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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.2354/92

Date of decision: 20.8.93

Shri Bhag Singh Sain

.....Applicant

Versus

Union of India through
Cabinet Secretary,
Rashtrapati Bhavan,
New Delhi.

.....Respondents

Coram :-

Hon'ble Mr J.P. Sharma, Member (J)

Hon'ble Mr S. Gurushankaran, Member (A)

JUDGEMENT

(delivered by Hon'ble Mr J.P. Sharma, Member (A))

The applicant was appointed as Deputy Superintendent of Police (Company Commander/ Quartermaster) in SSB Battalion, on 30 June, 1969. He was promoted as Dy Comdt w.e.f. 27 June, 1977. He was promoted as Commandant on 18.08.81. He was further promoted as Commandant (Selection Grade) w.e.f. 27.08.1990. He superannuated on 31st May 1992. The applicant is aggrieved by his superannuation as Commandant Special Services Bureau (SSB) Selection Grade



at the age of 55 years and he claims that his superannuation age is 58 years. The (SSB) Battalion is not covered by Central Reserve Police Force (CRPF) which raised Act, 1949.

The applicant prayed for the grant of relief that declaration be issued to the respondents that the applicant was ^{not} governed by C.R.P.F. Act of 1949 and the Rules made thereunder as he was never a member of the Force. He also prayed for the direction to the respondents that he was entitled to and be allowed to continue in service normally upto 31 May, 1995 i.e. reaching superannuation at the age of 58 years.

Notice was issued to the respondents to decide this application and to the preliminary objection that the SSB Battallian are ^{not} governed under the provisions of C.R.P.F. 1949 and C.R.P.F. rules, 1955 in support of this fact the respondents have also annexed with the reply O.M. dated 4th August, 1986 and 5th April, 1969 (Annexure R 1 and R 2). It is further contended that the SSB is a Armed Forces of the Union of India and has been notified by the Government of India Notification ^{subsequent to the} dated 16.12.1991 (Annexure R-3) by a further Order dated 25th Feb., 1989. There was Cadre review of Group A, general duty Executive Officer of the SSB Group Centres by ^{new} which 14 posts of Commandant in the scale of pay of Rs.4100-5300 were upgraded to that of Selection Grade Commandant in the scale of pay of Rs.4500-5700. As a result of this the Cadre of Commandants consisted of Selection Grade Commandants 14 ^{and} Ordinary Grade Commandants

six. We have heard the Counsel for the parties on the jurisdiction of the Tribunal. It is admitted ~~to~~ by the learned counsel for the applicant that under Section 2, the provisions of the Act are not applicable by virtue of Clause A^(a) to any member of the Naval, military or Airforce or any other armed forces of Union. It is, therefore, evident that if the applicant is the member of the armed force of the Union of India as notified by the Ministry of Defence in the notification dated 16th December, 1991 then this Tribunal will have no ~~jurisdiction~~ ^{jurisdiction} objection. In the explanation appended to that notification, it is mentioned that Armed forces of the Union includes Central Reserve Police Force. The learned counsel for the applicant urged that Commandant Selection Grade is not governed by the C.R.P.F Act and Rules. It is also urged that the applicant harboured wrong impression that C.R.P.F. Act and Rules applied to him by virtue of his appointment ~~in~~ in SSB. However, that impression was corrected after 24th July, 1992 i.e. after the applicant has already superannuated on 31 May, 1992. This contention of the applicant is not substantiated by record. Learned counsel referred to the counter affidavit filed on behalf of the Union of India in Civil Writ petition 416/ filed ~~by~~ before the Hon'ble Supreme Court on 19th May, 1992 where he prayed for the grant of number of reliefs including appointment as DIG (SSB) before coming to the Tribunal. The applicant had already filed writ petition in the Delhi High Court which was withdrawn on 25th March, 1992. He again filed writ petition in Delhi High Court on 12th May, 1992 which was also dismissed on

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19th May, 1992 as devoid of merit and also being barred by the principle of res judicata. It may be observed that the applicant has assailed his remedy before the Delhi High Court and not before the CAT, Principal Bench, obviously because C.R.P.F. is an Armed Force of the Union of India. So now the contention raised by the learned counsel for the applicant that the impression of the applicant was mistaken till 24th July, 1992, ~~it is only after that he went to raise an issue before the~~ ^{an thought if he want} Central Administrative Tribunal ~~which~~ should have been raised earlier before his retirement ^{and he raised the same before} before the Delhi High Court. It may also be observed in the Writ petition filed before the Hon'ble Supreme Court (Annexure A.2), the applicant has mentioned a fact that the superannuation on 31.05.92, he did not claim ^{the present} relief in the writ petition though he mentioned it as a fact.

Learned counsel for the respondents has relied on ~~the~~ ^{his} judgement in TA 15/85 CW-288/74 decided by the ,CAT Principal Bench, on 06.03.1986 (R-7). That writ petition was filed under Art.226 of the Constitution of India by a Constable in II.H.P SSB Battalion under the Directorate General of Security Dharampur, Simla Hills. In that transferred Application it was decided that the Tribunal has no jurisdiction because the applicant in that case belonged to the Armed forces of Union of India being a member of CRPF. The respondents have also relied on the judgement of O.A.208/86 decided on 24th April, 1986 by the Principal Bench, CAT in the case of Shri D.P. Nautiyal Vs Union of India where the petitioner was an Area

Organisor SE Podi and challanged the disciplinary proceedings initiated against him. It was held that the Tribunal had no jurisdiction as such the petitioner ~~in~~ of that case belonged to the Armed forces of Union of India, ^{It is} ~~also clear that he~~ ^{himself} then applicant himself allowed him to be recognised as a member of C.R.P.F. and during the course of arguments ~~it the~~ ^{he} raised the alternate plea ~~is also conceded~~ that so long he was holding the post of Commandant he was member of the CRPF but the moment he got upgradation to the post of Commandant (Selection Grade) w.e.f. 22.08.90 he ceased to be governed by CRPF Act of 1949 and the rules made thereunder in 1955 ^{and this} cannot be logically accepted. Thus, it is clear that the applicant is governed by the C.R.P.F. Act and Rules. His appoint ^{ment letter} later of 1968 and his subsequent promotion to various ranks under the C.R.P.F Act and even the benefit of upgradation on account of Cadre review of the C.R.P.F. Force clinches ^{the} issue that the applicant continuing till superannuation as member of C.R.P.F. and as such belong to an Armed Force of the Union of India. The Tribunal, therefore, has no jurisdiction.

We have made repeated quarry to the learned counsel for the applicant to highlight the fact as to under what rules, he is governed, if he is not governed by the provisions of C.R.P.F. Act, 1949 and the Rules framed thereunder in 1955. The learned counsel could not place any rule or instructions on this point also. The present application is, therefore, not maintainable being

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not within the jurisdiction of the Tribunal under Section 2(a) of the Central Administrative Tribunal, 1985, and may be returned to the applicant for presentation to the proper Court. ^{before} ~~forum of so desired~~ Cost on parties.

Gurusankaran
20/8/93

(S. Gurusankaran)

Member (A)

J. P. Sharma
20/8/93

(J. P. Sharma)

Member (J)

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