

(Reserved on 18.09.2020)

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW**

Dated : This the 15th day of October 2020

Original Application No. 332/00150/2020

Hon'ble Justice Mrs. Vijay Lakshmi, Member (J)
Hon'ble Mr. A. Mukhopadhyay, Member (A)

S. Sunanda, aged about 50 years, W/o Shri P.S. Jaya Shankar, R/o D-4/2, IGRUA Colony, Fursatganj Airfield, Amethi – 229 302 (U.P).

By Adv : Anupam Verma . . . Applicant

V E R S U S

1. Chairman, Indira Gandhi Rashtriya Uran Akademi, IGRUA Governing Council, B-Block, Rajiv Gandhi Bhawan, Safdarjung Airport, New Delhi – 110003.
2. The Secretary, Ministry of Civil Aviation, Rajiv Gandhi Bhawan, Safdarjung Airport, New Delhi- 110 003.
3. Director, Indira Gandhi Rashtriya Uran Akademi, Fursatganj Airfield, Amethi-229302.
4. Shri C.P. Randev, Purported Manager, HR, Indira Gandhi Rashtriya Uran Akademi, Fursatganj Airfield, Amethi – 229302..

... Respondents

5. Secretary, Department of Personnel & Training, North Block, Central Secretariat, New Delhi – 110001.

.....Proforma Respondents

By Adv: Shri Yogesh Chandra Bhatt

ORDER

By Hon'ble Justice Mrs. Vijay Lakshmi, Member (J)

We have joined this Division Bench online through Video Conferencing facility.

2. The applicant is aggrieved due to the reason that in OA No. 485/2018, filed by her (which has been decided vide order dated 25.02.2020), the counter affidavit was allegedly filed by an unauthorised person, who is holding an unapproved / non-existent post of Manager, HR, at Indira Gandhi Rashtriya Uran Akademy (in short IGRUA), Fursatganj, Amethi, because according to the Instruments of Delegation of Administrative and Financial Powers, Manager, HR, has no authority to represent the organization in any legal matter of IGRUA. The further contention of the learned counsel for the applicant is that even no authorization letter to file counter affidavit has been annexed by the deponent namely Shri C.P. Randev, who had filed counter affidavit in the aforesaid OA No. 485/2018.

3. We have heard Shri Anupam Verma, learned counsel for the applicant and Shri Yogesh Chandra Bhatt, learned counsel for the respondents online through video conferencing and perused the record available with us in pdf. form.



4. At the very outset, learned counsel for the respondents raised a preliminary objection regarding the jurisdiction of the Tribunal by contending that by virtue of Section 14 of Administrative Tribunals Act, the Central Administrative Tribunal has been authorised to entertain only "all service matters" pertaining to "All India and other services under the Union Government" whereas the controversy involved in the present OA does not come in the category of "service matters". The contention of learned counsel for the respondents is that filing of a counter affidavit by an allegedly unauthorised person in some case / OA, cannot be termed as a dispute related to service matters. In this regard, our attention has been drawn to the Preamble of the Administrative Tribunals Act 1985 as well as the definition of "service matter" provided in Section 3(q) of Administrative Tribunals Act, 1985.

The Preamble of the Act is as follows: -

"An Act to 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....."

Section 3(q) of Administrative Tribunals Act, 1985, provides as follows: -

"3....(q) "service matters", in relation to a person, means all matters relating to the conditions of his service 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, as the case may be, of any corporation [or society] owned or controlled by the Government, as respects-

- (i) remuneration (including allowances), pension and other retirement benefits;
- (ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;
- (iii) leave of any kind;
- (iv) disciplinary matters; or
- (v) any other matter whatsoever.

5. Learned counsel for the respondents contended that in view of the above, by no stretch of imagination it can be said that the controversy involved in the present OA, i.e. filing of affidavit by a person in some other case, without annexing an authorisation letter, is a service matter. It is further contended by learned counsel for the respondents that the case of the applicant does not come even in sub clause (v) of clause (q) of Section 3 of Administrative Tribunal Act, due to applicability of the principle of '*eius dem generis*'.

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6. In reply to this preliminary objection, raised by the learned counsel for the respondents, the applicant's counsel failed to give any satisfactory answer and he continued to argue on the same issues which have already been decided by this Tribunal vide order dated 25.02.2020 passed in OA No. 485/2018.

7. We have considered the arguments advanced by learned counsel for parties while hearing on admission of the instant OA.

8. It is noteworthy that OA No. 485/2018, in which the counter affidavit is said to have been filed by an unauthorized person, which is the controversy involved in the instant OA, has been dismissed vide judgment dated 25.02.2020 by this Tribunal. Thereafter, the Review Application against this order has also been dismissed vide order dated 21st July 2020 with a clear observation that "review is not an avenue or forum for further hearing, much less on merits." Thus, the OA in which the counter affidavit had been filed by Shri C.P. Randev, who, according to the applicant, was not authorised to file counter affidavit, has already been decided. Therefore, in our view, the challenge to the legality of filing of counter affidavit in an earlier decided OA by means of fresh OA, is not tenable. Moreover, filing of a counter affidavit by an



allegedly unauthorized person, in itself, is certainly not a "service matter". It may be a civil wrong or a criminal offence, whatsoever, but it is not covered by the definition of "service matter", as provided under Section 3(q) of Administrative Tribunals Act, 1985, as quoted above.

9. It is true that Section 3(q) of the Act ends with sub clause (v) with the words 'any other matter whatsoever' but, according to rules of construction, this should be interpreted in accordance with the doctrine of '*eius dem generis*'.

10. '*Eius dem generis*' is a Latin term and a familiar rule of construction, which means "of the same kind". The rule says that when a law provides a list of classes of persons or things or situations, ending with the words "any other matter or any other person", those words should be interpreted as being "of the same kind". Thus, the concept of '*eius dem generis*' is used to clarify such lists.

11. Hon'ble Supreme Court in the case of **M/s Sidheshwari Cotton Mills (P) Vs. Union of India and another – (1989) 2 SCC 458** has observed as under: –

"The principle underlying this approach to statutory construction is that the subsequent general words were only intended to guard against some accidental omission in the objects of the kind mentioned earlier and were not intended to extent to objects of a wholly different kind."

12. In view of the aforesaid interpretation, we are of the firm view that the present matter is not a service matter and thus does not fall within the jurisdiction of this Tribunal. Therefore, the instant OA being not maintainable is liable to be dismissed at the admission stage itself.
13. Accordingly, the OA is dismissed at the admission stage itself.

(A. Mukhopadhyaya)
Member (A)
Anand...

(Justice Vijay Lakshmi)
Member (J)