

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

(5)

Regn. No. OA 2884/91

Date of decision: 23.01.1992.

Shri Vijay Kumar

...Applicant

Vs.

Union of India & Others

...Respondents

For the Applicant

...Shri V.C. Sondhi,
Counsel

For the Respondents

...Shri Raj Birbal,
Counsel

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? *Y*
2. To be referred to the Reporters or not? *N*

JUDGMENT(ORAL)

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

We have heard the learned counsel of both parties
have and perused the records of the case. The applicant who has
worked as a casual labourer in the office of the National
Horticulture Board under the Ministry of Agriculture has
prayed for regularisation of his services as a Mali/Watchman
under them and has challenged the validity of the impugned
verbal order of termination with effect from 29.11.1990.
On 13.12.1991 after hearing the learned counsel of both sides,
the Tribunal passed an interim order to the effect that the
respondents shall consider engaging the applicant as casual
labourer for a period of 14 days from that date. This order
was continued thereafter till the case was taken up for
hearing on 23.1.1992. During the hearing, the learned

counsel for the respondents raised a preliminary objection that this Tribunal has no jurisdiction to entertain and adjudicate upon the grievance of the applicant on the ground that the National Horticulture Board in which the applicant had been engaged as a casual labourer, is a Society registered under the Societies Registration Act, 1860 and that according to the Memorandum of the Society, ~~it is a~~ ^{it has} distinct and separate legal entity. The learned counsel for the applicant drew our attention to the communications at pages 8 and 18 wherein, in addition to the name National Horticulture Board, the name of the Ministry of Agriculture, Government of India has also been given.

2. We have considered the matter. The fact that the National Horticulture Board is a Society cannot be disputed. The certificate of registration has been produced, as an annexure to the counter-affidavit filed by the respondents. The Memorandum of Association indicates that those who formed the Society were all Government servants. The Rules and ~~Regulations~~ ^{Regulations} of the National Horticulture Board is being managed by a Managing Committee which also consists of Govt. servants. The Chairman of the Managing Committee shall be nominated by the Central Government. The main source of income of the Board is by way of grants made by the Central Government. All these factors indicate that the National

Horticulture Board is an agency or instrumentality of the State for the purpose of Article 12 of the Constitution. This does not necessarily mean that the employees of the Board are Government servants. There is a specific provision in the Rules and Regulations of the Board that the Managing Committee shall have the power to sue and demand ~~of~~^{all} legal proceedings on behalf of the Board. (vide Clause 10(ii)(h)). This provision read with Section 6 of the Societies Registration Act, 1860 clearly indicates that the National Horticulture Board has a distinct legal personality of its own. Apart from this, there is a further provision in the Rules and Regulations that the Managing Committee is empowered to create posts and appoint or remove persons in the service of the Board.

3. In view of the above, we are of the opinion that there is merit in the preliminary objections raised by the respondents as to the maintainability of the main application. Admittedly, no notification has been issued under Section 14(2) of the Administrative Tribunals Act, 1985 ~~whereby~~^Q conferring jurisdiction on the Tribunal to entertain and adjudicate upon the service matters of the employees of the National Horticulture Board. As such, we hold that this application is not maintainable.

(8)

4. The Registry is directed to return the papers to the applicant. He may seek his remedy in the appropriate legal forum if he so chooses in accordance with law. The interim order passed by us on 13.12.1991 and continued thereafter will remain in operation for a period of 90 days from today's date.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL)

MEMBER (A)

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

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