdiction of this Tribunal has been disputed by the respondents.

5. On merits, it has been stated that the applicant was engaged as a Gardener on contract basis. As per Clause 3 of his appointment letter, it was

made clear that the appointment on contract basis will not confer any right upon him for regular appointment. Even such contractual employment was also liable to be terminated by giving one month's notice on either side. The applicant had accepted the terms of said appointment and he continued in service upto 12.07.2019. His contract of employment has not been renewed after 12.07.2019. In October 2019, on a review of the existing policy, the respondents have opted to avail the services of a contractor to render complete and comprehensive gardening services and, therefore, the applicant's contract of service has not been renewed by them. With all these assertions, the respondents have prayed for dismissal of the Original Application.

6. Heard learned counsel for the parties.

7. At the very outset, Shri V.N. Holla, learned counsel for the respondents, raised a preliminary objection with regard to maintainability of the Original Application before this Tribunal. Learned counsel submitted that this Tribunal does not have the jurisdiction to entertain the present Original Application as the Central Government has not included the Indian Statistical Institute in the list of institutions notified under Section 14 (2) of the '1985 Act'. According to learned counsel, unless and until the name of an organization/institution of the Central Government is enumerated in the list notified by the Central Government under Section 14 (2) of the said Act, the Original Application against the said organization/institution cannot be entertained by this Tribunal.

8. Per contra, Shri Kamalesan, learned counsel for the applicant, submitted that the Indian Statistical Institute is an instrumentality of the Central Government and it is 'State' within the meaning of Article 12 of the Indian Constitution. The Central Government has a deep and pervasive control over the said Institute and it is fully funded by the Central Government. Learned counsel thus submitted that in terms of Article 323-A of the Indian Constitution, this Tribunal has got the jurisdiction to entertain the Original Application against the said Institute.

9. We have considered the rival contentions of learned counsels for the parties on the issue of maintainability of the above captioned Original Applications.

10. By virtue of Section 46 of the Constitution (Forty-Second Amendment) Act, 1976, Part-XIVA was incorporated in the Indian Constitution which also included Article 323-A for establishing the Administrative Tribunals. As per the provisions of Article 323-A of the Indian Constitution, Parliament may, by law, provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts 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 Government of India or of any corporation owned or controlled by the Government. Clause (2) sub clause (b) of the said Article further makes a provision that the law enacted

by the Parliament shall specify the jurisdiction, powers and authority which may be exercised by the Tribunals so established. The Indian Parliament while enacting the Administrative Tribunals Act, 1985 in terms of Article 323-A of the Constitution, while keeping in view the provisions of Clause (2) sub clause (b) of the said Article has incorporated Section 14 (2) and (3) in the '1985 Act' stipulating therein that the Central Government may by notification apply with effect from such date as may be specified in the notification, the provisions of sub section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations or societies owned or controlled by the Government.

11. Section 14 (1) of the '1985 Act' has explicitly enumerated the jurisdiction, powers and authority of the Tribunal in relation to recruitment, the matters concerning recruitment to any All India Service or to any civil service of the Union or a civil post under the Union or to a post filled by the civilian in the defence services and all service matters concerning a member of All India Services etc.

12. There is no dispute with regard to the fact that the case in hand does not fall in any of the categories of services enumerated in Section 14 (1) of the '1985 Act'.

13. Section 14 (3) further makes a provision that this Tribunal shall also exercise its jurisdiction to any local or other authority or corporation or society. However, in terms of Section 14 (2) a notification is required to be

issued by the Central Government specifying therein the names of the local or other authorities under the control of the Government of India and the corporations or societies owned or controlled by Government as referred to in Section 14 (3) of the said Act.

14. Admittedly, the Indian Statistical Institute is a society registered under the Societies Registration Act. It is also an instrumentality of the Central Government in terms of the Hon'ble Supreme Court's judgment in **B.S. Minhas vs Indian Statistical Institute and Others** 1983 (4) SCC 582 and a Writ Petition under Article 226 or under Article 32 of the Indian Constitution can be maintained against the said Institution, but the fact remains that the said Institution has not been enumerated by the Central Government while issuing the Notification under Section 14 (2) of the '1985 Act'.

15. In our considered view, unless and until the name of a corporation or a society owned or controlled by the Government is incorporated in the list notified under Section 14 (2), this Tribunal shall have no jurisdiction to entertain any proceedings against the said corporation or the society.

16. In the conspectus of discussions made hereinabove, we hold that this Tribunal does not have the power, authority or jurisdiction to adjudicate upon a matter brought against the Indian Statistical Institute and, therefore, both the above captioned Original Applications are liable to be returned to the applicants enabling them to present the same before the competent forum having jurisdiction over the matter.

17. Accordingly, the Registry is directed to return the above captioned Original Applications to applicants enabling them to present the same before the competent forum having jurisdiction over the matter.

(RAKESH KUMAR GUPTA)
MEMBER (A)

(SURESH KUMAR MONGA)
MEMBER (J)

/ksk/