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CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

OA No.2661/93.

New Delhi, this the 22nd day of April, 1994.

SHRI J.P. SHARMA, MEMBER(J).

Om Prakash,
S/o Late Shri Gyan Chand,
r/o F-181, Shaheed Nagar (UP Border),
P.O. Chikambarpur,
Distt. Ghaziabad (U.P.)

...Applicant

By advocate : Shri D.S. Garg.

Versus

1. The Director General, Border Roads,
Kashmir House, D.H.Q. Post Office,
New Delhi-110011.

2. The Director,
National Crime Records Bureau,
Ministry of Home Affairs,
East Block 7, R.K.Puram,
New Delhi-110066.

...Respondents

By advocate : Shri E.X. Joseph.

O R D E R

The applicant was working as U.D.C. in the Directorate General of Border Roads, New Delhi and he was appointed as Cashier on deputation basis w.e.f. 31-7-89 in the National Crime Records Bureau, New Delhi. He was promoted to the post of Assistant w.e.f. 31-12-90. The applicant was placed under suspension on account of a departmental inquiry by the order dated 11-6-93. In the said inquiry, no final decision has been taken till the filing of this OA. The applicant has been repatriated to his parent office Directorate General of Border Roads, New Delhi, w.e.f. 19-10-93 by the borrowing organisation, National Crime Records Bureau. By the order dated 8-12-93, the applicant has been transferred as UDC to headquarter CS(P) to Udayak as per GREF posting order no.843 dated 12-11-93. The applicant has assailed the order dated 8-12-93 and the movement order dated 14-12-93 and

prayed that the said order be quashed.

2. A notice was issued to the respondents and respondent no.1 Directorate General of Border Roads has taken the stand that GREF is an integral part of armed forces and as per section 2(a) of the Administrative Tribunals Act, 1985, the provisions of the Act are not applicable on members of armed forces of the Union of India and as such the application is not maintainable as this court has no jurisdiction.

3. The applicant has also filed the rejoinder reiterating the facts stated in the application.

4. I heard the learned counsel for the parties at length and perused the records. The contention of the learned counsel for the applicant is that the applicant is holding a civilian post and his duties are purely civilian in nature, so the Tribunal has jurisdiction.

5. The Hon'ble Supreme Court considered the matter of civilian employees in GREF in the case of R.VISVAN VS. UNION OF INDIA reported in AIR 1983 SC p.658. The Constitutional Bench of the Hon'ble Supreme Court went into the question whether persons belonging to GREF can be treated as an armed force of the Union within the contemplation of Article 33 of the Constitution as to enable the Central Government by notification to bring them under the Army Act and the Army Rules. The Hon'ble Supreme Court was adjudicating the validity of notification restricting the Union and similar activies of a civilian non-combatants of the GREF under section 21 of the Army Act. The Hon'ble Supreme Court found from the history, composition and administration, etc., of the GREF that it is an integral part of the armed forces and is a force intended primarily to support the army in its operational requirements. Its original ^{lay} at the army headquarters and financial control is vested with the Ministry of Finance (Defence). They found that the person of GREF right from class IV to class I

have to be in uniform with distinguished badges or rank and they have a rank structure equivalent to that of the army. The funds which are provided to them are meant exclusively for carrying out works entrusted by General Staff, Army Headquarters. The GREF units consisting of the Border Road Task Force are placed under the control of the Army during emergencies when the entire control of this post is entrusted to the Chief of the Army Staff. Even during peace time, the Chief of Army Staff exercises control over the discipline of GREF unit through the applicability of the provisions of the Army Act, 1950. It is also stipulated in their conditions that the directly recruited personnel would have to wear the prescribed uniform while on duty and they would be subject to the provisions of the Army Act and Army Rules for the purposes of discipline. The Hon'ble Supreme Court repelled the contention that the GREF is a civilian construction force and the members of GREF are civilian employees under the administrative control of Border Road Development Board and held that they are still members of the armed forces in view of the notifications issued under the various provisions of the Army Act. Thus, the mere fact that they are non-combatant civilians governed by the Central Civil Service (CCA) Rules, 1965 cannot make any difference. In view of the direct decision of the Hon'ble Supreme Court on this point, no reliance can be placed on the decision of CAT in the case of A.P.SINGH vs. UNION OF INDIA reported in 1991 (1) SLJ CAT p.137 and on the case of KUNJUKRISHAN PILLAY Vs. UNION OF INDIA reported in 1986(3) SLJ CAT p.145. The contention of the learned counsel for the respondents, therefore, is duly supported by the authority of the Hon'ble Supreme Court and in view of this fact, it is held that the Tribunal has no jurisdiction. The application is, therefore, disposed of as non-maintainable with liberty to the applicant to assail his grievance in the competent court.

J.P.Sharma

(J.P.SHARMA)
MEMBER(J)

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