

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1598

198 7.

T.A. No.

DATE OF DECISION November 13, 1987.

Shri Madan Mohan Kumar, Petitioner

Shri D.R.Gupta, Advocate for the Petitioner(s)

Versus

Engg. Projects (India) Ltd. & anr. Respondent s.

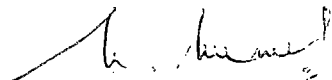
Shri D.K.Sinha, Advocate for the Respondent(s)

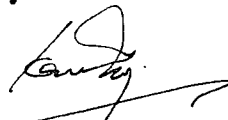
CORAM :

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 other Benches? *No*


(Kaushal Kumar)
Member
13.11.1987.


(K. Madhava Reddy)
Chairman
13.11.1987.

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

REGN. NO. QA 1598/1987.

November 13, 1987.

Shri Madan Mohan Kumar Applicant.

Vs.

Engg. Projects (India) Ltd. and
another ... Respondents.

CORAM:

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

Hon'ble Mr. Kaushal Kumar, Member.

For the applicant ... Shri D.R. Gupta, counsel.

For the respondents ... Shri D.K. Sinha, counsel.

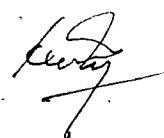
(Judgment of the Bench delivered by Hon'ble
Mr. Justice K. Madhava Reddy, Chairman).

This application is by the Deputy Project Manager,
Engineering Projects (India) Ltd. calling in question the
Show Cause Notice No. P&A (P)/PER/0173 dated 20.10.1987
proposing penalty of reduction to a lower stage in the
time scale of pay for a period of two years made by the
Deputy Manager (P&A).

In the view we are taking, we deem it unnecessary
to go into the merits of the applicant's claim. Suffice
to note that this application is by an employee of
Engineering Projects (India) Ltd., a company registered
under provisions of Company Act 1956. It is a Government
of India Enterprise fully owned and controlled by Government
of India. No Notification envisaged by Section 14(2) or
14(3) of the Administrative Tribunals Act (for short
"The Act") has been issued so far.

Shri Gupta, learned counsel for the applicant
contends that since this Company is a Government of India
Enterprise, fully owned and controlled by the Government

of India, it is "other Authority" mentioned in Art.12 of the Constitution of India and, therefore, a State within the meaning of Art.12 of the Constitution and a writ petition under Art.226 of the Constitution is maintainable against it. Since the jurisdiction of the High Court to issue writs in respect of service matters as defined under Section 3(q) of the Act now stands vested under Section 14 of the Act in the Central Administrative Tribunal, this Tribunal has jurisdiction to entertain this application under Section 19 of the Act. There is no doubt that in respect of 'service matters' over which the Central Administrative Tribunal has jurisdiction under Section 14 of the Act, it may exercise the same jurisdiction, power and authority including the power vested in the High Court under Arts.226 and 227 of the Constitution and grant relief to the aggrieved applicant. But the question is whether the applicant's grievance is one which falls within the jurisdiction, power and authority of the Central Administrative Tribunal. Unless this matter is covered by Section 14 of the Act, this Tribunal would have no jurisdiction and the High Court which hitherto had jurisdiction in this behalf continues to be vested with the jurisdiction. That jurisdiction would not be barred under Section 28 of the Act. Only that jurisdiction, power and authority which is vested in the Central Administrative Tribunal under the Act stands excluded from the High Court under Section 28 of the Act. For any application to be maintainable under Section 19 read with Section 14, the applicant's grievance must relate to a "service matter" as defined under Section 3(q) of the Act. In addition, that grievance must be either of a person who is a member of any All India Service or of a person appointed to any civil service of the Union or holding any civil post

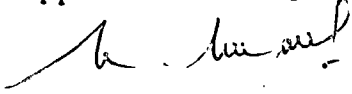



under the Union; or of a civilian appointed to any defence services or a post connected with defence. If the applicant answers this description, then notwithstanding the fact that his grievance pertains to the service in connection with the affairs of any Corporation owned or controlled by the Government, this Tribunal would have jurisdiction. But if the applicant is neither a member of any All India Service nor a person appointed to any civil service under the Union nor holding a civil post under the Union nor is a civilian appointed to any defence service or to a post connected with defence, merely because his grievance pertains to a "service matter" in connection with the affairs of the Corporation owned or controlled by the Government referred to in clause (b) of sub-Section (1) of Section 14, the Tribunal does not acquire jurisdiction to entertain an application under Section 19 of the Act. ~~Although employees of a company or Corporation wholly owned or controlled by the Govt. are governed by the Act, in respect of persons other than those mentioned in clause~~ (b) of sub-Section(1) of Section 14, unless a Notification envisaged by Sub-Sections (2) and(3) of Section 14 is issued, this Tribunal does not acquire jurisdiction to entertain the application and redress the grievance of such persons and grant any relief.

Shri Gupta, learned counsel for the applicant, however, contended that inasmuch as he is not one of the persons mentioned in clauses (a), (b), (c) or (d) of Section 2 of the Act, the provisions of the Act are applicable to him and as his grievance is in respect of a service matter, this Tribunal has jurisdiction. But we must point out that while the jurisdiction of the Tribunal is not excluded by Section 2, the Act on its own force does not apply to all persons who have any grievance in respect of their service matters. It applies only to

persons covered by Section 14(1) of the Act from the 'appointed day'. But in respect of other persons to whom the Act applies, the Central Administrative Tribunal may exercise jurisdiction power and authority only from such date as may be specified in the Notification that may be issued by the Central Government under Sub-Section (2) or Sub-Section (3) of Section 14 of the Act. Until then the Central Administrative Tribunal cannot exercise any jurisdiction, power and authority in respect of the grievance of such persons. Since the jurisdiction itself can be exercised only after a Notification envisaged under Sub-Section (2) or Sub-Section (3) of Section 14 of the Act, as the case may be, is issued, the jurisdiction of the High Court under Section 28 does not stand excluded in respect of the grievances of such persons. Such a Notification admittedly has not been issued so far in respect of the Engineering Projects (India) Ltd., respondent herein, whose employee the applicant is and against whom he seeks relief. In these circumstances, while we hold that a writ may lie in respect of the grievance of the applicant, this Tribunal has no jurisdiction as at present to entertain an application under Section 19 of the Act.

This application is, accordingly returned to the applicant for presentation to the appropriate forum.


(Kaushal Kumar)
Member
13.11.1987.


(K. Madhava Reddy)
Chairman
13.11.1987.