

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 178/86
T.A. No.

198

DATE OF DECISION 24th March, 1986.

Shri A.K.Mukerjee

Petitioner

Shri M.M.Johary,

Advocate for the Petitioner(s)

Versus

The Secretary, NCERT, New Delhi. Respondents

Union of India, through Secretary,
Ministry of Education.

None

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K.Madhava Reddy, Chairman.

The Hon'ble Mr. Kaushal Kumar, Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether to be circulated to all Benches? *Yes*

K.Madhava Reddy
(K.Madhava Reddy)
Chairman

Kaushal Kumar
(Kaushal Kumar)
Member.

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REGN. No. OA 178/86

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Petitioner

versus

The Secretary, NCERT, New Delhi

Union of India, through
Secretary, Ministry of Education,
New Delhi.

Respondents.

CORAM:

Shri Justice K.Madhava Reddy, Chairman
Shri Kaushal Kumar, Member

For petitioner Shri M.M.Johary, Advocate.

For respondents None.

(Judgement of the Bench delivered by
Shri Justice K. Madhava Reddy, Chairman).

The petitioner who is working as Documentalist-Librarian in the N.C.E.R.T. seeks a direction against the Secretary, N.C.E.R.T., New Delhi and the Union of India, Ministry of Education to make available to the applicant the revised upgraded pay scale of professional senior(Deputy Librarian) i.e. Rs.1200-1900 per month and not to fill up the post of Professional Senior(Deputy Librarian) in the revised upgraded scale of pay of Rs.1200-1900 pending decision on this application.

2. The petitioner was serving as a documentalist in the Bureau of Text Book Research under the Department of Education, Government of India. The Government of India, Ministry of Education announced its decision- vide a resolution to transfer to the N.C.E.R.T. the following Institutes and offices:-

(a) The Directorate of Extension Programmes for Secondary Education;

(b) The National Institute of Basic Education;



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- (c) The Central Institute of Education including the Bureau of Text Book Research and the Bureau of Educational and Vocational Guidance;
- (d) The national Institute of Audio-visual Education; and
- (e) The National Fundamental Education Centre.

The N.C.E.R.T. vide its resolution stipulated the conditions subject to which the services of employees were to be taken over by the N.C.E.R.T. All members of the staff holding lien in substantive permanent posts in any Government(Central or State) or quasi Government office or in an autonomous undertaking and now on foreign service to any of the offices as mentioned above were to continue to be treated on foreign service(until they could be permanently absorbed in the council) on the ^{same} terms and conditions of payment of leave salary and pension contribution as would have been applicable had they remained in the employment of the Government of India in any of the offices named above. Later persons serving N.C.E.R.T on deputation were appointed on a substantive capacity in N.C.E.R.T.. The N.C.E.R.T. itself is not a department of the Central Government. It has an independent governing Body of its own and its employees do not hold a civil post under the Union.

3. As at present the Central Administrative Tribunal has jurisdiction power and authority to entertain the grievances of only persons mentioned in Section 14(1) of the Act which reads as under:-

" Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court) in relation to-

- (a) recruitment, and 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 connected with defence or in the defence services, being, in either case, a post filled by a civilian;



(b) all service matters concerning-

- (i) a member of any All-India Service;
or
- (ii) a person (not being a member of an All-India Service or a person referred to in clause (c)) appointed to any civil service of the Union or any civil post under the Union;
or
- (iii) a civilian (not being a member of an All-India Service or a person referred to in clause (c)) 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 or of any corporation or society owned or controlled by the Government;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation or society or other body, at the disposal of the Central Government for such appointment."

4. By order No.F.2-85/62-E.1(Pt.II) dated February, 1970, the N.C.E.R.T. appointed the petitioner as Documentalist in the National Institute of Education in a substantive capacity w.e.f. 1st November, 1965. Whatever may have been the position earlier at least from 1970, he became an employee of the NCERT. He had no longer continued to have any lien on substantive post under the Union. That NCERT is not a part of the Central Government admits of no doubt. Even the petitioner has in paragraph 6-8 stated "that the N.C.E.R.T. is a Government of India Undertaking fully financed by the Government". The petitioner who was serving as Documentalist in Bureau of Text Books Research, a civil post under the Union, on merger of the same with the NCERT was transferred to NCERT. He no longer holds a lien on any civil post under the Union.

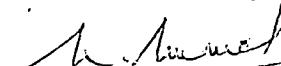
5. The petitioner thus ceased to hold a civil post under the Union or to a post connected with defence services,

*Subrata
J.*

being in either case, a post filled by a civilian nor
is he a member of an All India Service.

6. As laid down in *Sukhdev Singh versus Bhagatram*,
the N.C.E.R.T. may answer the description of "any other
authority" within the meaning of Art.12 of the Constitution.
A writ direction or order under Art.226 may be issued against
it. But inasmuch as all "authorities" contemplated by
Art.12 are not brought within the purview of the Central
Administrative Tribunal as yet and as on today, only those
holding the posts mentioned in Section 14(1) of the Act
are amenable to the jurisdiction of this Court, this
Tribunal cannot entertain the petitioner's grievance
or grant him any relief, interim or otherwise. This
petition is, therefore, ordered to be returned for
presentation to proper court.


(K. Madhava Reddy)
Chairman 24.3.1986.


(Kaushal Kumar)
Member 24.3.1986.