

3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA No. 1646/92 .. Date of decision: 15.7.92.

Sh. Rajan Kumar & Ors.. Applicants.

Mrs. C.M. Chopra .. Counsel for the applicant.

Versus

U.O.I. .. Respondents

Sh. A.K.Sikri .. Counsel for the respondents.

CORAM

Hon`ble Sh. P.K.Kartha, Vice Chairman(J)

Hon`ble Sh. B.N.Dhoundiyal, Member (A)

JUDGEMENT (Oral)

(Delivered by Sh.P.K.Kartha, Vice Chairman(J)

Heard the learned counsel for both the parties. The applicants who are working as Casual Clerks on daily wage basis in the Indian Council of Medical Research, have filed this application under Section 19 of Administrative Tribunals Act, 1985 praying that the respondents (Union of India through Secretary, Ministry of Health and ICMR) be directed to continue to give work as casual clerks as before and

Q~
...2..

..2..

that they should further be directed to regularise the applicants in the post of LDC.

2. The respondents have filed MP No. 1994/92 in which they have raised the preliminary objection that this Tribunal has no jurisdiction to adjudicate upon the service matters concerning the employees of ICMR, which is a Society registered under the Societies Registration Act, 1860.

3. We have gone through the case records and heard the learned counsel for both parties. The learned counsel for the applicant relied upon Section 14(1) of the Administrative Tribunals Act according to which the Tribunal has jurisdiction, power and authority exercisable by all courts except the Supreme Court in relation to the service matters of the employees of any Society owned or controlled by the Central Government. The learned counsel for the respondents states that in the absence of a notification under Section 14(2) of the Administrative Tribunal, the applicants cannot file the present application as ICMR is an Autonomous Body. He placed before us the Memorandum of Association Rules, Regulations and Byelaws of the ICMR. The Rules and Regulations provide that in any legal proceedings, the

...3..

..3..

ICMR may sue or be sued in the name of Director General or such other Member appointed by the Governing Body on each occasion. It is true that the ICMR is a Society wholly owned and controlled by the Central Government and it may be that it is an agency or instrumentality of Central Government for the purpose of

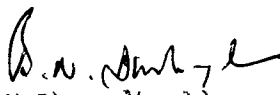
Article 12 of the Constitution of India. At the same time, it does not mean that the employees of the ICMR are Central Government servants. Even employees of such societies could file application in the Tribunal provided the society concerned has been notified under Section 14(2) of Administrative Tribunals Act, 1985.

4. In Bal Krishna & Others Vs Kendriya Vidyalaya Sangathan & Ors (1987 SLR 819), the Principal Bench of the Tribunal held that the Tribunal will have jurisdiction in the case of such society only when notification under Section 14 (2) is issued. Notifications have been issued in the case of similar societies such as ICAR and CSIR and the employees of those societies can seek relief ^{from} this Tribunal. No such notification has been issued in the ~~in the~~ instant case.


...4..

..4..

5. In view of the foregoing, we hold that the applicants who are employees of ICMR cannot seek any relief, in the absence of the notification under Section 14(2) of the Administrative Tribunals Act. Registry is directed to return the papers filed by the applicants for representing them in appropriate forum in accordance with law. We, however, direct that the interim order passed ^{by} us on 30.6.92 will remain in operation for a period of one month from today. Let a copy of the order be given to both the parties immediately. The application fee ^Q paid by the applicants be returned to them.


(B.N. Dhoundiyal)

Member (A)


(P.K. Kartha)

Vice Chairman (J)