

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

ORIGINAL APPLICATION NO: 148/2010

This the 15th day of April, 2010

Hon'ble Mr. M. Kanthaiah, Member (J)

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

Kanti Bhai, aged about 48 years, son of Amba Lal Basava, resident of Villae-Kothar, Post Methi, District- Vadodara Ta Karjan State of Gujrat.

Applicant.

By Advocate Sri N.K. Mishra.

Versus

1. Union of India Ministry of Central Reserve Police Force Ministry of Home Affairs Civil Secretariat, New Delhi.
2. Director General of Police Central Reserve Police Force Hyderabad.
3. Deputy Inspector General of Police Reserve Police Force Bangalore.
4. Commandant 91 Bn. CRPF, LDA, Colony, Ashiyana Sector G Lucknow.

Respondents

By Advocate Sri S. P. Singh / *Shri Rajendra Singh for Shri Raghendra Mishra.*

Order (Oral)

By Hon'ble Mr. M. Kanthaiah, Member (J)

Heard counsel for the parties. The applicant has filed O.A. challenging the order dated 5.3.2010 (Annexure A-1) and also for a direction to the respondents to promote the applicant on the post of Sub Inspector on the basis of his length of service.

2. The learned counsel for the respondents has taken objection on maintainability of O.A. that the applicant who is seeking promotion on the post of Sub Inspector in the Central Reserve Police Force is not a civilian employee and this Tribunal has no jurisdiction to hear the application.

3. He placed before us the provisions of Section 14 of the Administrative Tribunal Act, 1985 (A.T. Act, 85) according to which, this Tribunal has jurisdiction only in respect of civilian employees.

4. In particular, he drew our attention to Section - 2 of the Administrative Tribunal Act which clearly excludes the operation of the act in respect of any member of the armed forces of the Union. Section- 2 is extracted below for better appreciation:-

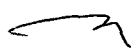
"Section-2-The provisions of this Act shall not apply to -

(a) any member of the Naval, Military or air forces or of any other armed forces of the Union"

5. The issue whether a member of the Central Reserve Police Force (CRPF), and other para Military Forces such as Central Industrial Security Force (CISF), Border Security Force (BSF), Indo-Tibetan Border Police (ITBP), General Reserve Engineering Force (GREF) would be covered under the definition "or any other armed forces of the Union" was examined by this Tribunal on many occasions in the past and it was ruled that they would come under the expression "armed forces of the Union". The following case laws were cited by the counsel for respondents.

(i) Central Industrial Security Force, (1987) 3 ATC 93 CAT (Mad);

(ii) Border Security Force, 1987 3 ATC 918 CAT (ND);

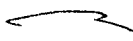


(iii) Indo-Tibetan Border Police, 1986 1 ATC 67 CAT (ND);

(iv) General Reserve Engineering Force (1986) 1 ATC 453 CAT (ND).

6. It is an admitted fact that Central Reserve Police Force is a Para Military Organization of Government of India and the applicant who is a constable and is seeking promotion to the rank of Sub Inspector is not a civilian employee. Further, admittedly he is a member of the Para Military Force of Union of India. The AT. Act specifically excludes the members of the para military forces (armed forces) of the Union from the jurisdiction of this Tribunal. However, this fact was not placed before the Hon'ble High Court when the petition of the applicant was being heard by the High Court. Relying on the decision of the Apex Court in the case of *L. Chandra Kumar Versus Union of India and Others* 1997 SCC (L&S) 577 the Hon'ble High Court directed the applicant to avail himself of alternative remedy. However, as mentioned earlier, the fact about non-maintainability of any application of a non-civilian employee of the Para Military Force of Union of India was not placed before them.

7. In the circumstances, we have no other option but to uphold the preliminary objection of the counsel for the respondents about our lack of jurisdiction to entertain



this application which is accordingly dismissed as not maintainable. However, liberty is being given to the applicant to seek redress at appropriate judicial forum.

No costs.

A. K. Mishra 15/04/10
(Dr. A. K. Mishra)
Member (A)

M. Kanthaiah
(M. Kanthaiah)
Member (J)

Vidya