



**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

Hearing by Video Conferencing

O.A. No.170/00853/2019

Order pronounced on:29.6.2021
(Order reserved on: 9.4.2021)

CORAM: HON'BLE SHRI SURESH KUMAR MONGA, MEMBER (J)
(On Video Conference from Central Administrative Tribunal,
Chandigarh Bench, Chandigarh).
HON'BLE SHRI RAKESH KUMAR GUPTA MEMBER (A)
(On Video Conference from his residence at Bangalore)

Shri K.S.Rao aged 62 years, S/o Late Rajagopala Rao, Deputy
Secretary (Retd), IWAI, Ministry of Shipping, GOI.

Permanent resident of
E4/303, Provident Welworth City,
Doddaballapura Road,
Marasandra, Doddatumkur Post,
Bangalore-562163.

....Applicant

(By: **Ms. Hema Kariyappa**, Advocate)

Versus

1. The Secretary, Dept. Of Personnel & Training, Ministry of
Personnel, Pensioners & Pensioners Welfare North Block,
New Delhi-110001.
2. The Secretary, Ministry of Shipping, Government of India,
Transport Bhawan, New Delhi-110001.
3. The Chairman, Inland Waterways Authority of India, Ministry
of Shipping, Govt. of India, A-13, Sector-1, Noida-201301
Uttar Pradesh.

... .Respondents

(By: **Mr. S. Sugumaran**)

ORDER

Per: SURESH KUMAR MONGA, MEMBER (J)

1. An order dated 20th July, 2015 was issued by the Inland
Waterways Authority of India (hereinafter called as the
"Respondent Authority"), which led the applicant to invoke



the jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 (for short "Act No.13 of 1985").

2. A perusal of the order dated 25th July, 2015 reveals that pursuant to observations made by the Internal Audit Party, the Respondent Authority proceeded to re-fix the applicant's pay in supersession of all previous orders on stepping-up of pay/fixation of pay and grant of increments w.e.f. 25.2.1993 onwards.
3. On Notice, the Respondents filed a short reply disputing the jurisdiction of this Tribunal to entertain the present Original Application stating therein that the Respondent Authority is an autonomous body which has not been notified under Section 14 (2) of the 'Act No.13 of 1985'. A prayer for dismissal of the Original Application has, thus, been made for want of jurisdiction.
4. The applicant by way of filing rejoinder to short reply, apart from reiterating the facts narrated in the Original Application, has further stated that the Ministry of Surface Transport was a branch of the Government of India. It was the apex body for the formulation and administration of the policies, rules, regulations and laws relating to surface transport in India. The Department of Surface Transport, within the Ministry of Transport, was renamed as the Ministry of Surface Transport



with effect from 22.10.1986. The next development was that this Ministry was reorganized into the Department of Shipping and the Department of Road Transport and Highways on 15.10.1991. The ministry was bifurcated into the Ministry of Shipping and the Ministry of Road Transport and Highways, with effect from 17.11.2000. It is the contention of the applicant that basically respondents No.2 and 3 are under the Ministry of Surface Transport, which has undergone changes in its nomenclature over the years.

5. It has further been averred that the Ministry of Surface Transport has figured at Sr. No. 36 of the list of organizations under the jurisdiction of this Tribunal. The Respondent Authority is a statutory body created by an independent Act of Parliament viz. The Inland Waterways Authority of India Act, 1985, (for short "Act No.82 of 1985"), unlike corporations and local bodies / authorities / societies which are created under the Umbrella Acts such as Companies Act 1956, Societies Act, 1860 and some other executive orders. Section 11 of the Act No.82 of 1985 denotes the transfer of assets and liabilities of the Central Government for the purposes of inland water transport. The Inland Water Transport Directorate in the Ministry of Surface Transport, having a Director's office in Patna and Allahabad, by virtue of part of the Ministry of Surface Transport was under the



jurisdiction of this Tribunal. The applicant has thus reiterated that this Tribunal has the jurisdiction to entertain the present Original Application.

6. We have considered the rival contentions raised on behalf of the parties on the issue of maintainability of the Original Application.
7. By virtue of Article 46 of the Constitution (Forty-Second Amendment) Act, 1976, Part-XIVA was incorporated in the Indian Constitution which also included Article 323-A for establishing the Administrative Tribunals. As per the provisions of Article 323-A of the Indian Constitution, Parliament may, by law, provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts 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 owned or controlled by the Government. Clause (2) sub-clause (b) of the said Article further makes a provision that the law enacted by the Parliament shall specify the jurisdiction, powers and authority which may be exercised by the Tribunals so established. The Indian Parliament while enacting the Act No.13 of 1985 in terms of Article 323-A of



the Constitution of India, while keeping in view the provisions of Clause 2 sub-clause (b) of the said Article has incorporated Section 14 (2) and (3) in the said Act stipulating therein that 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.

8. Section 14(1) of the Act No.13 of 1985 has explicitly enumerated the jurisdiction, powers and authority of this Tribunal in relation to recruitment, and matters concerning recruitment to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post filled by the civilian in the defence services and all service matters concerning a member of any All-India Services etc.
9. There is no dispute with regard to the fact that the case in hand does not fall in any of the categories of services enumerated in Section 14 (1) of the Act No.13 of 1985.
10. Section 14 (3) of the Act No.13 of 1985 further makes a provision that this Tribunal shall also exercise its jurisdiction to any local or other authority or corporation or society. However, in terms of Section 14 (2), a notification is required to be issued by the Central Government specifying



therein the names of the local or other authorities under the control of the Government of India and the Corporations or Societies owned or controlled by Government as referred to in Section 14 (3) of the said Act.

11. So far as the Respondent Authority is concerned, it is a creation of the Act No. 82 of 1985. The said Act was enacted by the Indian Parliament to provide for the constitution of an Authority for the regulation and development of inland waterways for the purposes of shipping and navigation and for matters connected therewith or incidental thereto. There is no dispute with regard to the fact that the Respondent Authority has been incorporated and established under the provisions of Section 3 of the Act No. 82 of 1985. It is a body Corporate by the name of Inland Waterways Authority of India, having its perpetual succession and a common seal with power to acquire, hold and dispose of the properties both movable and immovable and to contract and can also sue and be sued by the said name. It is an autonomous body.

12. In our considered view, unless and until name of the Respondent Authority is included in the list, notified by the Central Government under section 14 (2) of the Act No.13 of 1985, this Tribunal cannot entertain an Original Application against it. Undisputedly, uptill now the name of Respondent



Authority has not been included in the said list notified under Section 14 (2) of the Act No.13 of 1985.

13. In the conspectus of discussions made hereinabove, we hold that this Tribunal does not have the power, authority or jurisdiction to adjudicate upon the mater brought against the Respondent Authority and, therefore the Original Application is liable to be returned to the applicant enabling him to present the same before the competent forum having jurisdiction over the matter.

14. Accordingly, the Registry is directed to return the Original Application to the applicant enabling him to present the same before the competent forum having jurisdiction over the matter.

(RAKESH KUMAR GUPTA)
MEMBER (A)

(SURESH KUMAR MONGA)
MEMBER (J)

HC*