

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

Original Application No.359 of 2002.

Tuesday, this the 24th day of August, 2004.

Hon'ble Mrs. Meera Chhibber, J.M.  
Hon'ble Mr. S.C. Chaube, A.M.

Manoj Kumar Rai,  
S/o Shri Bhagirathi Rai,  
resident of village & post office  
Baragawa, District Mau,  
First posting as Vehicle Mechanic  
(GREF) 105 field Workshop, 56,  
APO, Himank, puna-15.  
Second posting as Diesel Engine  
Statics (DES) GREF, Centre  
Deeghi Camp puna-15.

.... Applicant.

(By Advocate : Shri S. Tiwari)

Versus

1. Union of India,  
through its Secretary,  
Ministry of Defence,  
New Delhi.
2. The Commandant 753, BRTF, 56,  
APO - Himank, puna-15.
3. The Commandant,  
GREF, Centre Deeghi,  
Camp puna-15.
4. The Comman Adhikari GREF 1051,  
Field Workshop 56, APO,  
Himank puna-15.
5. The Comman Adhikari (GREF)  
Centre Deeghi, Deeghi Camp  
puna-15.

.... Respondents.

(By Advocate : Shri Rajeev Sharma)

O R D E R

By Hon'ble Mrs. Meera Chhibber, J.M. :

By this O.A., applicant has sought the following relief(s):

" (i) to quash the letter No. 24504/Disch/90Estt dated  
4.10.2001 (Annexure no.2)

(ii) to quash the letter no. CF 183490/X/MKR/ITW-04/  
Adm Wing dated 31.1.2002 (Annexure no.6)

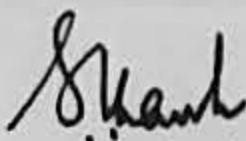
The above orders have been passed in arbitrary manner  
without giving opportunity or show-cause to the  
applicant."

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2. Counsel for the respondents has raised preliminary objection to the maintainability of the O.A. itself on the ground that since the applicant is a member of GREF, therefore, this O.A. is not maintainable before this Tribunal. He has relied-upon the decision reported in AIR 1983 SC 658 in the case of R. Viswan & Others Vs. Union of India & Ors., wherein the apex court has held as under :

"Army Act (46 of 1950), Sections 4(1) (4), 21 102 (4) and 191 - Expression "any force raised and maintained in India under the authority of Central Government" in Section 4(1) - Meaning and scope of - Central Government is entitled -d to issue notifications under Section 4 applying certain provisions of the Act and the Rules to members of GREF - Members of GREF are members of Armed Forces within Article 33 of Constitution (Constitution of India Article 33)."

3. Section 2 of the A.T. Act, 1985 specifically states that the provision 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. Since it has already been held by the Hon'ble Supreme Court in the judgment as referred to above, that GREF members are members of Armed forces within Article 33 of the Constitution, naturally this O.A. would not be maintainable before this Tribunal. Therefore, this O.A. is dismissed as not maintainable before this Tribunal. However, liberty is given to the applicant to seek redressal of his grievance in an appropriate forum.

  
MEMBER (A)

  
MEMBER (J)

GIRISH/-