

I/5

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR.**

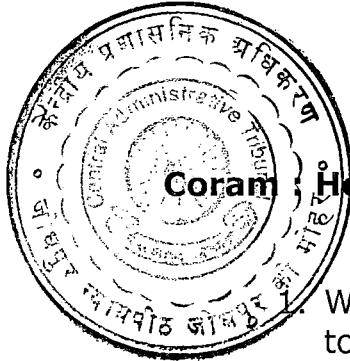
**O.A. No. 118/2003**

**DATE OF DECISION : June 05, 2003**

Umesh Kumar Srivastava : Petitioner  
Mr.P.K.Lohra, : Advocate for the  
Petitioner

Versus

Union of India & Ors. : Respondent (s)  
: Advocate for the  
Respondent(s)



Whether Reporters of local papers may be allowed  
to see the Judgment? *no*

2. To be referred to the Reporter or not? *yes*
3. Whether their Lordships wish to see the fair copy of the  
Judgment? *no*
4. Whether it needs to be circulated to other Benches of  
the Tribunal? *yes*

*Ans*

**(J.K.KAUSHIK)  
JUDICIAL MEMBER**

I/6

**CENTRAL ADMINISTRATIVE TRIBUNAL,  
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION NO: 118/2003

**DATE OF ORDER:** June 05, 2003

Umesh Kumar Srivastava S/o Late Shri Badri Prasad Verma, aged 59 yrs., r/o AT&PO Bhabua District Bhabua, Bihar. Presently working as Scientific Officer Gr. "G" at Rajathan Atomic Power Station 1&2 Anushakti Rawat Bhata via Kota (Rajasthan).

...Applicant

**V E R S U S**

- (1) Union of India through Secretary, Department of Atomic Energy, Govt. of India, New Delhi
- (2) The Nuclear Power Corporation of India through its Chairman & Managing Director, V.S. Bhawan, Anushakti Nagar, Mumbai.
- (3) The Site Director, Rajasthan Atomic Power Station 1 to 4, Anushakti Rawat Bhata via Kota (Rajasthan).
- (4) The Station Director, Rajasthan Atomic Power Station 1 to 4, Anushakti Rawat Bhata via Kota (Rajasthan).

...Respondents.

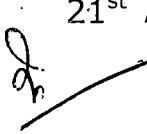
Mr. P.K. Lohra, counsel for the applicant.

**CORAM:**

**HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER**

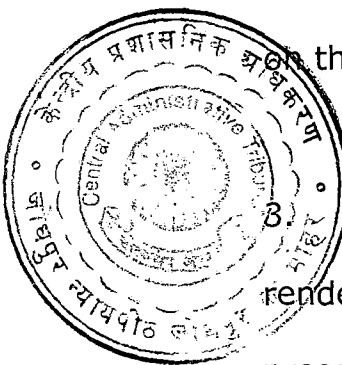
**( O R D E R )**

Shri Umesh Kumar Srivastava has assailed the impugned order dated 24<sup>th</sup> March, 2003 (Annexure A/1) and order dated 21<sup>st</sup> April, 2003 (Annexure A/2) (Sic 24<sup>th</sup> April 2003), through



which he has been ordered to be transferred from RAPS-1&2 to the Directorate of LWR Indigenisation Cell at Kudankulam Site.

2. The abridged facts of this case necessary for resolving the controversy involved are that the applicant joined the Nuclear Power Corporation of India Ltd. [ hereinafter referred to as "NPCIL" for brevity ] at Tarapur. The NPCIL is a Government of India Enterprise within the administrative control of Department of Atomic Energy, Government of India. The business of the NPCIL, which is a public limited company, is managed by the Board of directors appointed by His Excellency the President of India. It has been averred that the organization of NPCIL is a part and parcel of the Department of Atomic Energy, Government of India. The applicant has enjoyed the number of promotions and lastly he was promoted to the post of Scientific Officer Gr. "G" w.e.f. 1<sup>st</sup> August 2000 and he continues to work



the same.

The further facts of the case are that applicant has rendered more than 30 years service to the Corporation and at present he has attained the age of about 59 years, his date of birth being 21<sup>st</sup> February, 1944 whereby he would be retiring on superannuation by the end of February 2004. The applicant is also faced with certain peculiar medical problem. His wife is also suffering from Arthritis. While, he was waiting for his superannuation, he has been served with an order dated 24<sup>th</sup> March 2003 (Annexure A/1), whereby the applicant alongwith 12 more persons have been ordered to be transferred to various

places. This order was required to take effect from 1<sup>st</sup> June 2003. He immediately submitted a detailed representation on 28<sup>th</sup> March 2003. Instead of finding a favour, it resulted in issuance of another letter dated 21<sup>st</sup> April, 2003 intimating that he would be relieved from his present Station in the afternoon of 31<sup>st</sup> May 2003. He yet submitted another representation on 30<sup>th</sup> April, 2003 but the same did not yield any fruitful result.

4. The Original Application has been filed on multiple grounds mentioned at para [5] [A] to [H] in the Original Application which are not being examined in view of the order proposed to be passed in this O.A.



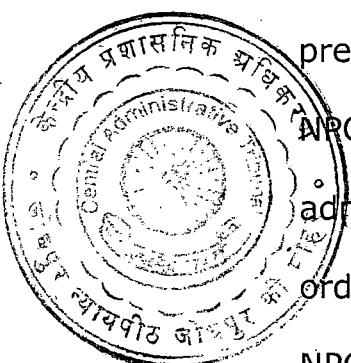
5. The case was listed for admission today. At the very outset, the learned counsel for the applicant has produced an order dated May 30, 2003 by which the earlier order of the transfer has been superceded and he is being continued at RAPS i.e. at his earlier place of posting itself and in this view it has been submitted that the grievance of the applicant stands redressed and the Original Application has become infructuous. The order dated May 30, 2003 is being taken on record.

6. It would have been very easy to decide the matter with a simple remark that the Original Application has become infructuous but there is another complexity involved in this and the matter may be of only academic interest but it would be essential to deal with the crucial point as regards the jurisdiction.

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of this Tribunal in respect of an employee of a Corporation i.e. NPCIL in respect of which no notification, under Section 14 (2) of the Administrative Tribunals Act, 1985, has been issued.

7. As regards the employer of the applicant, it is the admitted position from the pleadings that the applicant is an employee of NPCIL which is admittedly a public limited company <sup>and</sup> has been incorporated under the Companies Act 1956 and was so incorporated in the year 1987. The applicant must have been initially the employee of Department of Atomic Energy because he has rendered 30 years of service and the NPCIL has been only in existence during last about 16 years and it can safely be presumed that he must have been subsequently absorbed in the NPCIL. However, for the present it would suffice that the admitted position of the case is that by the time the impugned order has been passed, the applicant is the employee of the NPCIL. It was specifically enquired from Mr. P.K. Lohra, the learned counsel for the applicant as to whether any notification under Section 14 (2) of the Administrative Tribunals Act 1985, has been issued in respect of the NPCIL. Mr. Lohra has submitted that the NPCIL is an instrumentality of the State under Article 12 of the Constitution of India and the NPCIL is fully under the control of Department of Atomic Energy. He has also made available a Profile of NPCIL to this Court and as per him the same countenances his assertion. He has, therefore, contended that this Tribunal has jurisdiction in respect of the service matter of the applicant.



A handwritten signature in black ink, appearing to be a name, is written over a horizontal line at the bottom of the page.

8. I have gone through various notifications issued under Section 14 (2) of the Administrative Tribunals Act, 1985 and no such notification has been issued in respect of the NPCIL. For appreciating the legal controversy, it would be necessary to examine the relevant provisions in the matter. The contents of Section 14 (2) and (3) are reproduced as under: -

"(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 dated may be so specified under this sub-section in respect of different classes of or different 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."

9. Admittedly, the case of the applicant falls under sub-section (3) of Section 14 of the Administrative Tribunals Act 1985. The jurisdiction over the category of the employees

*DR*

specified in sub section (3) is not automatic but dependent upon the notification to be made by Government of India applying the provisions of the Act from the date to be specified. Sequel to the provisions of sub section (3), a provision has been made in sub section (2) that the employees of the local or other authorities within the territory of India or under the control of Government of India and of Corporation, Societies owned or controlled by Government (not being a local or any other authority or corporation or society controlled or owned by the State Government), shall be amenable to the jurisdiction of this Tribunal, if a notification is made by the Central Government applying the provisions of sub section (3). The effect of the provision of sub section (2) of section 14 is that the employees (other than the employees of the Central Government), recruited, appointed and employed by a local or other authority under the control of Government of India or the Corporation or Society owned or controlled by Government of India, shall be amenable to the jurisdiction of this Tribunal from the date specified in the notification. Conversely, if no notification is made as contemplated under Section 14 (2) of the Act, in that even this Tribunal shall have no jurisdiction over the employees recruited and appointed by a local authority, corporation or society even though owned or controlled by Government. To be more precise and clear, the notification under sub section (2) of Section 14 is necessarily to be made to bring the employees of the local authority, corporation or society within the fold of this Tribunal, in respect of their grievances pertaining to their service

*D*



matters. As a corollary it follows that the employees directly recruited and appointed by NPCIL or those Central Government Employees who have been finally absorbed in NPCIL cannot invoke jurisdiction of this Tribunal for the reason that no notification under Section 14 (2) has yet been made. In this view of the matter, this Tribunal has no jurisdiction to deal with the service matter of the applicant.

10. In support of the aforesaid contention, it would be worth relying and taking support from a judgement of Full Bench of this Tribunal at Principal Bench in **K.K. Singh & Others vs. Union of India & Others**, reported in 1997-2001 A.T. Full Bench Judgements, Page 256, in which the provisions of clauses (b) and (c) of sub section (1) and sub sections (2) and (3) of Section 14, came to be considered in the context of the reference made on the following question:-



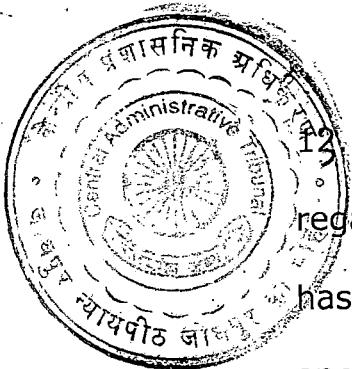
"Whether the Central Administrative Tribunal has jurisdiction to entertain applications from employees of local or other authorities within the territory of India or under the control of Government of India and of Corporations or societies owned and controlled by the Government of India, not being local or other authorities or corporations or societies owned and controlled by the State Government, irrespective of whether such body has been notified u/s 14 (2) of A.T. Act or not."

11. The question under reference was answered in the following terms:-

"Excepting those specifically covered by clauses (b) and (c) of Section 14 (1) A.T. Act, the CAT has no jurisdiction to entertain applications from employees of 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 Govt. (not being a local or other authority or corporation or society controlled or owned by a State Govt.) unless the same have been notified under sec. 14 (2) A.T. Act."

*DR*

12. Examining the matter involved in this application in the light of the above statement of law and the statutory provisions, I am of the firm opinion that since the NPCIL is a public limited company and the case of the applicant would fall in Section 14 (3) of the Administrative Tribunals Act, 1985 for which a notification under Section 14 (2) is a must so as to enable this Tribunal to entertain their service matters. Since no such notification has been issued so far, it can safely be held that this Tribunal has no jurisdiction to adjudicate upon the controversy involved in the present case.



12. The upshot of the aforesaid discussions/specific finding regarding the jurisdiction is that though the Original Application has become infructuous since the relief is granted to the applicant, the same can not be entertained for want of jurisdiction by this Tribunal and the same stands dismissed accordingly. In the normal course, Original Application ought to have been returned to the applicant for presentation before the appropriate forum for redressal of his grievances, but in the facts and circumstances of the case no such observation is required to be made.

*J.K. Kaushik*  
( J.K. KAUSHIK )  
JUDICIAL MEMBER

**Kumawat**

Part II and III destroyed in my presence on 13.6.09  
under the supervision of  
Section Officer ( ) as per  
order dated 8.7.2008

V.S.M.  
Section Officer (Records)

case dismissed  
become inactive  
very old & not  
no  
0.01-  
0.02

Recd copy  
11/6/09

Copy of order of 5.6.2003 alongwith copy  
of order with Annex 1 to 29 sent to R-1 to R-4  
By Royal Post, Vizie No 13570158 d/ 13.6.2003.

C.P.S.  
13.6.03