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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 1122/2004
MA M. 927/2004

New Delhi, this the 19th day of May, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A. SINGH, MEMBER (A)

1. Pankaj Sharma
s/o Shri J.C. Sharma
r/o H.No.93, M.S.Flats
Timarpur
Delhi.
2. Ms. Monu Sharma
w/o Shri Sanjay Sharma
H.No.B-733, Sarojini Nagar
Delhi.
3. Yuvneet Kumar
s/o Shri Ram Gopal
r/o 19-E, MCD Flats
Kamla Nagar
Delhi.
4. Pankaj Ranga
s/o Sri S.R. Ranga
Village & P.O. Goela Khurd
New Delhi - 110 071.
5. Amit Kumar
s/o Shri K.K. Ranga
Village & P.O. Goela Khurd
New Delhi - 110 071.
6. Vikal Kumar
s/o Shri Mahabir
r/o C-A/201, Netaji Gali
Bhajan Pura
Delhi - 110 053.
7. Mohit Gautam
s/o Shri Bhagwat Dutt Gautam
H.No.R-266-67/17
Swatantra Nagar, Narela
Delhi - 110 040.
8. Shiv Prasad
s/o Lt. Shri Ram Kumar
R/o A-19, Gali No.2
Meet Nagar
Delhi - 110 094.
9. Ashok Kumar
s/o Shri Bihari Lal
H.No.1654, Delhi Government Flats
Gulab Bagh
New Delhi - 110 007.



10. Manish Kumar
s/o Shri Ramher
r/o H.No.540, Gali No.13
Swatantra Nagar
New Delhi - 110 040.
11. Sarvesh Mohan Bansal
s/o Shri Y.M.Bansal
r/o 1551, Dina Nath Building
Chandrawal Road
New Delhi - 110 007.
12. Manoj Kumar
s/o Shri Swaran Kumar
r/o C-313, MCD Flats
New Usmanpur
New Delhi - 110 053.
13. Kamal Kishore
s/o Shri Bal Kishan
r/o H.No.1870, Gali Ashram
Malka Ganj
New Delhi - 110 007.
14. Sunil Kumar
s/o Shri Gopi Nath
r/o Qr. No.1, Nurses Hostel
I.D. Hospital
New Delhi - 110 009.
15. Pawan Kumar
s/o Shri Mool Chand
H.No.B-22/439, Chandra Colony
Mandoli Road, Shahdara
New Delhi - 110 093.
16. Ms. Mamta Rani
w/o Shri Manjit Kumar
r/o H.No.B-79, Gali No.4
Vaish Jyoti Bazar
New Delhi - 110 094.
17. Rakesh Kumar
s/o Shri Nar Singh
r/o H.No.890
Bawana
New Delhi - 110 039.
18. Ishwar Singh
s/o Shri Hukam Chand
r/o H.No.28,
Village Kirari
New Delhi.
19. Sagar Kumar
s/o Shri Jagat Prakash
r/o H.No.1546, Nai Sarak
Chandni Chowk
Delhi - 110 006.



20. Ajmer Singh
 s/o Shri Fateh Singh
 r/o H.No.608, Ishwar Colony
 Bawana
 New Delhi - 110 039. Applicants

(By Advocate: Shri Pradeep Gupta)

Versus

1. Government of NCT of Delhi
 through its Chief Secretary
 New Secretariat Building
 Indraprastha Estate
 New Delhi.
2. Delhi Subordinate Service Selection Board
 through its Secretary
 UTCS Building, 3rd Floor
 Behind Karkardooma
 Courts Complex
 Vishwas Nagar, Shahdara
 Delhi - 110 032.
3. Municipal Corporation of Delhi
 through its Commissioner
 Town Hall, Chandni Chowk
 Delhi - 110 006.
4. Shri T.T. Joseph
 Chairman
 Delhi Subordinate Service Selection Board
 UTCS Building, 3rd Floor
 Behind Karkardooma Courts
 Complex, Vishwas Nagar
 Shahdara
 Delhi - 110 032.
5. Shri Amar Nath
 Secretary
 Delhi Subordinate Service Selection Board
 UTCS Building, 3rd Floor
 Behind Karkardooma Courts
 Complex, Vishwas Nagar
 Shahdara
 Delhi - 110 032.
6. Mr. Sudhir Kumar
7. Mr. Rajiv Kumar
8. Mr. Pankaj Nayer
9. Mr. Mukesh Arora
10. Mr. Jagat Singh Bisht

Respondent Nos.6 to 10, Selected candidates for the
 posts of Theatre Assistant (Operation Theatre - Code
 No.0056) in Municipal Corporation of Delhi
 All C/o Delhi Subordinate Service Selection Board

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UTCS Building, 3rd Floor
 Behind Karkardooma Courts Complex
 Vishwas Nagar, Shahdara
 Delhi - 110 032. ... Respondents

O R D E R (Oral)

Justice V.S. Aggarwal:-

Applicants are working in the Municipal Corporation of Delhi (for short 'MCD'). By virtue of the present application, they seek quashing of the impugned order/notification dated 4.10.1996 and setting aside the Constitution of the Delhi Subordinate Service Selection Board (for short 'DSSSB') as well as the appointment of its Chairman and Secretary and not to implement the impugned result that has been declared for the post of Theatre Assistant (Operation Theatre) in MCD and not to terminate the services of the applicants.

2. Since the applicants had been working with the MCD and the results were also declared by the DSSSB for the MCD, at the threshold we had put it to the learned counsel for the applicants as to how this Tribunal has the jurisdiction to entertain the present application.

3. Learned counsel for the applicants had urged that this Tribunal has the jurisdiction to entertain the application. At the outset, we make it clear that in an indirect manner jurisdiction cannot be conferred on this Tribunal merely because they have chosen to challenge the same set up of the DSSSB. The

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basic fact remains that the Test was held for purposes of employment in the MCD and the applicants are working seemingly on ad hoc basis in the MCD.

4. The Act had been enacted to provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services. It was an alternative forum to provide expeditious disposal of applications pertaining to service matters. The Act specifically provided as to under what circumstances, this Tribunal was to have jurisdiction. Section 14 reads:-

"14. Jurisdiction, powers and authority of the Central Administrative Tribunal - (1)
Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court in relation to-

(a) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;

(b) all service matters concerning-

(i) a member of any All-India Service;
or

(ii) a person [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or

(iii) a civilian [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any defence services or a post connected with defence.

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and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation [or society] owned or controlled by the Government:

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation [or society] or other body, at the disposal of the Central Government for such appointment.

[**Explanation.**— For the removal of doubts, it is hereby declared that references to "Union" in this sub-section shall be construed as including references also to a Union territory.]

(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations [or societies] owned or controlled by Government, not being a local or other authority or corporation [or society] controlled or owned by a State Government:

Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of or different categories under any class of, local or other authorities or corporations [or societies].

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation [or society], all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court) in relation to—

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(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation [or society]; and

(b) all service matters concerning a person [other than a person referred to in clause (a) or clause (b) of sub-section (1)] appointed to any service or post in connection with the affairs of such local or other authority or corporation [or society] and pertaining to the service of such person in connection with such affairs."

5. We need not delve into the provisions of sub-sections (2) and (3) of Section 14 of the Act because when the same is read with clauses (b) and (c) to sub-section (1) to Section 14, it clearly shows that this Tribunal has no jurisdiction to entertain the applications pertaining to employees of local or other authorities or other autonomous bodies unless a notification in this regard is issued. A Full Bench of this Tribunal in the case of **K.K.Singh etc.etc. v. Union of India & Ors. etc.etc.** in OA No.93/1997 decided on 20.11.1998 and reported as (1997-2001) A.T.F.B.J 257 had considered this question and held:-

"19. In the result the reference is answered as under:

"Excepting those specifically covered by clauses (b) and (c) of Section 14(1) A.T.Act, the CAT has no jurisdiction to entertain applications from employees of local or other authorities within the territory of India or under the control of the Govt.of India and to corporations or societies owned or controlled by Govt. (not being a local or other authority or corporation or society controlled or owned by a State Govt.) unless the same have been notified under Sec. 14(2) A.T.Act"

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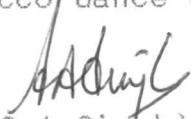
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6. In the present case before us, there is no notification issued under Sub-Section (2) to Section 14 of the Administrative Tribunals Act, 1985, conferring jurisdiction on this Tribunal to hear service matters pertaining to the MCD. In the absence of such a notification, this Tribunal has no jurisdiction to deal with the service matters pertaining to MCD.

7. In fact, similar controversy had been raised pertaining to the Mahanagar Telephone Nigam Ltd. (for short 'MTNL') before the Delhi High Court in the case of RAM GOPAL VERMA v. UNION OF INDIA & ANR., 2202 (1) SLJ 352. The Delhi High Court referred to Sub-Sections (2) and (3) of Section 14 and held that this Tribunal does not have jurisdiction in the absence of notification under Sub-Section (2) of Section 14 to hear the applications of MTNL.

8. Identical is the position herein. We, therefore, hold that pertaining to the service matters of MCD, this Tribunal has no jurisdiction to hear the same. Resultantly, the Original Application must fail and is dismissed in limine.

9. Applicants would be at liberty to take recourse by filing an independent petition in accordance with law before the appropriate forum.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

/NSN/