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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2817/91

NEW DELHI THIS THE 18th DAY OF JANUARY, 1994.

HON'BLE MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN(J)

- 1.Mr.Suresh Kumar,
Accountant,
Pay & Accounts Office(Accounts)
Ministry of Urban Development,
3/4 B,Nirman Bhawan,
New Delhi.
- 2.S.N.Singh } Accountants
- 3.S.P.Sharma } Pay and Accdounts Office
- 4.Prem Chand } Ministry of Urban Developmenht
- 5.O.P.Saini } Nirman Bhavan
- 6.S.H.Nair } New Delhi.
- 7.I.P.Anand }
- 8.P.Pathania } ... Applicants

BY ADVOCATE SHRI R.L.SETHI
WITH SH.ASHISH KALIA, COUNSEL.

VS.

- 1.The Secretary,
Ministry of Urban Development
Nirman Bhavan
New Delhi-110011
- 2.The Controller of Accounts
Ministry of Urban Development
Nirman Bhavan
New Delhi.
- 3.The Principal Accounts Officer
(Accounts)
Ministry of Urban Development
Nirman Bhavan,
New Delhi. ... Respondents

BY ADVOCATE SHRI M.L.VERMA.

ORDER

The prayer is that the respondents may be directed to grant Ration Allowance as admissible as per rules to the applicants with effect from the dates they have joined civil posts with the respondents.

2. The applicants have averred that they are General Reserve Engineering Force(GREF) civilian personnel from the Border Roads but currently on deputation with the Ministry of Urban Development, Nirman Bhavan, New Delhi.

3. A counter-affidavit has been filed on behalf of the respondents in which a preliminary

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objection has been taken that since the GREF is an "Armed Force of the Union" within the meaning of Section 2(a) of the Administrative Tribunals Act, 1985(Act), this Tribunal has no jurisdiction to deal with and dispose of the grievance of the applicants.

4. Section 2 of the Act provides inter-alia that the provisions of the Act shall not apply to any member of the naval, military or air forces or of any other armed forces of the Union. In **R.VISWAN v. UNION OF INDIA(AIR 1983 SC 658)**, the Supreme Court had occasion to consider specifically whether the members of the GREF were members of the "Armed Forces". Their lordships of the Supreme Court reviewed the history, composition, administration/organisation and the role of the GREF and held that they were the members of the "Armed Forces".

5. In **KUNJU KRISHNA PILLAI vs. UNION OF INDIA & ORS(1986) 1 ATC 453)**, the then Chairman of this Tribunal, upon a reference made to him on a difference of opinion between two learned Members, held that the decision in **R.VISWAN's** case (supra) was not confined to Article 33 of the Constitution. He held that for purposes of Section 2(a) of the Act, the GREF is an "Armed Force of the Union".

6. Reliance is placed by the learned counsel for the applicants upon a judgement of the Madras Bench of this Tribunal in the case of **P.JANARDHANA PILLAI Vs.The President, Customs, Excise and Gold (Control) Appellate Tribunal(OA No.498/90)** decided on 18-2-1991. In that case, the parent department of the applicant was No.57, Road Construction Company, a subordinate office of the Ministry of Surface Transport. He was holding a civil post in his parent department. He was on deputation to the South Regional Bench of the Customs, Excise and Gold(Control) Appellate Tribunal. He came to the Tribunal with

the grievance that he was not being paid the Ration Allowance which was being paid to him in his parent department. The Tribunal met the question of jurisdiction raised before it thus: ".....The applicant would contend that though he belonged to the Border Roads Organisation, he was holding a civil post in that organisation. We need not go into the veracity of this fact since the post which the applicant is now occupying on deputation is admittedly a civil post and we hold that the applicant is entitled to approach this Tribunal in respect of his allowances which are denied in the performance of his duties in that civil post, while on deputation."

7. In VISWAN's case(supra), the Supreme Court noticed salient and distinctive features while coming to the conclusion that the members of the GREF were members of an "Armed Force". The features relevant to the present inquiry are:

- (i) GREF is primarily intended to carry out defence and other works projected by the General Staff, Army Headquarters and it is only where spare capacity is available that GREF undertakes works of other ministries or departments on agency basis and there also, preference is given to strategic and other roads in sensitive areas.
- (ii) Even during peace time, the Chief of the Army Staff exercises control over the discipline of the members of GREF units through the applicability of the provisions of the Army Act, 1950.
- (iii) The directly recruited personnel may be required to serve anywhere in India and outside India and when directed, they would have to proceed on field service and if required, they would also be liable to serve in any Defence Service or post connected with the Defence of India.
- (iv) The directly recruited personnel would have to wear the prescribed uniform while on duty and they would be subject to the provision of the Army Act, 1950 and the Army Rules, 1954 as laid down in SROs 329 and 330 for purposes of discipline.

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8. In view of the decision of the Supreme Court in R.VISWAN's case(supra), there can be no getting away from the fact that the Chief of the Army Staff exercises control over the members of the GREF. His control continues even on personnel on deputation in civilian services.

9. The decision of the Madras Bench of this Tribunal, referred to above, does not relate to the members of the GREF. This case, therefore, is distinguishable. Secondly and more importantly, the decision of the Supreme Court in R.VISWAN's case(supra) will govern the facts of this case. Even if there is conflict between the judgement of the Supreme Court and the judgement of the Tribunal in P.JANARDHANA PILLAI, the decision of the Supreme Court is binding on me under Article 141 of the Constitution. I, therefore, hold that this application is barred by Section 2(a) of the Act and is not maintainable. Accordingly it is rejected.

10. There shall be no order as to costs.

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(S K DHANON)
VICE-CHAIRMAN(J)
18-01-1994

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