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O.A. No. 49/86; 53/86; 108/86; 217/86; 232/86; 238/86; 245/86;
299/86; 356/86 & 376/86

CORAM : Hon'ble Mr. P.H. Trivedi, Vice Chairman
Hon'ble Mr. P.M. Joshi, Judicial Member

The short common point at the stage of admission of the applications is whether an association can claim to be aggrieved and be an applicant for relief. The Administrative Tribunals Act has no definition for 'person', but it specifically excludes certain persons from the application of this Act, as stated under section 2 thereof. Under section 14 of the Act, all the jurisdiction of the powers and authority exercisable by all courts (except the supreme court) in relation to specified matters are brought within the jurisdiction of the Tribunal. The question arises whether any association can have any grievance on account of any order of the Government or any competent authority, except as it affects individual members thereof, in their capacity as servants of the Government or of the organisations to which the jurisdiction of the Tribunal is extended. If such an association can apply for relief, it is contended that this Tribunal can grant such relief only in respect of specific individuals in their capacity as employees of the Government or such organisations. It is, therefore, contended that associations as such cannot be aggrieved and cannot seek or obtain relief in the name of associations. We decided that as this matter was one of common interest and is likely to arise in a number of cases, it would be desirable to hear the learned advocates before any decision in the matter is taken. Accordingly, some learned advocates, Mr. K.K. Shah, Mr. Vyas, Mr. Xavier, Mr. T.M. Shah, Mr. J.D. Ajmera, Mr. P.M. Ajmera, Mr. V.S. Mehta, gave us their views and Mr. N.J. Mehta furnished a detailed note citing law, and decisions in some cases and views of reputed authors for our guidance. We are grateful to them for this assistance.

2. Further we have been much assisted by the Supreme Court judgment in Bar Council of Maharashtra vs. M.V. Dabholkar in A.I.R. 1975 S.C. 2092, and by a judgment of the Jodhpur bench of Central Administrative Tribunal, Rajasthan Anushakti Karamchhari Union and another vs. Union of India and Ors. in A.T.R. 1986(2)C.A.T. 59, which deal with this question.

3. As the administrative tribunals Act, 1985, has no provision containing the definition of 'person' we have to refer to the General Clauses Act, in which the word 'person' is said to include company or association or body of individuals, whether incorporated or not. This definition is not confined only to natural persons. This definition would govern the Central Administrative Tribunals Act, in interpreting 'a person aggrieved' in section 19 of the Act.

4. Section 14 of the Administrative Tribunals Act, transfers the jurisdiction of the High Court in specified service matters to Administrative Tribunals constituted under the Act. Now the jurisdiction of the High Court extends to associations if they bring up any service matter by which they feel aggrieved before it. If the view is taken that service associations cannot come up before the Tribunal, they would need then to go to the High Court, and to that extent the transfer of the entirety of the jurisdiction in service matters sought to be done under section 14 of the Administrative Tribunals Act, would be qualified and modified. This is contrary to the expressed purpose and meaning of that section of the Act.

5. In a large number of cases, the balance of convenience would lie in allowing the associations to bring up matters on which either the whole class of the relevant category of Government or other servants is aggrieved to be brought through the application of the associations for relief before the Tribunal. No doubt relief can be given by the decisions of the Tribunal, eventually only to individuals, who compose or constitute the association, but if a grievance arises in respect of the

whole class and if a point involving all of them is raised in the application of the association, it would hardly be conducive to appropriate and speedy disposal, if the applications only by individual members of the association are entertained by the Tribunal.

6. It has been noticed that in many cases, the course of action followed has been to join the association as an applicant along with an individual, employee who, on the facts of the case, is directly affected by the impugned order. This is a wholesome practice and may be adopted wherever possible, for the reason that it enables the Tribunal to look at both the common questions involved regarding the relevant class of the Government Servants, and also the specific grievance of an individual Government servant, the latter serving as an illustration or giving factually a focus to the general question involved.

7. While conceding that there is no bar against associations coming up before the Tribunal as legal persons aggrieved for seeking appropriate relief on service matters to which the jurisdiction of the Tribunal extends, a word of caution may be necessary, so that in fit cases the Tribunal's discretion in allowing associations to make such applications is not entirely excluded. There may be cases in which Government servants of organisations to which the jurisdiction of the Tribunal has been extended might have more than one associations and individual members of that service might belong to different associations. It may also sometimes be the case that individual members of the service might change their affiliations to different associations. In such cases, the possibility of conflicts of interests and difficulty of identifying which individual belongs to which organisation and which association speaks for which members in any matter coming up before the Tribunal, may not be excluded. As things are, too often service associations break up and coalesce

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and again break up. This therefore, is not an academic point or hypothetical contingency only. In such cases, we consider that the Tribunal has a right to look into the question of whether the applicant association actually has common interests and the representative capacity which gives it the status of a legal person aggrieved and which in the facts of the case is not rendered ambiguous, doubtful or controversial. If the Tribunal comes to the finding that in such cases, the needs of justice and of expeditious disposal are not likely to be served, the Tribunal could well refuse to entertain such an application from such an association and require applications individually from persons or employees aggrieved by the impugned order.

8. To conclude it is held that the word 'person aggrieved' should be widely interpreted so as to include associations or unions. The Tribunal could consider the entertainment of their applications if common questions are involved and the balance of convenience may be found to lie in disposing of the applications by such associations instead of having them from individual members thereof. In cases in which either the representative capacity is doubtful or the membership of the associations is controversial, or there is any ambiguity in common questions involved, or common relief to be provided or the representative status, the Tribunal may require that the applications be made by aggrieved individual employees. On this basis, individual petition will be heard on merits.

30/11
(P.L. TRIVEDI)
VICE CHAIRMAN

30/11
(P.M. JOSHI)
JUDICIAL MEMBER