

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
OA 1420 OF 1996

Present : Hon'ble Mr. D. Purkayastha, Member (J)
Hon'ble Mr. B.P.Singh, Member (A)

Naba Kumar Saha,
S/o late Radha Benode Saha,
132, Tetultala Lane,
P.O. Mankundu, Dist. Hooghly.

Vs

1. Union of India through the
Secretary, M/o Food & Agriculture,
Govt. of India, Deptt. of Food,
Krishi Bhavan, New Delhi
2. The Managing Director,
Food Corporation of India,
Head Office,
10/20 Barakhamba Lane,
New Delhi-1
3. The Zonal Manager (East)
Food Corporation of India,
10/1, Middleton Row,
Calcutta-71
4. The Regional Manager,
West Bengal Region,
Food Corporation of India,
16, Royd Street, Calcutta-87
5. The District Manager,
Food Corporation of India,
Barabazar, Chinsurah,
Dist. Hooghly
6. The Dy. Manager, Residuary/Pension Cell,
Directorate of Food (Govt. of India),
No. 4, Mangoe Lane, Calcutta-1.

For the applicant : Mr. A.K.Bairagi, Counsel

For the respondents 2-6 : Mr.A.K.Banerjee, Adv.

Date of order : 04.10.2001

ORDER

D.Purkayastha, J.M.:

The applicant has filed this application u/s 19 of the
A.T.Act, 1985 praying for the following reliefs :-

- i) Leave encashment facilities from 1977 onwards which have
been withheld by the authority concerned for which those are
lapsed be revived with payment.
- ii) An order may kindly be given to the respondents to give

the benefits of senior scale of pay to the applicant for performing the job of Asst. Manager (QC) on and from 1.1.73 to 31.12.85.

iii) Further an order may kindly be given that the applicant is legally entitled to the arrear benefits of pay and allowances after pay fixation of the schedule period as per Govt. circular and direct the respondent authorities to pay all arrears of pay and allowances together with consequential benefits on pension and pensionary benefits accrued therefrom may be worked out and pay to the applicant with upto date interest.

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vii) Order/or direction may kindly be given to the respondents to pay the leave travel concession for the period 1975 to 1983, due salary for the period October 1972 to December 1972 and October 1975, leave encashment from 1977 to 1987, due promotional benefits along with accrued interest thereon till the date of realisation.

2. The applicant was initially appointed as Fumigation Assistant on 15.11.1960 under the Ministry of Food & Agriculture, Govt. of India, Deptt. of Food and was posted in the office of Regional Director of Food, Calcutta. He was promoted as Quality Inspector in 1963 and was thereafter deputed to the Food Corporation of India in 1966. He worked there till upto his retirement w.e.f. 30.6.94 as Assistant Manager (QC).

3. We heard the learned counsel for both parties and perused the records produced.

4. The respondents 2 to 6 in their reply have taken a preliminary objection regarding jurisdiction of this Tribunal. According to them the applicant though originally appointed under the Govt. of India in the Deptt. of Food, was subsequently transferred to the Food Corporation of India (FCI) in the year 1966 and as per Section 12A of the Food Corporations Act, 1964, he became an employee of the FCI and

he worked under the FCI and retired therefrom. It is argued that there is no notification issued by the Central Govt. under section 14(2) of the A.T. Act, 1985 bringing the employees of FCI within the jurisdiction of this Tribunal and therefore, the application should be rejected in limine being without jurisdiction.

5. The ld. counsel for the applicant has tried to argue that the applicant continued to remain a Govt. employee and not an employee of the FCI and that he should be treated only as a transferree and therefore, he should be given all benefits as a Govt. employee and hence this Tribunal has the necessary jurisdiction.

6. The respondents in their reply as also in the supplementary affidavit/reply have also clarified the position regarding the grievance of the applicant and have stated that the leave encashment has already been paid to the applicant. They have also clarified the other demands of the applicant. However, we need not go into those questions at this stage without first deciding the preliminary objection regarding jurisdiction.

7. Undisputedly the applicant was transferred to the FCI in 1966 and sub-section (3) of Section 12A of the Food Corporations Act, 1964, copy of which has been enclosed with the reply, reads as follows :-

"(3) An officer or other employee transferred by an order made under sub-section (1) shall, on and from the date of transfer, cease to be an employee of the Central Government and become an employee of the Corporation with such designation as the Corporation may determine

8. In view of this clear provision in the Act itself, the contention of the applicant that though he was employed in the FCI, but continued to remain as a transferree only, cannot be sustained. He became an employee of the FCI and ceased to be a Central Govt. employee.

9. Section 14(2) of the A.T. Act reads as follows :-

(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 corporation or society 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 date may be so specified under this sub-section in respect of different classes of or different categories under any class or, local or other authorities or corporation or societies. "

10. It is undisputed that no such notification in respect of the employees of FCI has been issued by the Central Govt. and hence prima facie this Tribunal has no jurisdiction to adjudicate the issues raised by the applicant. It is also apparent from the cause title that the grievance of the applicant is against the respondents 2 to 6, who are all functionaries of the FCI.

10. Moreover, we find that the most of the relief sought by the applicant relates to period prior to 1985 and the present application has been filed only in 1996. Therefore, according to Sec. 21 of the Act also, all the claims are stale claims and barred by limitation. However, we need not comment on this question in view of our finding made above.

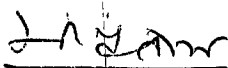
11. Our attention has been drawn to a similar matter dealt with by the Bombay Bench of the Tribunal in OA No.94 of 1993 (Thomas Samuel) decided on 21.11.94. In that case also the applicant was initially a staff of the Food Deptt. of Govt. of India and subsequently transferred to the FCI. It was decided therein that this Tribunal has no jurisdiction to decide the case in view of the fact that the

applicant became an employee of the FCI and there was no notification u/s 14(2) of the AT Act in respect of employees of FCI.

12. From para 11 of the reply of the respondents verified on 16.11.98, we find that they have given in details the benefits already given to the applicant and some of which were paid to the applicant during the pendency of this OA. In any event, since we have held that this Tribunal has no jurisdiction to try this case, we need not go into the merit of the claims of the applicant raised in this OA.

13. For the reasons stated above, we dismiss this OA being without jurisdiction. However, the applicant will be at liberty to approach the appropriate forum for redressal of his grievance, if any, and if so advised. No cost.

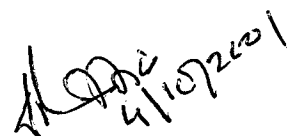
14. Before parting with this case, we would like to observe that the hearing of this case was concluded on 28.9.2000 and the order was reserved to be delivered shortly. However, the records of the case were not placed before us and it appears from the note of the Registry that due to inadvertence the records were misplaced and have been traced recently only after receipt of a letter from the respondent Deptt. This is very unfortunate. The Registry should take appropriate precaution and keep utmost vigil in such matters so that this type of lapse does not recur in future.



(B.P. SINGH)

MEMBER(A)

04/10/2001



(D. PURKAYASTHA)

MEMBER(J)