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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Tr. Application No.16/88
and
Tr. Application No.17/88.

Shri P.P.Varade

... Applicant
(in Tr.16/88)

Shri P.N.Singh.

... Applicant
(in Tr.17/88)

V/s.

Union of India & Another

... Respondents
(in both Tr.16/88 and
Tr.17/88).

Coram: Hon'ble Member(A), Shri P.S.Chaudhuri,
Hon'ble Member(J), Shri T.S.Oberoi.

Appearances:

Applicants in person.
Mr.S.C.Dhawan holding
the brief of Mr.P.R.Pai
for the respondents.

Oral Judgment:-

¶ Per Shri P.S.Chaudhuri, Member(A) | Dated: 18.4.1990

These two transferred applications can be
conveniently dealt with by a common order as the issues
involved in the two applications are identical.

2. When these cases are called for hearing the
applicants appear before us in person. Mr.S.C.Dhawan,
holding the brief of Mr.P.R.Pai, learned counsel appears
for the respondents.

3. Both the applications were originally lodged in
the High Court of Judicature at Bombay on 29.4.1985. After
objections had been removed, these were both filed on
28.1.1988 and numbered as Writ Petitions No.289/88 and
290/88. Thereafter, by orders both dt. 25.2.1988, these
were transferred to this Tribunal. These have been taken
on the board of this Bench of this Tribunal as Transferred
Applications No.16/88 and 17/88.

4. The petitioners were both employees of the Railway Protection Force (for short, R.P.F.) of the Central Railway. They are challenging the orders dt. 20.3.1981 by which they were removed from service.

5. We may point out that the applicants were governed by the Railway Protection Force Act, 1957. Section 3 of the Act was amended by the Railway Protection Force (Amendment) Act, 1985 which came into force from 20.9.1985. By the amendment the Railway Protection Force has been made an armed force of the Union. According to section 2(a) of the Administrative Tribunals Act, 1985 the provisions of the act are not to apply to members of the armed forces of the Union. It is true that in both the cases the applicants were removed from service prior to the coming into force of the Railway Protection Force (Amendment) Act, 1985. But if they succeed in their petitions they shall have to be reinstated as members of an armed force of the Union and hence in our opinion this Tribunal will have no jurisdiction to decide the petition.

6. The Allahabad Bench of this Tribunal has taken the same view in Krishan Pandey v. Union of India, 1987(3)SLR 171. After going through the application in that case we find that that applicant was removed from service by order dt. 30.6.1982 and his appeal was rejected on 1.1.1983, i.e. both the orders were passed before the coming into force of the Railway Protection Force (Amendment) Act, 1985. In another case, viz. Anand Thakur v. Union of India, 1987(3) SLR 820, decided by the Principal Bench of this Tribunal, which is somewhat similar, the same view was taken. We may mention that in that case the applicant was not a member of

RPF but was a member of the Central Industrial Security Force constituted under the Central Industrial Security Force Act, 1968. He was removed from service by order dated 26.5.1983. Section 3 of that Act was amended by the Central Industrial Security Force (Amendment) Act, 1983 and the amendment came into force from 15.6.1983, i.e. after the applicant was removed from service. This force was made into an armed force of the Union by this amendment. In that case the penalty was confirmed on appeal only on 17.7.1984 i.e. after the amendment came into force. The Principal Bench held that this Tribunal will have no jurisdiction to entertain the grievance of the applicant and hence his application was returned for presentation to such Court as may have jurisdiction in this behalf.

7. We are bound by the decisions of this Tribunal that we have cited above. As the RPF has been declared to be an armed force of the Union, it is clear from section 2(a) of the Administrative Tribunals Act, 1985 that this Tribunal has no jurisdiction, power or authority in respect of these transferred applications. We had taken the same view in Bhimrao F.Patil v. Union of India and another (W.P.1489/83 before the High Court of Judicature at Bombay - Tr. Application No.9/88 before us) and Dayashankar Tiwari v. Union of India and others (W.P. No.2851/84 in the High Court of Judicature at Bombay - Tr. Application No.487/87 before us) which were re-transmitted to the High Court of Judicature at Bombay by our order dated 21.6.1989.

8. In this view of the matter, we direct the Registry to re-transmit the relevant record and proceedings of these two transferred applications to the High Court of Judicature

at Bombay which still exercises jurisdiction, power and authority in these two writ petitions. In view of this order Misc. Petitions No.202/90 and 203/90 praying for early hearing are also disposed of. A copy of the judgment and order shall be retained by the Registry of this Bench and one copy thereof shall be sent with each of the Writ Petitions to the High Court of Judicature at Bombay.

Original copy of
judgment kept in
correspondence
TR 16/88
file