

CENTRAL ADMINISTRATIVE TRIBUNAL

JAMMU BENCH, JAMMU

Dated: This 6th day of July 2020

(Orders reserved on 30.06.2020)

HON'BLE DR. BHAGWAN, SAHAI, MEMBER – A

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER – J

Dy. No. 061/44/2020 (O.A. No. 061/00200/2020)

Charanjit Kour Sudan w/o Baljit Singh r/o 54, Mohinder Nagar, Canal Road
Jammu

..... Applicant

By Advocate: Ms Manpreet Kour

Versus

1. Union Territory of J&K through Commissioner-cum-Secretary to Government, Forest, Environment and Ecology Department, Government of Union Territory of J & K, Civil Secretariat, Jammu.
2. Vasu Yadav, Managing Director, J & K Forest Corporation, Government of Union Territory of J & K, Civil Secretariat, Jammu.
3. Chief General Manager (West Circle) J & K Forest Corporation, Jammu.
4. General Manager (Adm), J & K Forest Corporation, Jammu.
5. Divisional Manager Finance, J & K Forest Corporation, Jammu.

.....**Respondents**

By Advocate: Shri Amit Gupta, AAG

ORDER

Per Rakesh Sagar Jain, Member (J)

1. Applicant Charanjit Kour Sudan has filed the present OA seeking relief with regard to service dispute of her promotion in the respondent-organization J&K State Forest Corporation. The preliminary question arises whether this Tribunal has the jurisdiction to hear the Application.
2. We have heard and considered the arguments of the learned counsel for the applicant and learned AAG for the respondents and gone through the material on record.
3. Learned counsel for applicant argued that though Central Government has not issued any notification under Section 14(2) of the Administrative

Tribunals Act, 1985 (herein after referred to as the 'Act') to bring J&K State Forest Corporation (hereinafter referred to as the 'Corporation') within Tribunal jurisdiction, it is not required in the present case because the Corporation is part of the Government of Union Territory of J&K as its funding and officers are provided by the Government and therefore amenable to the jurisdiction of this Tribunal.

4. Learned AAG for respondents, on the contrary, submitted that the Corporation, a Government Company could be brought within the jurisdiction of Tribunal only by way of a notification to be issued by the Central Government under Sec. 14(2) of the Act and so long as this notification is not issued, this Tribunal cannot not assume jurisdiction in respect of any service matter under name of corporation. It is stated that the Corporation is not notified by Government under Section 14 (2) and therefore, this Tribunal does not have jurisdiction over the subject matter of the present O.A.
5. It was further argued by learned AAG that the Corporation does not come under the ambit of the Act as the said Corporation is neither owned nor controlled by the Government of UT or erstwhile State of J&K. Therefore, this Tribunal does not have jurisdiction qua the service matters of Forest Corporation. He further submitted that the Jammu and Kashmir State Forest Corporation was established, as per, the provisions of the J&K State Forest Corporation Act, which was enacted in the year 1978 to ensure better preservation, supervision and development of forests and better exploitation of forest produce within the erstwhile State of Jammu and Kashmir. It was also argued that in the Jammu and Kashmir Reorganization (Adaptation of State Laws) Order, 2020 issued on March 31, 2020 in exercise of the powers conferred by Section 96 of the Jammu and Kashmir Reorganization Act, 2019, the Ministry of Home Affairs has repealed the J&K State Forest Corporation Act as a whole. Thereafter to meet the exigencies, the Administrative Council has approved the creation of

Jammu and Kashmir Forest Development Corporation (JKFDC) as a registered company under the Companies Act. The JKFDC will replace the State Forest Corporation which ceased to exist after the reorganisation of the erstwhile State of Jammu and Kashmir. It was decided that the assets and liabilities of the disbanded entity would be transferred to the newly established JKFDC and the former's permanent staff will continue working with the latter under the existing terms and conditions of services till new regulations are framed and adopted. It was also argued by learned AAG that the Corporation employees are holders of corporation posts and they are not holders of civil posts under the government of Union Territory or erstwhile State of J&K within the meaning of Section 14(2) of the Administrative Tribunals Act.

6. It was further submitted by the learned AAG that the service conditions envisaged by way of J&K State Forest Corporation Service Regulations 1981 as well as the relevant sections of the J&K State Forest Corporation Act, it is clear that as per the provisions contained in Section 14 of the Act, the Administrative Tribunals are constituted with a specific purpose to decide cases on service matters of specific categories of employees and the applicant is an employee of a Corporation which is neither owned nor controlled by the Government, does not fall under the ambit of the Act. That the Administrative Tribunals Act in the matter of taking away the jurisdiction of ordinary constitutional Courts has itself maintained a distinction between the employees directly employed by the State and serving under it and those employees working in local authorities although under the control under various enactments of the State. It cannot be held that the entire jurisdiction with regard to such corporation employees would vest in the Tribunal in the absence of issuance of due notifications under Section 14(2) and (3) of the Act. Therefore, this application is to be dismissed since the same does not lie within the jurisdiction of this Tribunal.

7. There is no dispute that the Corporation despite being a Government company is a distinct and legal entity but it is not covered by provisions of Section 14(2) of the Act and can be brought within the jurisdiction of this Tribunal only through a notification to be issued by Central Government. This sub-section reads thus:—

“(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions Of subsection (3) to local or other authorities within the territory of India and to corporations (or societies) owned or controlled by Government, not being a local or other authority or corporation (or society) controlled or owned by a State Government.

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation (or society), all the Jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court) in relation to-

(a)

(b)”

8. A combined reading of the two provisions shows that provisions of subsection (3) could be applied to local or other authorities under the control of the Government and to Corporations or societies owned and controlled by the Government by a Notification to be issued by the Central Government. No such notification has been admittedly issued till date to extend jurisdiction of Tribunal to the Corporation.
9. On the question of jurisdiction of the tribunal, the Hon’ble Rajasthan High Court in judgment dated 15.09.2001 in Ram Kishore Meena Vs. Union of India and Others held that:-

“17. We have also perused the provisions of Section 14 of the Central Administrative Tribunal Act, 1985 and from the perusal of the same, we find it crystal clear that the Central Govt. may at its discretion apply the provisions of the Act, 1985 in respect of local or other authorities within the territory of India owned or controlled by the Govt. of India and also to the Corporations owned and controlled by

the Government not being a local or other authorities or corporation controlled or owned by the State Government. The provisions have also been inserted under Sub-rule (2) as per which even the local or other authority controlled or owned by the State Government may be amenable to the Central Administrative Tribunal Jurisdiction, but that is only after notification and after considering subjectively and objectively the expediency for the purpose of facilitating transition to the Scheme as envisaged by this Act.”

10.The question of jurisdiction arose in the OA titled Uttam Chand Nahta vs. Union of India & ors. in OA No.3486/2011 decided on 13.01.2012 by Principal Bench, it has been held that the Tribunal lacks jurisdiction to adjudicate the issue raised in the O.A. for the reason as under:

“Thus, we are of the view that this Tribunal has no jurisdiction to entertain the matter so long as a notification is not issued by the Central Government in exercise of the powers conferred by Section 14 (2) of the A.T. Act, 1985 in respect of CLB, thereby making provisions of Section 14 (3) of the Act applicable from a specified date. Judicial notice can be taken of the fact that the Central Government has issued different notifications, invoking the provisions of sub sections (2) and (3) of Section 14 of the Act for inclusion of Corporations/Societies/ other Societies owned or controlled by the Government within the purview of this Tribunal, including Income Tax Appellate Tribunal, which is also a statutory body under the Ministry of Law and Justice, Central Pollution Control Board, constituted under the Water (Prevention and Control of Pollution) Act, 1974, Central Social Welfare Board, an authority controlled by the Government, Coconut Development Board, a statutory authority under the Ministry of Agriculture etc. But no such notification has been issued qua Company Law Administration constituted under the Companies Act. Accordingly, we are of the view that the present OA is not maintainable and we have got no jurisdiction, power and authority to decide the matter in terms of the provisions contained in Section 14 of the Administrative Tribunals Act, 1985.”

11.In the present case, since Corporation has not been brought within the jurisdiction of this Tribunal by a notification to be issued by the Central Government under Sec. 14 (2) of the Act and therefore, so long as this notification is not issued, the Tribunal cannot assume jurisdiction in respect of any service matter pertaining to the Corporation under the Act. We

accordingly hold that this Tribunal is not vested with any jurisdiction to entertain any petition related to any service dispute in the respondent organization.

12. Therefore, we dismiss the O.A for want of jurisdiction. We make it clear that we have not gone into the merits of this case and it would be open to the applicant to avail of remedy available to him under the law before the appropriate forum. No costs.

(Rakesh Sagar Jain)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)