

(5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 157/91
with MP 707/91

Date of decision: 05.04.1991.

Shri Sudershan Kumar

.....Applicant

Vs.

Jamia Millia Islamia through its
Vice Chancellor and Others

.....Respondents

For the Applicant

.....Shri Sakesh Kumar,
Counsel

For the Respondents

.....Shri N.S. Mehta, Sr.
Standing Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *yes*
2. To be referred to the Reporters or not? *yes*

ORDER

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The applicant, who is a Junior Accounts Officer in the office of the Controller General of Accounts, New Delhi, filed this application under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:-

- (i) To set aside and quash the impugned order of his repatriation dated 10.1.1991 whereby he has been repatriated from the UGC INSAT T.V. Project, Jamia Millia Islamia with immediate effect; and
- (ii) to direct that he be permanently absorbed in the office of respondent Nos. 1 and 2 (Jamia Millia Islamia and the Administrative Officer, Mass Communication Research Centre, Jamia Millia Islamia).

2. In MP 707/91 filed by the applicant, he has prayed for issuing a direction to respondent Nos. 1 to 4 to allow him to work at the present post at Jamia Millia Islamia and to release his salary for the months of January and February, 1991, which has been stopped.

3. The facts of the case in brief are that the applicant was selected and sent on deputation to the UGC INSAT T.V. Project Mass Communication Research Centre, Jamia Millia Islamia, New Delhi, vide office order dated 22.4.1987 issued by the Administrative Officer of Jamia Millia Islamia (Respondent No.2). The deputation term was initially for a period of one year, which was extended thereafter. The Mass Communication Centre informed the Chief Controller of Accounts, Ministry of Home Affairs, New Delhi, that the applicant cannot be absorbed on permanent basis because of temporary nature of the job.

4. The applicant has stated that the Project to which he has been deputed has become permanent with effect from 1.4.1990. In October, 1990, he made a representation that he should be permanently absorbed in his deputation post. According to him, a number of officials have been absorbed in Jamia Millia Islamia on permanent basis. He has, therefore, called in question the decision of the respondents to repatriate him to his parent department.

5. The first three respondents [Jamia Millia Islamia through its Vice Chancellor, the Administrative Officer, Mass Communication Research Centre and the University Grants Commission], have not appeared before us. Respondent No.4[Union of India through the Secretary, Ministry of Home Affairs] has filed a counter-affidavit through Shri N.S. Mehta, Sr. Standing Counsel, wherein it has been contended by way of preliminary objections that the application is not maintainable. In reply to MP 707/91, the Union of India has contended that respondent Nos. 1 and 2 are not within the purview of this Tribunal.

a

6. The application was filed in the Tribunal on 17.1.1991.

On 18.1.1991, the Tribunal passed an interim order directing respondent No.4 (Union of India) not to give effect to the directive contained in their letter dated 21.12.1990 addressed to the Mass Communication Research Centre, Jamia Millia Islamia. This interim order has been continued thereafter.

7. The respondents have contended that the order dated 21.12.1990 has already been implemented by repatriating the applicant with effect from the forenoon of 11.1.1991.

8. Thus, the case of the Union of India is that the applicant stood repatriated to the parent department with effect from 11.1.1991. The case of the applicant is that he should be permanently absorbed in the office of the Jamia Millia Islamia where he had worked as Accounts Officer on deputation.

9. The learned counsel of the applicant contended that the Tribunal has jurisdiction to issue directions to respondent Nos. 1 to 3 even though they are not amenable to the jurisdiction of this Tribunal. According to him, the Tribunal which is vested with the powers of the High Court in service matters, can issue any direction to any person or authority in respect of any grievance of a Central Government servant. On the other hand, the learned counsel of the respondents has contended that the Tribunal will derive jurisdiction to adjudicate upon the grievance in the instant case only after a notification has been issued under Section 14(2) of the Administrative Tribunals Act, 1985, whereby jurisdiction is specifically conferred on the Tribunal to adjudicate upon disputes in relation to persons working in a corporation or a society owned or controlled by the Government.

10. Admittedly, no notification has been issued under Section 14(2) of the Administrative Tribunals Act, 1985, stating that the provisions of the said Act shall apply to the Jamia Millia Islamia or the Mass Communication Research Centre of Jamia Millia Islamia or the University Grants Commission.

11. The learned counsel of the applicant relied upon the decision

alpha

(4)

of this Tribunal in Harish Chander Vs. Union of India and Another, 1987(3) ATC 150, in support of his contention that this Tribunal has jurisdiction to adjudicate upon the grievance of the applicant in the instant case. In our view, the decision in Harish Chander's case does not lend support to his contention. In that case the applicant was an employee of the Municipal Corporation of Delhi. The Tribunal observed that as no notification under sub-section(2) read with sub-section(3) of Section 14 of the Administrative Tribunals Act, 1985, has so far been issued and as the applicant does not belong to the category of persons referred to in clauses (a) and (b) of sub-section(1) of Section 14 and the provisions of sub-section(3) have not been made applicable to any Municipal Corporation including Municipal Corporation of Delhi, this Tribunal has no jurisdiction to entertain the grievance of the applicant.

12. In our view, the mere fact that the applicant belongs to the category of persons referred to in clauses (a) and (b) of sub-section(1) of Section 14 of the Act, will not by itself confer jurisdiction on this Tribunal in a case where the applicant seeks a mandamus or a direction to be issued to a corporation or a society which is not amenable to the jurisdiction of this Tribunal in the absence of a notification under Section 14(2) of the Administrative Tribunals Act, 1985. This Tribunal, ~~as a~~ ^{though as} substitute of the High Courts in service matters, has no inherent powers like that of the High Courts. ~~as~~

13. In the light of the above, we hold that the present application is not legally maintainable. The Registry may, therefore, return the papers to the applicant, who may present the same in an appropriate legal forum in accordance with law, if so advised.

There will be no order as to costs.

D.K. Chakravorty
(D.K. CHAKRAVORTY)
MEMBER (A)

5/4/89,

P.K. Kartha
(P.K. KARTHA)
VICE CHAIRMAN(J)

5/4/89