

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No. W.A. 1395 of 1996

Present : Hon'ble Mr. D. Purkayastha, Judicial Member.

Hon'ble Mr. G. S. Maingi, Administrative Member.

CHANDRA MOHON KOHLI & ORS.

... Applicants

Vs.

1. The Union of India through the Secretary, Cabinet Secretariat, through its Sub-ordinate Office of Divisional Organiser, S.S.B., South Bengal Division, 1, Haji M. Mohsin Square, Calcutta-700 016.
2. The Secretary, Department of Cabinet Affairs, Govt. of India through its sub-ordinate office of Divisional Organiser, S.S.B., South Bengal, 1, Haji M. Mohsin Square, Calcutta-700 016.
3. The Director, Special Service Bureau, East Block (V), R.K. Puram New Delhi, through its sub-ordinate office of Divisional Organiser, S.S.B., South Bengal, 1, Haji M. Mohsin Square, Calcutta-16.
4. The Divisional Organiser, S.S.B., South-Bengal Division, 1, Haji M. Mohsin Square, Calcutta-700 016.
5. Shri Karnail Singh, Assistant Director (Telecommunication), S.S.B., Directorate, East Block (V), R.K. Puram New Delhi-66.
6. Shri V.N. Bahuguna, Assistant Director, N.M.D.C. Building, NH-5, Railway Road, N.I.T., Faridabad-121 001, Haryana.
7. Shri M.R. Bhatt, Assistant Director, S.S.B., Directorate East Block (V), R.K. Puram New Delhi-110 066.
8. Shri M.S. Sarna, SFO(T), S.S.B. Hqrs., East Block (V), R.K. Puram New Delhi-66.
9. Shri M.C. Joshi, S.F.O.(T) through S.S.B. Hqrs., East Block (V), R.K. Puram New Delhi-110 066.
10. Shri D.S. Rajan, S.F.O.(T), S.S.B. Hqrs., East Block (V), R.K. Puram New Delhi-66.
11. Shri Basantilal Nirala, S.F.O.(T) through Divisional Organiser, S.S.B. Arunachal Pradesh, Khating Hills, Banga, Itanagar.

... Respondents

For the applicants : Mr. S.K. Mukherjee, counsel.

For the respondents : Mrs. Uma Sanyal, counsel.

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Heard on : 21.1.2000

Order on : 07.2.2000

O R D E R

G. S. Maingi, A. M.

The applicant no.1, Chandra Mohan Kohli, Deputy Superintendent of Police (Telecommunication), in the Special Service Bureau, alongwith 2 others, filed this application u/s 19 of the A.T. Act, 1985. In addition to the official respondents, the applicants have impleaded 7 private respondents in this O.A. The applicants have claimed for the following reliefs :

(i) An order quashing the impugned combined seniority list dated 26th March, 1991 (annexure 'A') and column 12 of the Schedule as per ~~Rule~~ Rule 4 of the Cabinet Secretariat Special Service Bureau (Telecommunication) Service Rules, 1995 (annexure-C)

(ii) A direction upon the respondents to make the applicants <sup>of</sup> who are Group 'A' officers with higher grade/pay, senior in the combined seniority list to the Senior Field Officers, who are Group-B Officers.

(iii) To set aside the promotions made on the basis of the impugned seniority list dated 26.3.1991.

2. In the reply filed by the official respondents, it has been stated categorically that the Central Administrative Tribunal has no jurisdiction to adjudicate upon this application as the applicants are working in an Armed Force and hence the Tribunal has no authority to adjudicate matters concerning them.

3. Various arguments were advanced by Mrs. Uma Senyal, ld. counsel for the respondents and these were forcefully rebutted by the ld. counsel for the applicants, Mr. S.K. Mukherjee. The respondents were asked to produce the relevant records. The respondents have produced a compendium of instructions on establishment relating to Group Centre of the Battalion of the Directorate General of Security, Cabinet Secretariat, New Delhi, which is concerned with the Organisation called S.S.B. It, however, does not show as to what is the operational role of this Organisation

except that a SSB Battalion/Group Centres have been raised under the C.R.P.<sup>Act</sup> and Rules, etc. It is only at pages 650 and 651 of this compendium where a mention has been made to S.S.B. as Armed police Force, according to the Ministry of Home Affairs letter No.11/108/72/G&D dated 15th July, 1976. The compendium produced by the respondents has been of no help for determining the question of jurisdiction of the Central Administrative Tribunal on this organisation i.e. S.S.B. There is no doubt that the Group Centres/Battalions were raised under the Central Reserve police Act and Rules. It is also found from the compendium that its employees while travelling in foreign countries, are not supposed to disclose their identity and this goes to demonstrate that it is a secret organisation of the Govt. of India and no direct questions should be asked.

4. The two issues which require determination by the Tribunal will be (i) whether the Central Administrative Tribunal has any jurisdiction to adjudicate the matter relating to service conditions of the S.S.B. and (ii) whether the seniority list published by the organisation under the provisions of the relevant recruitment rules deserves to be quashed. We will take up the first, namely, whether the Central Administrative Tribunal has any jurisdiction to adjudicate upon the cases of employees of this organisation. Mrs. Uma Sanyal, ld. counsel for the respondents, has relied upon a letter of the Cabinet Secretariat (Department of Cabinet Affairs), dated the 4th August, 1966 (annexure 'R/1' to the reply) filed in the D.A., which clearly states that the S.S.B. Battalion could be raised under the C.R.P. Act, 1949, and the C.R.P. Rules, 1955, as amended from time to time, would also apply to these Battalions. It further stated that the administrative control of the S.S.B. Battalion would vest under the divisional officers under whom they are placed. Reliance was also placed on a notification being no.103/91 dated 16th December, 1991, issued by the Govt. of India, Ministry of Finance, Department of Revenue, where in the explanation it has been stated that the Armed Forces of the Union included the Central Reserve police

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Force, Indo-Tibetan Border Police, Special Services Bureau, The Border Security Force, the Central Industrial Security Force and the National Security Guard (annexure-R/3 to the reply). Because of this notification, it is the contention of the respondents that the S.S.B. is an armed force.

5. We reject the contention made by the respondents regarding this notification outrightly, as the notification is to be read in whole and interpreted accordingly. This notification granted exemption from payment of additional duties of excise Act, 1957 and has nothing to do with the determination of the character of the Special Service Bureau. Mrs. Uma Sanyal has also placed reliance on an order of the Principal Bench of the Tribunal passed in No.T-115/85 dated 6th March, 1986 (CW 288/74) (annexure R/6) to the reply. In this order the Principal Bench had held that the Tribunal had no jurisdiction to entertain the petition as S.S.B. is an armed force. Reliance was also placed on another order of the Principal Bench in D.A.No.1681 of 1991 decided on 25.9.1991 in which it was held that S.S.B. undisputedly is an Armed Force of the Union (D.A.No.152 of 1989 & D.A.573 of 1989, decided on 31.7.1989 by the Calcutta Bench of the Tribunal).

6. Both the ld.counsel advanced their arguments vehemently. We have gone through the recruitment rules issued vide notification dated 17th January, 1996, by the Cabinet Secretariat of the Govt. of India, which were in supersession of the Special Service Bureau (Telecommunication) Service Rules, 1977. Rule 10 clearly states that the Members of the Service shall be governed by general rules, regulations and orders applicable to persons belonging to the corresponding Central Civil Services. It is also observed from these Rules that the said recruitment rules relate to various Group-A, B and C posts in the Cabinet Secretariat, Special Service Bureau. A note under Rule 9 of these Rules states that when juniors have completed the eligibility period on the crucial date and are considered for promotion, their seniors would also be considered for promotion in respect

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of whether they have completed the requisite service on the crucial date provided they have completed the probation period. Reliance was also placed in the judgment passed in T-115/85 (CW.288/74) on 6.3.1986 by the Principal Bench (annexure R/6 to the preliminary reply), where the Tribunal has held in the absence of any definition and in view of the positive directions contained in Section 3 of CRPF Act, 1949, any Force constituted under this Act must be deemed to be an armed force. The respondents thus submit that the applicant in the present case, being a Member of the armed force, the A.T. Act, 1985, does not apply to him. We find that in the above mentioned case decided by the Principal Bench, the applicant was a Constable in II.H.P.-SSB Battalion under the Directorate General of Security Dharampur, Simla Hills. He was proceeded against for assaulting a superior officer and use of criminal force against him. In the other O.A. decided by the Principal Bench being O.A.No.1681 of 1991 on 25.9.1991, a Constable of the S.S.B. Battalion, Srinagar, was reverted to the post of Constable in Group Centre, Srinagar, from the post of Field Assistant (G) (FA (G) for short), where he had worked for 13 years. In this order also, the Principal Bench has held that since the applicant had been transferred to WBT Centre, Faridabad, on loan basis for a period of 3 years and his inter-se seniority continued to be maintained in Group Centre, SSB Srinagar, Garhwal, the Tribunal did not have any jurisdiction in the matter.

7. In the present O.A. before us, the applicants did not belong to the Group Centre, but belonged to the Area Centre. The Recruitment Rules have been framed in the year 1996 and the same are applicable to the present applicants. It is observed that earlier to this, the Cabinet Secretariat had circulated the amended Recruitment Rules of 1977, where no designation as Deputy Superintendent of police was shown. Obviously, this designation was introduced much later. The designations of Field Officer and Sr. Field Officer was covered under this. There were recruitment rules which amended the Special Service Bureau (Telecommunication) Service Rules, 1977, vide the notification of the Cabinet

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Secretariat dated 18.4.1988. The seniority list was issued by the Director General of Security of S.S.B. on 26.3.1991 vide the memorandum No.32/Estt./A1/SSB/90(1) (annexure 'A' to the D.A.). In this combined seniority list of SFO (Tele) and Dy.S.P. (Tele) in the Telecom set-up of S.S.B., the name of applicant no.1, Chandra Mahan Kohli, Dy. Superintendent, was shown at serial no.10. Above him were placed officers of the rank of SFO and 3 Dy. Superintendent of police. In this memorandum it had been clarified that seniority of 2 SFOs, namely, Shri V.N.Bahuguna and M.R.Bhatt had been refixed in the rank of Field Officer, taking into consideration the inter-se seniority in the rank of SI (Tele) and that the officers of the S.S.B., as per the SSB(Telecommunication) Service Rules, 1977, were governed by the C.R.P. Act and Rules or general orders of 1959 of Ministry of Home Affairs relating to the seniority of directly recruited persons and that no representation regarding seniority would be entertained. It is clear from the Recruitment Rules of 1996 (annexure 'C' to the D.A.), that the rules would be called the Cabinet Secretariat, Special Service Bureau (Telecommunication), Service Rules, 1995. It is clear from Rules 10 and 11 that the Deputy Superintendent of Police (Tele) and SFO (Tele), are covered under these Rules and that the Members of the Service shall be governed by the general rules and regulations and orders applicable to the persons belonging to the corresponding Central Civil Service. This being the position, they fall within the jurisdiction of the Central Administrative Tribunal and they would not be governed by the other members of the service in the Group Centres who would be governed by the Central Reserve Police Act and Rules. This being the latest position, we have no hesitation to hold that the present applicants are covered by the A.T. Act, 1985, and fall within the jurisdiction of this Tribunal.

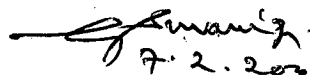
B. To understand the issue of seniority of the Deputy Superintendent of Police of S.S.B. vs. Sr. Field Officers, it is necessary to briefly state the facts. The applicants were

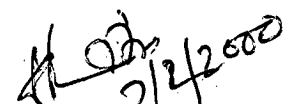
recruited in the Telecommunication Wing of the S.S.B. and they got promotion as per the prevalent rules. They reached upto the level of Deputy Superintendent in the scale of pay of Rs.700-1300/- & a special pay of Rs.50/-. The ld.counsel for the applicants has forcefully stated that the applicants were Group-A Officers of the department. We have gone through the order of the Cabinet Secretariat at annexure 'R/4' to the reply filed in the O.A. We find that it is nowhere mentioned that Deputy Superintendent of police of this Organisation is a Group-A Officer. Sr.Field Officers are of course drawing comparatively a lower scale of pay and it is because of this the present applicants have been insisting that they were in a higher scale of pay and, therefore, in the combined seniority list of the two cadres, they should be placed above the Sr.Field Officers. How far that is supported by the case on the subject would become clear from a close perusal of the judgment of the Hon'ble Supreme Court in the case of S.P.Shivprasad Pipal vs. UOI & Ors. reported in 1998 (4) SC 104. In the case before the Supreme Court, a question arose for consideration of the merger of two cadres and, therefore, promotional avenues. The Hon'ble Supreme Court had held that merger may adversely affect promotions of some of the employees and it may benefit others and there was no ground for setting aside the merger. In the instant case, after the merger, the seniority was determined by the respondents on the basis of the date of appointments in the respective cadres by the applicants and the private respondents. We may mention here that the private respondents have neither filed any reply to the O.A. nor have contested the matter before us. The normal system of promotion in any cadre is from the date of joining and assuming any cadre. This is a fair criterion adopted by the respondents and we hold that no justifiable ground is available to the applicants to agitate the matter before this Tribunal. There is also no ground for quashing the combined seniority list, as prayed for by the applicants in this O.A.

9. We find no other justification in acceding to the reliefs as sought for by the applicants.

10. Having considered the matter carefully, we hold that as far as the applicants are concerned, who were posted in the Area Centre of the respondents and who have separate recruitment rules for them, duly come under the jurisdiction of the Central Administrative Tribunal and their cases can be distinguished from the earlier decisions of the Tribunal in the case of the employees of that Organisation who were on the ground centre/battalion side. Annexure-X of the application would show that a question about the applicability of the CRP Act was raised and the SSB Directorate had replied on 10.9.1992 that it was under consideration. It is clearly observed from this reply of the respondents that the CRP Act applied to the Group Centres and as the applicants were not in the Group Centres but in the Telecommunication Field of the respondents, therefore, they were not eligible even for the ration money. This is found from annexure 'Y' to the rejoinder dated 30th April, 1991.

11. Having considered all facts, we do not find any justification for quashing of the combined seniority list dated 26.3.1991 (annexure-A to the O.A.). The O.A. being without merit, we dismiss the same without passing any order as to costs.

  
7.2.2000  
(G. S. Maingi)  
Administrative Member

  
7/2/2000  
(D. Purkayastha)  
Judicial Member