

Central Administrative Tribunal, Allahabad.

Registration O.A.No.196 of 1986

Mahesh Chandra Saxena Applicant

Vs.

Union of India & another Respondents.

Hon. D.S.Misra, AM
Hon. G.S.Sharma, JM

(By Hon. G.S.Sharma, JM)

The applicant, an employee of the Central Council for Research in Ayurvedha and Siddha (in short CCRAS), New Delhi, which is undisputedly a Society, has filed this application under Section 19 of the Administrative Tribunals Act XIII of 1985 (hereinafter referred to as the Act) for certain reliefs in his departmental matters. As this Bench entertained certain doubts about the maintainability of the application, a show cause notice was issued to the respondents. Appearance was put in on their behalf and it was contended that an employee of a Society cannot maintain an application under Section 19 of the Act unless a notification under Section 14(2) of the said Act is issued.

2. The contention of the applicant is that in this case, the CCRAS is a Society owned and controlled by the Government of India and it is covered ^{under} by subsection 14(1) of the Act and the employees of this Society can approach the Tribunal without any such notification. It was also contended on his behalf

that this Society falls within the definition of 'Authority' and 'State' within the meaning of Article 12 of the Constitution and its employees can approach this Tribunal as the employees of the Government of India. To appreciate this argument, it will be necessary to reproduce Section 14 of the Act here :-

14.

"14. Jurisdiction, powers and authority of the Central Administrative Tribunal-
(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court in relation to -

(a) 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 connected with defence or in the defence services, being, in either case a post filled by a civilian;

(b) all service matters concerning-

(i) a member of any All India Service;
or

(ii) a person not being a member of an All India Service or a person referred to in clause (c) appointed to any civil service of the Union or any civil post under the Union;
or

(iii) a civilian not being a member of an All India Service or a person referred to in clause (c) appointed to any defence service or a post connected with defence,

and pertaining to the service of such member, person or civilian, 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 or Society owned or controlled by the Government ;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to

3.

in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation or Society or other body, at the disposal of the Central Government for such appointment.

(2) 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 Government, not being a local or other authority or corporation or society controlled or owned by a State Government :

Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this Sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations or Societies.

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation, all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court) in relation to -

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation or society; and

(b) all service matters concerning a person other than a person referred to in clause (a) or clause (b) of sub-section (1) appointed to any service or post in connection with the affairs of such local or other authority or corporation or society and pertaining to the service of such person in connection with such affairs.

3. A careful perusal of Section 14 of the Act will show that this Section contemplates ~~three~~ ^{two} different types of Societies and their employees are to be dealt with in ^{some} different ways according to this Section as discussed below. Clause (b) of Section 14(1) of the Act covers such Societies which are owned or controlled by the Government of India and ~~such~~ all service matters concerning such members of any All India Service or such persons appointed to any civil service of the Union or any civil post under the Union or such civilians appointed to any defence service or a post connected with defence in connection with the affairs of such Societies will fall within the jurisdiction of the Central Administrative Tribunal without any notification under sub-section (2) of Section 14. Clause (c) of Section 14(1) covers the service matters of such persons who are the employees of any Society, not necessarily a Society owned or controlled by the Government, and are placed by the said Society at the disposal of the Central Government for ^{any} ~~such~~ appointment and we are of the view that even ~~xxx~~ ~~the~~ such employees of a Society can approach the Tribunal without any separate notification under sub-section (2) or sub-section (3).

4. Sub-section (2) of Section 14 covers the employees of such Society which is owned or controlled by the Government while sub-section (3) covers the employees of such Society, which is neither owned nor controlled by the Government. The contention

42/6 (10)
5.

of the applicant is that he is an employee of a Society which is owned and controlled by the Government of India and in support of this contention, the various provisions of Memorandum of Association of Central Council for Research in Ayurvedha and Siddha were brought to our notice. As we are of the view that even if this contention of the applicant is taken to be correct, it is not going to help him, we presume for the purpose of this case that the applicant is an employee of ^a the Society which is owned and controlled by the Government of India. In our opinion, the employees of such societies will be governed by sub-section (2) of Section 14 and unless a notification contemplated by that Section is issued, the Central Administrative Tribunal will not have the jurisdiction to entertain the cases pertaining to their service matters. It is not correct to say that the cases of such Societies are covered under clause (b) of Section 14(1). Thus, two separate notices for bringing the employees of the Societies owned and controlled by the Government of India and other Societies within the jurisdiction of the Central Administrative Tribunal are to be issued under sub-section (2) and (3) of Section 14. It is immaterial whether the case of the applicant falls under sub-section (2) or sub-section (3) as in both the cases, a notification is necessary.

5. We also do not find any force in the contention of the applicant that he is an employee of an 'authority' or 'State' contemplated by Art.12 of the Constitution

7

11

.6.

as for filing an application under Section 19 of the Act, his case should be covered under the provisions of this Act.

6. In view of the above considerations, we have no jurisdiction to entertain this application in the absence of a notification and as this application in the present form cannot be presented in any other Court of competent jurisdiction, it cannot be returned and has to be dismissed for want of jurisdiction.

7. The application is accordingly dismissed for want of jurisdiction at the admission stage.

[Signature]
29.4.87
.4.1987
MEMBER (A)

[Signature]
29.4.1987
MEMBER (J)

Dated 29.4.1987
kkb