

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.



Regn.No. (1) OA 2096/91
(2) OA 2642/91

Date of decision: 28.01.1992.

(1) OA 2096/91

Smt. Sunita Rani

...Applicant

Vs.

Union of India through the
Chief Secretary, Delhi
Administration & Another

...Respondents

(2) OA 2642/91

Smt. Sunita Rani

...Applicant

Vs.

Union of India through the
Chief Secretary, Delhi
Administration & Others

...Respondents

For the Applicant

...Shri B.B. Raval,
Counsel

For the Respondents

...Mrs. Jitender Gava,
Representative

CORAM:

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

THE HON'BLE MR. B.N. DHOUNDIYAL, 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? *No*

JUDGMENT

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

The applicant who has worked as Library Attendant

in the office of the Delhi Energy Development Authority under the Delhi Administration has filed these applications under Section 19 of the Administrative Tribunals Act, 1985. In OA 2096/91, her grievance relates to the non payment of pay and allowances from 17.12.1990 to date. In OA 2642/91,

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she has prayed for directing the respondents to appoint her to the post of Library Attendant on the basis of the original offer made vide Memorandum dated 12.10.1990 with effect from 15.10.1990.

2. In OA 2096/91, an ex-parte interim order was passed on 13.9.1991 to the effect that the respondents are directed not to assign night duty to the applicant beyond normal working hours. On 8.10.1991, she filed MP 3211/91 praying for a direction to the respondents to pay her salary and allowances from 17.12.1990 till date. On 9.12.1991, the representative of the respondents gave to the applicant through her counsel a cheque for Rs.14,273 and another cheque for Rs.2263 for the period from 17.12.1990 to November, 1991.

3. In OA 2642/92, an interim order was passed on 12.11.1991 directing the respondents not to terminate her services.

4. Affidavits have been filed in both cases on behalf of the Delhi Energy Development Agency wherein a preliminary objection has been raised with regard to the jurisdiction of the Tribunal to entertain and adjudicate upon the [&] service matters of the [&] employees of the said Agency. As common questions of law have been raised in both applications, it is proposed to deal with them in a common judgment.

5. The contention of the applicant is that the Delhi Energy Development Agency is a part and parcel of the Delhi Administration and that though it is a Society, it is hundred percent financed by the Union of India. As

against this, the contention of the respondents is that the said Agency is a Society registered under the Societies Registration Act, 1860 and that it is not a Government Department. Both parties were heard on 16.12.1991 on the question of maintainability of these applications.

6. According to the Memorandum of Delhi Energy Development Agency, the members of the governing body to whom the management of the said agency which is a society have been entrusted, are government servants. The Society itself was formed by Government servants. The Development Commissioner, Delhi Administration shall be the Chairman of the Society. The source of income is grants-in-aid from the Government of India. All these indicate that it an "authority" under the Control of the Government of India within the meaning of Article 12 of the Constitution as it is an agency or instrumentality of the Government.

7. It does not follow from the above that the employees of the said agency are employees of the Delhi Administration over whom this Tribunal has jurisdiction in their service matters. The employees of all such authorities under the control of the Government of India are not government servants. In the instant case clause 11 of the Memorandum of the Delhi Energy Development Agency provides that "the Society may sue or be sued in the name of its Chairman as



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required in Section 6 of the Societies Registration Act, 1860. According to Section 6, the Society may sue or be sued in its own name. In other words, it has a distinct legal personality. In such cases, we are of the opinion that the Tribunal will derive jurisdiction only if the Central Government issues a notification under Section 14(2) of the Administrative Tribunals Act, 1985. In the instant case, no such notification has been issued relating to the Delhi Energy Development Agency. Consequently, we uphold the preliminary objection raised by the respondents. The applicant may move appropriate legal forum in accordance with law, if so advised. The interim order passed in these cases will, however, continue for a period of 90 days from the date of communication of this order.

8. The Registry is directed to return the case files to the applicants^q for presenting the same before appropriate legal forum, if she so chooses.

There will be no order as to costs.

Let a copy of this order be placed in both the case files.

(B.N. DHOUNDIYAL)^{28/11}
MEMBER (A)

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

