

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O. A. NO. 945/93

New Delhi this the 18th day of February, 1994

CORAM :

THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

Shri T. Robinson S/O Shri
N. Robinson, R/O C-72,
Inderpuri, New Delhi-110012.
Retired Senior Lecturer/
Instructor from the Institute of
Hotel Management, Catering and
Nutrition, Pusa,
New Delhi.

... Applicant

By Advocate Shri S. P. Singla

Versus

1. Union of India through
Secretary,
Ministry of Tourism,
Govt. of India,
Transport Bhawan,
Sansad Marg, New Delhi.
2. The Principal,
Institute of Hotel Management,
Catering and Nutrition, Pusa,
New Delhi - 110012.
3. The Administrative Officer,
Institute of Hotel Management,
Catering and Nutrition, Pusa,
New Delhi.

By Advocate Shri Jagat Arora

O R D E R

Shri T. Robinson, retired Senior Lecturer,
Institute of Hotel Management, Catering and Nutrition
(for short IHMCN), Pusa, New Delhi initially filed
this application praying for grant of pensionary
benefits for which he had opted before his retirement.

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2. In the O.A. the applicant has claimed that all the financial activities of the said Institute were controlled and granted by the Central Government as it came directly under the Ministry of Tourism, Government of India. Before his retirement on 31.3.1989 he had requested the authorities to grant him pension in lieu of the contributory provident fund as per Annexure A-I. He states that he was informed by the authorities that the decision to introduce pension scheme was under consideration and hence, action would be taken as soon as a final decision was taken in the matter, as per Annexure A-II. He again requested the authorities to grant him pension for which he had opted prior to his retirement as per Annexure A-III, but was informed by the authorities on 27.4.1992 that his request could not be acceded to as the decision regarding implementation of pension scheme took effect from 31.3.1991 whereas admittedly the applicant had retired on 31.3.1989 itself.

3. The respondents in their counter affidavit have challenged the contents of the O.A., not only on grounds of limitation but also on the ground that the IHNCN was a Society registered under the Registration of Societies Act, 1860 and no notification bringing the Society in question under the jurisdiction of the Tribunal under Section 14 of the Administrative Tribunals Act, 1985 had been issued and hence, the Tribunal has no jurisdiction to entertain this application. It has been emphasised that the applicant

retired from service on 31.3.1989 and was paid all his retirement dues including the gratuity, provident fund, leave encashment, etc. amounting to Rs.2,69,225/-. The Board of Directors of the said Institute resolved on 10.2.1992 to adopt the GPF-Pension-Gratuity scheme effective from 1.4.1991, but as the applicant was not in employment of the Institute on 1.4.1991, he was not eligible to exercise the option.

4. Thereupon, the applicant filed M.P. No.2837/93 praying for amendment of the O.A. Together with the said M.P., a copy of the amended O.A. was also filed. Reference was made to Ministry of Tourism's letter No. 1(21)29 HMC dated 1.1.1992 along with the draft scheme regarding GPF-Pension-Gratuity. In the amended O.A. also it was emphasised that the IHMCN is functioning under the direct control of the Ministry of Tourism, Government of India; its budget is approved by the Government of India, and all policy matters and important administrative decisions are taken under the authority and directions of the Ministry of Tourism. It has also been urged that as the Institute is adopting all service rules and regulations of the Central Government, this Tribunal would be an appropriate forum where the grievance of the staff of the Institute are heard. It has further been urged that the denial of pension to the applicant merely because he retired prior to 1.4.1991, by classifying the pensioners into two groups on the basis of a date is arbitrary and violative of Articles 14 and 16 of the Constitution as declared by the Hon'ble Supreme Court in D. S. Nakara's case.

(3)

5. Respondents 2 and 3 have contested the amendment sought to be made and claimed that it completely changes the nature of the case which is founded on an entirely new case of action, and therefore, if the applicant seeks to press the amendment, there ought to be a separate O.A. It has again been reiterated that the Central Government has not notified the IHMCN under Section 14 of the Administrative Tribunals Act, 1985 to bring it within the jurisdiction of the Central Administrative Tribunal.

6. I have heard Shri S. P. Singla, learned counsel for the applicant and Shri Jagat Arora, learned counsel for the respondents.

7. Admittedly, the applicant was employed in the IHMCN and retired from that Institute on 31.3.1989. The applicant has not denied the fact that the IHMCN is a Society registered under the Registration of Societies Act, with its own Board of Governors. That being the position, this Tribunal can exercise jurisdiction in the matter only if the IHMCN is covered by a notification under Section 14 of the Administrative Tribunals Act, but the applicant has failed to produce any such notification.

8. In Bal Krishna & Ors. vs. Kendriya Vidyalaya Sangathan & Ors. reported in 1987 (3) SIR 819, it has been held that jurisdiction in respect of the Authorities, Corporations or Societies owned or controlled by the Government of India would vest in the Central Administrative Tribunal under Section

14(2) only when a notification contemplated by that section is issued by the Central Government. Such a notification not having been issued, this Tribunal cannot entertain the grievances of the employees of the Kendriya Vidyalaya Sangathan which although owned and controlled by the Government of India is an autonomous body registered under the Societies Registration Act. Similarly, in Om Prakash Puri vs. University Grants Commission reported in 1987 (3) SLR 841, it was held that the University Grants Commission is a body which may be termed as an instrumentality of the State or a body under the control of the Central Government, but as the employees of the Commission were not employees of the Central Government nor did they hold any post under the Union, the Tribunal could not entertain the grievance of the employees of the University Grants Commission.

9. Shri Singla, learned counsel for the applicant relied on the ruling in Vikram Singh vs. Union of India & Ors. reported in 1991 (17) ATC 294. In that case the applicant, Vikram Singh, was an employee of the Indian Railway Conference Association, but the fact that the said Association was not an organisation independent of the Railway administration was not disputed. In the present case, however, the applicant's claim that the IHMCN is an organisation not independent of the Ministry of Tourism is stoutly contested, and, therefore, Vikram Singh's case is of no help to the applicant. Learned counsel for the applicant has also relied on the case of Shridhar Bapurao Chirdo vs. Union of India & Ors., wherein the term 'person aggrieved'

referred to in the Administrative Tribunal Act has been interpreted to mean that a person who has relinquished Indian citizenship can also apply to the Tribunal in regard to a service matter, and has not been restricted to mean Indian citizen only. However, this ruling is of no relevance in the present case, as the applicant has failed to show any material to establish that the notification contemplated under Section 14(2) of the Administrative Tribunals Act to bring the IHMCN within the jurisdiction of the Tribunal has been issued.

10. Shri Singla has also drawn attention to the Judgment of Principal Bench of the Tribunal dated 26.2.1993 in O.A. No. 3190/92 - Mrs. Archana Saxena vs. Union of India & Ors. In that case, the applicant, Mrs. Archana Saxena, was working as an Assistant Lecturer in the IHMCN, and after hearing both parties, a direction was issued that the Union of India should dispose of the applicant's representation within specified period. However, in that case also respondent No.2 (IHMCN) had raised a preliminary objection regarding the jurisdiction of the Tribunal so far as the IHMCN was concerned, and in its judgment dated 26.2.1993, the Tribunal specifically stated that it was not entering into the issue of jurisdiction so far as the respondent No.2 was concerned.

11. In the result, O.A. No. 945/93 seeking a direction from the Tribunal to the Institute of Hotel Management, Catering & Nutrition (IHMCN) to grant the applicant pensionary benefits from the date of his retirement

is dismissed for lack of jurisdiction, and for that reason, M.P. No. 2837/93 seeking to amend the O.A. also fails.

No costs.

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(S. R. Adige)
Member (A)

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Date	Office Report	Orders
		<p><u>16.3.94</u> O.A.No.945/93. The name 'Shri S.P.Singha' may be substituted for the name 'Shri S.P.Singla' wherever it occurs in order dated 18.2.94 in O.A.945/93 'Shri T.Robinson Vs. Union of India & others'.</p> <p><i>Adige</i> (S.R.ADIGE) MEMBER(A)</p>