

5

(A4)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No.1112 of 1988

Mukesh Sharma & Others Applicants

Versus

Union of India and Others Respondents.

Connected with

Registration O.A. No.1257 of 1988

Kali Charan Applicant

Versus

Union of India Respondent

Hon. Mr. K.Obayya, A.M.

Hon. Mr. J.P.Sharma, J.M.

(By Hon. Mr. J.P. Sharma, J.M.)

Both the above original applications almost concern the same respondents and the relief claimed against them is also the same, so, both are taken together, heard together and disposed of by a common judgement.

2. The facts are that Mukesh Sharma and Om Prakash in O.A. No.1112 of 1988, impleading besides Union of India, Central Board for the Prevention and Control of Water Pollution, by which the employment given to the applicants was ceased.

3. The applicants claimed the relief for quashing the order dated 28.8.88 (Annexures 1 & 2).

4. In O.A. No.1257, the applicant Kali Charan moved a similar application under Section 19 of the Tribunals Administrative Act, 1985 for the similar relief where the

1

order dated 28.8.88 (Annexure-3) is desired to be quashed.

5. The facts are that Mukesh Sharma and Om Prakash and Kali Charan are said to have been appointed in the National Environmental Engineer Research Institute, Agra, on contractual basis. However, on perusal of the original letter of appointment filed at the time of argument dated 20/24.3.87 shows that applicants were appointed for one year to do certain acts of cleaning glasses and to keep a watch on the instruments and to collect certain samples for 8 hours as per schedule and will work in Agra Vayu Gunvatta Prabodhan Pariyojana on fixed salary of Rs.700/- per month. These appointment letters are typed on the printed writing pad of Central Board for the Prevention and Control Board Water Pollution. As per terms of contract the services of the applicant were ceased w.e.f. 28.8.88 and also on account of the fact that the work was handed over to Uttar Pradesh Pollution Control Board by the Central Board for Prevention and Control of Water Pollution.

6. The applicants have taken certain pleas in their applications, numbered above, for assailing the impugned order of alleged termination. The notices were issued to the respondents and for respondents 1 and 2 a short reply has been filed in which the jurisdiction of this tribunal for entertaining the application is challenged. A rejoinder to the objection of the respondents has already been filed by the applicant in both the applications.

7. We have heard the learned counsel at length, and perused the record. The jurisdiction of the Tribunal is specifically laid down under Section 14 of the Administrative Tribunals Act, 1985 which is reproduced below :-

" 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 services 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 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.
- (Explanation -- For the removal of doubts, it is hereby declared that references to "Union" in this sub-section shall be construed as including references also to a Union territory).

(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 ~~dx~~ 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 (or society), 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. "

- 5 -

8. Under Section 14(1) Sub Clauses (a), (b) and (c) there is an exclusion of jurisdiction for such Central Government employees who are in the Armed Forces of India but includes a civilian appointed in Defence Services and all service matters pertaining to service in connection with the affairs of the Union of India are included. Under Sub Clause (2) the Central Government has been empowered to confer the jurisdiction on the Tribunal by issuing a notification regarding local or other authorities within India or under the control of Government of India including Corporations or Societies, not being local or other authorities or corporation or society controlled or owned by the State Government.

9. The contention of the learned counsel for the applicant is that Section 14(2) of Administrative Tribunals Act, 1985 is the violative of Article 14 of the Constitution of India, inasmuch as, it discriminates in giving the jurisdiction to the Tribunal on certain categories of Central Government employees and at the same time excluding other such employees, similarly situated. However, the actual implication is not, as has been submitted by the learned counsel for the applicants. There are still various Acts which apply to particular persons situate in a specific situation and validity of those Acts have been upheld times and again by the Hon'ble Supreme Court. Even in Sampat Kumar's case AIR 1987 SC, the Administrative Tribunals Act, 1985 was held to be a valid legislation. The question is that a person who is not covered under Section 14 (1) (2) must also have a judicial forum for

- 6 -

redress of his grievances and sub section (3) specifically lays down that only in the cases enumerated in Section 14(1) and (2), the Tribunal will have exclusive jurisdiction which was being exercised by other Courts. The equality clause or equal protection clause as argued by the learned counsel for applicants does not in any way come in picture in the present case. Firstly, the learned counsel for the applicants has not taken this plea in the application itself; secondly, there are no grounds on which the learned counsel wants to struck down sub clause (2) of Section 14 and merely arguing that sub clause (2) of Section 14 is violative of Article 14 of the Constitution inasmuch as it does not cover the categories of employees belonging to such forums or bodies which are solely financed by Union of India, will not entitle for granting this relief of ultravires of the Constitution.

10. In fact the Parliament has left the matter to the Central Government, seeing the necessity and exigency of the matter, to issue notification for application of the Act to the particular authority or other categories of employees. Thus no case is made out that Section 14(2) of the Administrative Tribunals Act, 1985 is violative of Article 14 of the Constitution.

11. The learned counsel for the applicant further argued that since the applicants were employed by the National Engineers Research Institute in the affairs of Taj Mahal of Agra and later on the same work was taken up by Central Board for the Prevention and Control of Water Pollution, by an organisation of Union of India,

Je

so as the matter concerns the affairs in the service of Union of India, so the Tribunal has jurisdiction. It is said that the said Board is the creation of statute Act 6 of 1974. By Sections 3 and 4, the Central Boards and State Boards have been created. We have gone through the arguments of the learned counsel in detail and also perused the relevant law relied by the learned counsel for the applicant reported in Himachal Pradesh Tourism Development Corporation Vs. Union of India Vol. VI A.T.C. 1988 Page 898 and 1986 Vol. I A.T.C. P.541 Indian Tourism Development Corporation case _____

In fact the emphasis in Section 14(2) on the authority as the words are, "the Central Government may, by notification apply... provisions of Sub Section (3) to local or other authorities within territory of India....." Here the word, 'other authorities' clearly means those statutory bodies who have got their independent existence though have a supervision of the Central Govt. (Union of India). The notification issued from time to time are mentioned in the Schedule given below, shows that such statutory body who are notified only can come within the purview of the Tribunal.

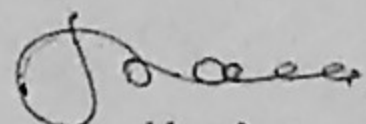
SCHEDULE

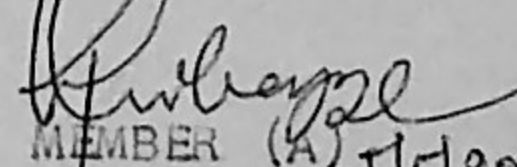
Sl. No.	Name of the Corpn/Society/Other Authority	
1.	Central Board of Trustees constituted under the Employees' Provident Funds & Misc. Provisions Act, 1952.	Statutory Body
2.	Employees' State Insurance Corpn.	Corporation
3.	Central Board for Workers' Education	Regd. Society.
4.	National Labour Institute	Regd. Society.
5.	National Council of Safety in Mines, Dhanbad.	Regd. Society.
6.	Council of Scientific & Industrial Research.	Society
7.	Central Social Welfare Board	An authority controlled by Govt.

12. The learned counsel further argued that the funds for the said Water Pollution Board are voted by the Parliament. This by itself will not show that the employees of such a Board are in the Civil Service of the Union of India or hold a civil post under Union of India. In fact, Union of India may finance even such institutions over which it may have no control or supervision.

14. The learned counsel for the respondents referred to the definition of "Other authorities" and this authority does not mean only local authority. The reliance has been placed by the learned counsel for giving an analogy with Cantonment Board etc. relied on the authority reported in 1987 A.T.C. Vol.I Page 150 Harish Chandra Vs. Union of India and Others and in the same journal at Page 110 Miss T. Ramanna Vs. Union of India, which clearly elucidates the matter regarding the usurpation of jurisdiction by the Tribunal in the cases of employees of local authority or other authority.

15. Thus, we are of the view that the Tribunal has no jurisdiction in the matter and the application is liable to be dismissed on this short point of jurisdiction. The applications are dismissed with no order as to costs.


Member (J)


MEMBER (A) 5/5/90

DT: 10 May, 1990.

SNS/RKM