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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No.134 of 1986

Daya Ram Applicant

Versus

Commandant R.P.S.F. & Another... Respondents

Hon.S.Zaheer Hasan, V.C.
Hon. Ajay Johri, A.M.

(By Hon.Ajay Johri, A.M.)

This is a petition under Section 19 of the Administrative Tribunals Act XIII of 1985. The petitioner Daya Ram was working as Rakshak in the 5 BN. RPSF, Trichirapalli. By an order dated 5.2.1980 he was dismissed from service. He was placed under suspension for an occurrence that took place in the Janta Express on 4.1.1980. Thereafter he was arrested on 9.1.1980. He has challenged the order of dismissal on the ground that no charges were framed nor any chargesheet was served on him; that he had been released on bail and therefore an enquiry could be held but the same was not held and ultimately he was acquitted honorably in the Criminal Court. He has therefore sought relief for declaration that the impugned order of dismissal was illegal, arbitrary and malafide and that the petitioner is still continuing on his post with

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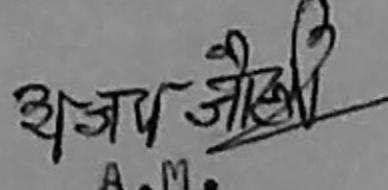
all the benefits of his service including his arrears of pay.

2. The Railway Protection Force has been declared armed forces of the Union of India on 20th September, 1985. Section 2(a) of the Administrative Tribunals Act XIII of 1985 lays down that the provisions of this Act shall not apply to any Member of the Naval, Military or Air Force or of any other armed forces of the Union. The Railway Protection Force having been declared an armed forces of the Union of India, this Tribunal has no jurisdiction over the Railway Protection Force and its employees.

3. It was contended by the learned counsel for the petitioner that the Administrative Tribunals Act XIII of 1985 has no retrospective effect and the said Act came into force from the appointed date i.e. 18.9.1985 while the Central Notification in regard to Railway Protection Force was made on 20.9.1985 and prior to this date all the employees of the Railway Protection Force were not members of the forces and because the dismissal order was passed on 5.2.80 and the appeal was dismissed on 9.11.1983 the amending Act of 1985 does not preclude the Tribunal hearing this application under Section 19 of the Administrative Tribunals Act XIII of 1985 and therefore the petition is maintainable.

4. The petitioner has asked for a relief for quashing of the order of dismissal and for issue of a direction that he be considered as continuing in the Railway Protection Force. It would have been a different matter if a person would have retired or severed his connection with the Railway Protection Force prior to the coming into force of the notification declaring Railway Protection Force as an armed force of the Union of India in which case he could agitate his matter in regard to his settlement dues or retirement benefits which were not given to him as due. But if the relief asked for by the petitioner is that he be restored to the position of a Rakshak by quashing the order of dismissal and he be considered to/continuing in service, the relief would very much touch the very basis of the notification which has declared the Railway Protection Force as armed forces of the Union of India. The petitioner will then stand to be a Member of the armed forces and this Tribunal has no jurisdiction to consider cases of members of the armed forces. Therefore the contention of the learned counsel for the petitioner that the petition is maintainable cannot be accepted.

4. In the result this petition is dismissed on the short point that the same is not maintainable in this Tribunal and the petitioner has to agitate his case in the proper forum. Under the circumstances, there are no orders as to costs.


A.M.

DT: 24 April, 1987.
V.C.
RKM