

(6)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

Tr.Appln.No.66/88

Shri Mohamed Rasool,
C/o. Shri T.P.C.Nair,
Advocate,
2/Suraj Kutir,
Marve Road,
Malad(W),
Bombay - 400 064.

.. Applicant

vs.

1. The Chief Security
Officer,
Central Railway,
Bombay V.T.

2. Central Railway,
Bombay V.T.

3. Union of India.

.. Respondents

Coram: Hon'ble Member(J) Shri M.B.Mujumdar

Hon'ble Member(A) Shri M.Y.Priolkar

Appearances:

1. Shri T.P.C.Nair
Advocate for the
Applicant.

2. Shri P.R.Pai
Advocate for the
Respondents.

ORAL JUDGMENT

(Per M.B.Mujumdar, Member(J))

Date: 4.12.1989


who
The applicant was working as a
Rakshak in the Railway Protection Force is
removed from service by order dated 11.11.1970.
His appeal against that order was rejected on
3.6.1971. The applicant has challenged this
order by filing a SC Suit No.7580 of 1972 in the
City Civil Court at Bombay on 6.4.1972.


2. By order passed in sometime
in November, 1988 the suit is transferred to this
Tribunal where it is numbered as Tr.Application
No.66/88.

3. We may point out that the applicant was governed by the Railway Protection Force Act, 1957. Section 3 of that Act was amended by the Railway Protection Force(Amendment)Act,1985 which came into force on 20.9.1985. By the amendment the Railway Protection Force has been made 'armed force of the Union'. According to Section 2(a) of the Administrative Tribunals Act,1985 the provisions of the Administrative Tribunals Act are not applied ^{able} to the armed forces of the Union. Though the applicant was removed ^{from} from service in 1970 if his suit succeeds he shall have to be reinstated as a Rakshak i.e. as a member of the armed force of the Union. Hence in our view we will have no jurisdiction to hear this suit which is transferred to us by the City Civil Court, Bombay. After citing some authorities this Tribunal has taken the same view in Tr.Application No.9/88 and 487/87 decided on 21.6.1989. In these cases also the applicants ~~were~~ removed from service long back. After examining the legal position we had retransferred these cases which were originally filed as Writ Petitions in the High Court of Judicature at Bombay.

4. We may point out that Shri T.P.C. Nair, learned advocate for the applicant has filed an application dated 4.12.1989 requesting that this case may be sent back to the City Civil Court, at Bombay. Mr. P.R. Pai, learned advocate for the respondents ^{on the application} has endorsed that orders may be passed accordingly as this Tribunal has held that in case the applicant succeeds he will be governed by the Railway Protection Force Act as amended in 1985.

5. Hence we direct that this case
i.e. S.C.Suit No.7580 of 1972 be retransferred
to the City Civil Court at Bombay. There will be
no order as to cost so far as the proceedings
in this Tribunal are concerned.


(M.Y. PRIOLKAR)
Member(A)


(M.B. MUJUMDAR)
Member(J)