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IN THE CENTRL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. O.A. No. 1466/92

Date of decision 8.1.93.

Grih Kalyan Kendre Workers Union

Applicant

Ms. Kumud L. Dass

Counsel for the applicant

vs.

Union of India & Ors.

Respondents

Shri Girish Chandra with
Shri Madhavan

Counsel for the respondents

CORAM

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman(J).

The Hon'ble Mr. L.P. Gupta, Member (A).

✓ 1. Whether Reporters of local papers may be allowed Yes
to see the judgment?

✓ 2. To be referred to the Reporter or not? Yes

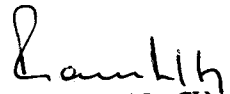
3. Whether their Lordships wish to see the fair copy of
the judgment?

4. Whether it needs to be circulated to other Benches
of the Tribunal?

(Judgment of the Bench delivered by Hon'ble Shri
Justice Ram Pal Singh, Vice-Chairman (J).)


(L.P. GUPTA)

MEMBER (A)


(RAM PAL SINGH)
VICE-CHAIRMAN (J)

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Grih Kalyan Kendra
Workers Union

.. Applicant

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.. Respondents

Ms.Kumud L.Dass

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Sh.Madhavan

.. Counsel for the respondents.

CORAM:

The Hon'ble Sh.Justice Ram Pal Singh, Vice Chairman(J).

The Hon'ble Sh.I.P.Gupta, Member(A).

J U D G E M E N T

(Delivered by Hon'ble Sh.Justice Ram Pal Singh, V.C.(J)).

The applicant, Grih Kalyan Kendra Workers Union has filed this O.A.under Section 19 of the Administrative Tribunals Act of 1985 (hereinafter referred as Act) containing the following prayers:

- i) to issue Rule Nisi to the respondents calling upon them as to why an appropriate writ or direction be not issued directing to them;
- ii) frame the proper service rules governing service conditions of the members of the applicant union as regards their terms, conditions tenure and appointment, promotion, seniority superannuation retirement, disciplinary proceedings etc. plus consequential benefits of service including the retirement benefits to them.
- iii) direct the respondents to bring forth the report of the sub-committee constituted under recommendations of Former Chief Justice of India Mr.Y.P.Chanderchud and upon return of the rule and hearing the parties.

- iv) make the rule absolute by granting relief to the members of the applicant union as claimed in clause (a, b, c) to the prayer clause.

2. The applicants are working in Grih Kalyan Kendra and have formed a Union. Grih Kalyan Kendra (hereinafter referred as G.K.K.) is a registered society under the Societies Registration Act of 1860. They contend that neither any rules governing their service conditions have been framed by the Government nor any service benefits like gratuity, pension, P.F., leave encashment and retiral benefits are available to them. They also contend that G.K.K. is a class in itself and has been constituted under the aegis of the Union of India for the welfare of the Central Government Employees. In para 2 of the O.A. they have contended that the subject matter of this application is within the jurisdiction of the Tribunal and this Tribunal can adjudicate this matter finally. G.K.K. works under the aegis of the Department of the Personnel and Training, Ministry of Personnel & Public Grievances and Pensions, and gets substantial grants from the Central Government. They also contend that this is a body which is under the deep and pervasive control of the Central Government over the composition and functioning. This Kendra was established in 1958 when it was a part of the Ministry of Home Affairs. After its registration under the Societies Registration Act the management and control of the activities of the Kendra was entrusted to the Board, called Grih Kalyan Board. It has different office bearers and its aim, according to the Memorandum of Association is to promote social, cultural activities like celebrations of annual days, dance and drama competitions, promote recreational and sports activities among the Government servants residing in Government colonies to improve literary activities like Reading Room & Library, arrange philosophical discourses and discussions on topics of current affairs, talks on historical/scientific subjects etc., to assist the promotion of Defence efforts and other national schemes such as family welfare etc. Thus, according to them several activities are undertaken by G.K.K. In this

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voluminous application which has been filed by the applicants, exhaustive history has been given. They have also enumerated several grounds upon which they pray for the reliefs enumerated hereinabove.

3. On notice the respondents appeared and filed their counter. In their counter they have raised a preliminary objection that this O.A. is not maintainable because respondent No.2 G.K.K. is a Society registered under the Societies Registration Act of 1860 and does not fall within the scope and ambit of this Hon'ble Tribunal's jurisdiction. They further contend that there has been no notification under Section 14(2) of the Act and in the absence of such notification the corporations and Societies owned or controlled by Central Government are excluded from the jurisdiction of this Tribunal. In equally voluminous return the respondents have traced a long history of litigation between the G.K.K. workers Union and the respondents. They also maintain that this O.A. is also hit by the doctrine of resjudicata because the reliefs prayed for by them in this O.A. have also been adjudicated by the Apex Court in their judgments. On these two preliminary grounds the respondents contest this O.A.

4. We have heard the learned counsel for the applicant, Ms. Kumud L.Dass and Sh.Girish Chandra, counsel for the respondents in great detail. The learned counsel for the respondents has raised two preliminary objections. According to him the respondents are not amenable to the jurisdiction of this Tribunal because G.K.K., which is a registered Society under the Societies Registration Act of 1860 has not been notified, as required under Section 14(2) of the Act. His second preliminary objection is that the litigation between the applicants and the respondents dates back to year 1984 when civil writ petition No.1325/84 was decided by the Apex Court. He also contended that the prayer which has been made in this O.A. was also the subject matter in civil writ petition No.889/91 which was adjudicated by the Supreme Court hence this O.A. is hit by the principles of resjudicata and the applicants

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cannot be permitted to reopen the same issues which have already been adjudicated by the Supreme Court. During the arguments on these preliminary objections both the counsels have in great detail addressed us on the facts of the case. We, therefore, proceed to decide the preliminary objection of jurisdiction first.

5. Section 14 of the Act is being reproduced below for convenience:

"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 to a post connected with defence or a civil post under the Union 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,

and pertaining to the service of such member, person or civilian

or 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;

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c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service 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.

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 Corporations (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 sub-section in respect of different classes of , or different categories under any class of local or other authorities or Corporations (societies).

6. According to sub-section(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 the Government not being a local or other authority or corporation (or society) controlled or owned by the State Government. Sh.Girish Chandra thus contends that the parties to this O.A. shall be amenable to the jurisdiction of this Tribunal only after the Central Government has by a notification under sub-rule (2) of Section 14 has specifically provided for conferring the jurisdiction upon this Tribunal. The learned counsel for the applicant Ms.Kumud L.Dass controverted these arguments and contended that the G.K.K. is amenable to the jurisdiction of this Tribunal because the employees working thereunder held civil posts and

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respondent G.K.K. is the "State" as provided in article 12 of the Constitution of India. She further contended that looking at the different provisions of the Act it cannot be said that G.K.K. has been ousted from the jurisdictional orbit of the Tribunal etc. etc. Before we proceed to adjudicate these preliminary objections it is necessary to give a brief background of the litigational history of the parties.

7. The purpose and object of establishing the Kendra was to help the government servants specially those belonging to the lower income group by providing their dependents opportunities for gainful work of training during their leisure time. The employees of the Kendra are paid token amount as wages. The Memorandum of Association of G.K.K. Board shows that its aim and objects are social in nature and the shape of a welfare organization has been given to it. The employees of this association have been agitating for similar emoluments and pensionary benefits as given to the employees of Delhi Administration or Union of India. This Union, therefore, filed a writ petition 13524/84 and prayed for these reliefs. That writ petition was disposed of by a judgement by the Apex Court on 6.5.88 with the following observations:

"Since the respondents have already agreed to implement the recommendations of Mr. Justice Chander Chud, we dispose of this petition by saying that the employees are entitled to the benefits recommended in the report".

Several recommendations were made by the Chander Chud Committee and when its report was submitted the above order was passed by the Apex Court. Thereafter, a writ petition No.869/88 was filed by G.K.K. workers Union in the Apex Court again praying therein for 'equal pay for equal work' and therein it was prayed that Chander Chud Committee has made certain recommendations and the same should be implemented and the applicants be given the status of a Government employee. That writ petition was disposed of by rejecting the claim of the applicants for giving the G.K.K. Workers Union members the status of a State under article 12 of the Constitution of India. G.K.K. Union cannot seek parity with the other employees working under the N.D.M.C. Delhi

Administration or Union of India. In the end their lordship of the Apex Court by their judgement dated 9.1.91 held that there has been no discrimination as the petitioners are not being discriminated from those who are situated equally and hence their claim for the benefit of 'equal pay for equal work' must fail. This writ petition was, therefore, dismissed by the Apex Court. This, in brief, is the short background and history of the litigation of the Workers Union with the respondents.

8. We shall now revert back to the point of jurisdiction. The question we frame is whether this Tribunal has jurisdiction to hear this O.A. or not. On two previous occasions this question was considered by this Tribunal. In O.A. 607/91, decided on 26.4.91 at the Principal Bench, it was held that as there has been no notification under Section 14(2) of the Act, this Tribunal has no jurisdiction to adjudicate upon the prayer made in the O.A. A coordinate Bench of the Central Administrative Tribunal (Madras Bench) had the occasion of deciding this question. After elaborately discussing the law therein that Bench held that unless there is a notification in the official gazette under Section 14(2) of the Act, the Tribunal shall not get the jurisdiction to adjudicate upon the original application filed before it by Dr.A.Muralidharan (1987) (3) ATC p.831). They further held that a Society which is owned or controlled by the Government cannot claim jurisdiction in absence of notification U/s 14(2) and hence an O.A. filed U/s 19 of the Act is not maintainable. They also held that though the Tribunal is a substitute of High Court but it cannot exercise such powers in matters not within its jurisdiction unless provided by a notification as required U/s 14(2) of the Act.

9. It is an admitted position that there has been no notification in the official gazette as yet, by the Central Government U/s 14(2) of the Act, making G.K.K.Society amenable to the jurisdiction of this Tribunal. We are, therefore, of the view that this Tribunal has no jurisdiction to entertain any O.A. either filed by the G.K.K. Union or by any of the employee of the G.K.K. against the Grih Kalyan Kendra Board. Therefore, the first preliminary objection raised by the respondents is upheld. We cannot undertake a futile exercise in going into the second

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preliminary objection with regard to the point of resjudicata as we have held that this Tribunal has no jurisdiction to entertain this O.A. OR adjudicate upon the prayer made therein. We, therefore, direct the Registry to return the O.A. to the applicants alongwith the original papers for filing it before appropriate forum. The parties shall bear their own costs.

LP Gupta
(LP.GUPTA) 8/1/93
MEMBER(A)

Ram Pal Singh
(RAM PAL SINGH)
VICE CHAIRMAN(J)