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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH, LUCKNOW.

ORIGINAL APPLICATION NO. 100/92.

this the 12th day of February'2001.

HON'BLE MR. RAFIQ UDDIN, MEMBER(J)

HON'BLE MR M.P. SINGH, MEMBER(A)

Hari Prasad Nishad, aged about 39 years, S/o late Sri Ganga Din, resident of Village Badruddinpur, Post Misirpur, District Sultanpur (last employed as Fisherman) Krishi Vigyan Kendra, Sultanpur).

Applicant.

By Advocate: Sri R.C. Singh.

Versus.

Indian Council of Agricultural Research, New Delhi through its Director General,

2. Krishi Vigyan Kendra, Sultanpur (U.P.) through its Secretary.

3. Dr. S.P. Singh, Training Associate (Fisheries), Krishi Vigyan Kendra, Sultanpur (U.P.)

Respondents.

By Advocate: Sri Ram Raj.

O R D E R (O R A L)

M.P. SINGH, MEMBER(A)

The applicant has filed this O.A. under section 19 of the Administrative Tribunals Act, 1985 challenging the order dated 14.1.1992 passed by the Secretary, Krishi Vigyan Kendra Sultanpur (hereinafter referred to as KVK) by which his services were terminated.

2. The brief facts of the case are that the applicant was appointed as Fisherman at KVK, Sultanpur in the pay-scale of Rs. 750-940/- and joined as such on 20.10.1989. According to him, the post of Fisherman was permanently sanctioned in KVK, Sultanpur. The applicant ^{was} ~~would~~ appointed on temporary basis and his services were liable to be terminated at any time with one month's notice by either side. On 2.1.1992, the respondent no.3 threatened the

applicant and took-away the keys of the stores forcibly, which were in his possession. It is alleged that the respondent no.3 had asked to provide fish, but when the applicant expressed his inability, the respondent no.3 became annoyed and to harass the applicant, he snatched the key forcibly, illegally and in an unauthorised manner. The applicant brought this incidence of 2.1.1992 to the notice of the respondent no.2, but no action has been taken in this regard. Thereafter, all of a sudden, the services of the applicant were terminated vide order dated 14.1.1992. Aggrieved by this, the applicant has filed this O.A. seeking directions to set-aside the order dated 14.1.1992 and reinstate him in service with the benefit of back wages and continuity of service.

3. The respondent nos. 2 & 3 have contested the case of the applicant and have stated that the O.A. is not maintainable before this Tribunal and the same is liable to be dismissed. According to them, Kamal Nehru Society is a registered society under the Societies Registration Act, 1860. The said society was established with the aims and objects as mentioned in articles of Association and memorandum of Association. The respondent no.1 i.e. Indian Council of Agricultural Research (hereinafter referred to as ICAR) is a society and is charged with the responsibility for agricultural research, education and extension, education in the country and in particular to undertake aid, promote and co-ordinate agricultural and animal husbandry education, research and its application in practice to act as a clearing house of information etc. The ICAR from time to time formulates programme and schemes which are given to other centres for execution. In pursuance of that, the ICAR granted such a scheme to Kamla Nehru Vigyan Kendra which is part and parcel of Kamla Nehru Memorial Trust for its execution. When the said scheme was granted to Kamla Nehru Memorial Trust Krishi Vigyan Kendra, Sultanpur by ICAR, both the organisations

reached an agreement which is known as Memorandum of Understanding between the ICAR, New Delhi and Kamla Nehru Memorial Trust, Sultanpur for Scientific and technical co-operation in the implementation of the scheme of KVK at Sultanpur. The memorandum of understanding would indicate that the Council agrees to provide grant for this project according to the pattern of assistance approved under the Trainers Training Centre, KVK Scheme subject to personnel and budgetary limitation imposed by the Government of India from time to time. The memorandum of understanding would clearly show that Kamla Nehru Memorial Trust/KVK Sultanpur is neither a State within the meaning of Article 12 of the Constitution of India, nor its activities were governed or controlled by the State. It is further stated the ICAR under Societies Registration Act formulates Schemes and grants to other centres for execution. It does not regulate the activity of Kamla Nehru Memorial Trust/KVK and, therefore, the same does not fall within the meaning of Article 12 of the Constitution of India. For the aforesaid reasons, the O.A. is liable to be dismissed.

4. We have heard the learned counsels for the parties and have perused the pleadings on record.

5. The question for consideration before us is whether the applicant is an employee of ICAR or an employee of the Institute, which is controlled by the Government or ICAR. The learned counsel for the applicant submits that KVK is directly functioning under the ICAR and it has nothing to do with Kamla Nehru Trust. According to him, all activities of KVK are controlled by ICAR and it is fully funded by the ICAR. On the other hand, the learned counsel for the respondents submits that KVK is a part of Kamla Nehru Trust and the scheme given by the ICAR to KVK has been given through Kamla Nehru Trust under memorandum of understanding annexed as Annexure no. 1 (Page 14 to 21) to the Counter reply. The respondents have also annexed a copy



of the registration certificate issued by the Registrar Societies U.P. on 23.5.1987. The learned counsel for the respondents has relied-upon the decision of Hon'ble Supreme Court in the case of Chandra Mohan Khanna Vs. National Council of Education Research & Training & Others (1991) 4 SCC 578). In this case the apex court has held that "Constitution of India- Article 12- State- Registered society when included-Tests to determine-Finance or control of Govt. not conclusive test- combination of State aid and control and governmental activity carried on by a corporate body, may indicate that the body is 'State'- But every autonomous body having some nexus with the government not included- National Council of Educational Research & Training (NCERT), held , not 'State'.

6. The learned counsel for the applicant has relied-upon a decision of Allahabad High Court dated 2.11.2000 in the case of Paras Nath Pandey Vs. Director, North Central Zone Cultural Centre, Nyay Marg, Allahabad (2001) 1 UPLBEC 109). In this case the Hon'ble High Court has held that "North Central Zone Cultural Centre (NCZCC)- constitution, nature of financial supervision and contract of the Central Government- held without any doubt NCZCC is instrumentality of Central Government. On perusal, we find that the judgment of Hon'ble High Court of Allahabad is not applicable in the present case.

7. From the record placed before us, we find that KVK does not have direct nexus with the ICAR, nor there is any memorandum of understanding between the said Institute and ICAR. The learned counsel for the applicant has not been able to show any document in support of his contention that the Institution is working under the direct control of ICAR or is being funded by the ICAR. In view of the aforesaid reasons, we hold that the said Institution is executing the scheme of ICAR through Kamla Nehru Memorial Trust, which is not notified under Section 14(2) of the Administrative

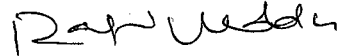


Tribunals Act, 1985 declaring the same as having come under the territorial jurisdiction of this Tribunal.

8. For the reasons stated above, the O.A. is dismissed as not maintainable. Parties shall bear their own costs



MEMBER(A)



MEMBER(J)

LUCKNOW:DATED: 12.2.2001.

GIRISH/-