

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 36/2009

This the 30th day of March , 2009

Hon'ble Mr. M. Kanthaiah, Membe (J)
Hon'ble Dr. A. K. Mishra, Member (A)

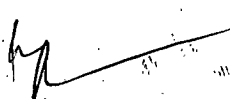
1. Prem Shanker Srivastava, aged about 51 years,
S/o late Sri C.L. Srivastava, R/o Type IV, C-4,
Forest Colony,
Vibhuti Khand Gomti Nagar,
Lucknow.
2. Ram Krishna Singh, aged about 55 years,
S/o Sri Chandrika Singh,
Presently working as Divisional Forest Officer,
Bahraich.

Applicants.

By Advocate Sri Arvind Kumar.

Versus

1. Union of India through Secretary,
Department of Personnel & Training,
Ministry of Personnel Public Grievances & Pensions
North Block, New Delhi.
2. Secretary,
Department of Forest & Environment
Ministry of Forest & Environment
Lodhi Road, New Delhi.
3. Union Public Service Commission,
Through its Secretary, Shahjahan Road,
New Delhi.
4. Dr. S. K. Sarkar, Jt. Secretary,
(AT,A&CS), Ministry of Personnel,
PG & Pension,
Department of Personnel & Training
North Block,
New Delhi.
5. State of U.P. through Principal Secretary,
Department of Forest,
U.P. Civil Secretariat,
Lucknow.
6. Principal Secretary, Department of Forest,
Uttarakhand, Civil Secretariat,
Dehradun.
7. Principal Secretary, U.P. Reorganization
Co-ordination Department, 7th Floor,
Vikas Bhawan, Janpath,
Lucknow.



Respondents.

By Advocate Sri Sudeep Seth/ Sir A.K Chaturvedi
Sri Sandeep Chandra/Sri A.R. Masoodi.

Order

By Hon'ble Dr. A. K. Mishra, Member (A)

This is an application challenging the order dated 30/31.10.2006 of the respondent No. 1 in which, the applicant has been allotted to the State of Uttarakhand under the U.P. Reorganization Act, 2000. They also assails the decision dated 22.12.2008 of a committee which was constituted for the purpose of hearing the representation of the applicants in compliance with the direction of Hon'ble High Court, Lucknow Bench.

2. The learned counsel for the Respondent No. 5, Sri Sudeep Seth raised preliminary objection in respect of the maintainability of this application on the ground of lack of jurisdiction of this Tribunal to hear the application filed a member of State Forest Service. He contended that the Central Administrative Tribunal has no jurisdiction under Section 14 of the Administrative Tribunal Act 1985. Section 14 clearly stipulates that the Central Administrative Tribunal (C.A.T) will have jurisdiction powers and authority in relation to following matters:-


(a) *recruitment, and matter concerning recruitment, to any All India Service or to any civil service of the Union or a Civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;*

(b) *all service matters concerning-*

(i) *a member of any all-India Service; or*

(ii) *a person (not being a member of an All-India Service or a person referred to in clause (c) appointed to any defence services or a post connected with defence,*

and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation (or society) owned or controlled by the Government;




(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause(iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation (or society) or other body, at the disposal of the Central Government for such appointment.

Service matters appearing in this Section has been further defined by Section 3 (q) of the Act. An extract is given below for better appreciation:-

"service matters" in relation to a person, means all matters relating, to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any corporation (or society) owned or controlled by the Government, as respects-

3. A bare reading of the statutory provision would make it clear that service matter relating to State Government employee will not come within the jurisdiction of the Central Administrative Tribunal. Therefore, the present application should be dismissed as not maintainable due to lack of jurisdiction.

4. The learned counsel for the applicant argued that the order challenge in this application had been made by the Central Government in allotting the applicant to the State of Uttarakhand under power exercised by virtue of Section 73 (2) of U.P. Reorganization Act. The applicant cannot take recourse to the State Administrative Tribunal as no reference to the State Tribunal could be made against an order of the Central Government. He relied on a decision of the Hon'ble High Court of Delhi in the case of Pranay Kumar Soni Vs. the Chairman, UPSC and another in Civil Writ Petition No. 5257 of 2002 decided on 25.4.2003 and the case of Nighat Parveen Vs. Union of India & Ors. in Civil Writ Appeal No. 3907 of 1994 decided on 22.5.1995. The first case it was explained by Sri Sudeep Seth, the learned counsel for respondent No.5 in



respect of the jurisdiction of Central Administrative Tribunal vis-a-vis the Hon'ble High Court in respect of a selection matter where the respondent was the UPSC. The second decision cited by the counsel for the applicant also explains the scope of service matters and in respect of revaluation of papers in examination held by the UPSC. In both the judgments, the respondents were either a central agency like UPSC or the central government. These two judgments do not in any way lay down the law that the state government employee, if affected by an order of the central government not relating to the matters covered in Section 14 of the AT Act 1985 can move this Tribunal for redressal of his grievance.

5. The learned counsel for the applicant cited the decision of this Tribunal in O.A. 497/2003 in which, an application filed by a State Forest Service Officer about his grievance for selection to the Indian Forest Service was admitted and appropriate direction was given to the State Government in the matter. Sri Sudeep Seth, in his reply, clarified that the subject matter of his application was in respect of recruitment to an All India Service. As such it was covered under Section 14 (a) of the AT Act, 1985 which specifically says that all matters concerning recruitment to any All India Service or to any Civil Service of the Union could be adjudicated by the Central Administrative Tribunal. Therefore, citation of this case will not help the contention of the applicant about the jurisdiction of the CAT in a matter which does not strictly come under the scope of Section 14 read with Section 3(q) of the AT Act. Mr. A. R. Masoodi, appearing on behalf of intervener submits that the applicant had approached the Hon'ble Allahabad High Court, Lucknow Bench on this subject matter by filing W.P. No. 1556/2006, in which the applicants were permitted to make fresh representation before the duly constituted committee. Accordingly, the applicants filed a representation before the committee and is now challenging in this application the recommendations of the committee and the decision of the Central Government made thereon. It is not correct to say that the applicant is without any remedy. The applicant had moved the Hon'ble High Court Allahabad, Lucknow Bench on this very subject and if he is aggrieved by an order, which has been made pursuant to the




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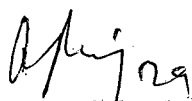
direction of the Hon'ble High Court, the best course of action for him would be to approach appropriate judicial forum for redressal. He cannot come to a wrong forum which, strictly speaking, does not have jurisdiction to admit the application which does not come within the preview of Section 14 of the AT Act 1985.

6. The learned counsel for the applicant brought to our notice that Assistant Solicitor General of India appearing on behalf of the Central Government at the time of hearing of the petitioner before the Hon'ble High Court had taken a stand that the petitioner has an alternative remedy before the Central Administrative Tribunal. The Central Government cannot blow hot and cold at the same time. That may be so at the time of hearing on writ petition. But, nevertheless the Hon'ble High Court did not direct the applicant to come to this CAT for redressal of his grievance. On the other hand, they issued appropriate directions to the Central Government to consider the representation of the applicant, whereas, the present objection is being made by the learned counsel for the State Government. Notwithstanding, the stand taken by the Assistant Solicitor General of India, we have to examine whether this Tribunal can entertain an application in respect of a decision given by the Central Government under Section 73 (2) of the U.P. Reorganization Act-2000. It was conceded by Sri Sudeep Seth that had the order been passed under Section 72 in relation to the Indian Forest Service, this Tribunal would have had jurisdiction. But, it will not have any jurisdiction in respect of an order under Section 73 which deals with allocation of State Government Servants.

7. In view of the foregoing analysis, we go along with the contentions of Mr. Sudeep Seth that this Tribunal would not have any jurisdiction in respect of an order passed by the Central Government under Section 73 (2) of the U.P. Reorganization Act in respect of State Government Employees. Therefore, the preliminary objection is sustained and the application is dismissed as not



maintainable. The applicant is at liberty to seek redress at appropriate judicial forum. No costs.


(Dr. A. Mishra)
Member (A)

30/03/09


(M. Kanthaiah)
Member (J)

v.