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

Tr. Application No. 242/86, 244/86 and 246/86

1. Shri Bhiku Shripat Kenjale,
Siddharth Nagar,
Room No.574,
Dr. Annie Besant Road, Worli,
Bombay - 400 018. .. Petitioner in T.A.No.242/86
2. Shri Dayashankar Singh,
Rakshak, S.No.E-20734,
Zopadpatti near Sambhajinagar,
Laxmi Jairam Compound,
Dahisar East,
Bombay - 400 068. .. Petitioner in T.A.No.244/86
3. Shri Kailash Meena,
Rakshak, S.No.E-21898,
Zopadpatti near Sambhajinagar,
Laxmi Jairam Compound,
Dahisar East,
Bombay - 400 068. .. Petitioner in T.A.No.246/86

V/s.

1. Union of India through
General Manager,
Western Railways,
Churchgate, Bombay - 400020.
2. Deputy Chief Security Officer,
Western Railways,
Churchgate,
Bombay - 400 020.
3. Senior Security Officer,
Western Railways,
Bombay Central,
Bombay Division,
Bombay - 400 008.
4. Assistant Security Officer(II)
Western Railways, Bombay Central,
Bombay - 400 008.
5. Security Officer(II)
Western Railways,
Bombay Central,
Bombay - 400 008
6. Chief Security Officer,
Western Railways,
Churchgate,
Bombay - 400 020. .. Respondents in all
the above applica-
tions.

Coram: Hon'ble Member S.P.Mukerji
Hon'ble Member (J) M.B.Mujumdar

Tribunal's Order: Per Mukerji, Member) Date: 23-9-1986.
Since a common question about the jurisdiction
of the Tribunal to adjudicate upon the aforesaid three
petitions is involved the following order is passed to

govern all the three transferred writ petitions.

2. In all the aforesaid three petitions the petitioners have been members of the Railway Protection Force designated as "Rakshak". In accordance with the Railway Protection Force (Amendment) Act, 1985 (60 of 1985) amending Section 3 of the Railway Protection Force Act published in the Gazette of India dtd. 9th September, 1985 the Railway Protection Force has been declared to be an Armed Force of the Union. The amendment came into force from 20th September, 1985 in accordance with the notification dtd. 18th September, 1985. The Administrative Tribunals Act came into effect w.e.f. 1st November, 1985 that is after the Railway Protection Force had been declared to be an "Armed Force" of the Union.

3. In accordance with Section 2 of the Administrative Tribunals Act "The provisions of this Act shall not apply to (a) any member of the naval, military or air force or of any other armed forces of the Union....." Thus the jurisdiction of the Tribunal does not extend to the service matters of members of the Armed Force of the Union. The Railway Protection Force having been declared an Armed Force of the Union and the petitioners' cause of action having arisen when they were admittedly Members of that Force, the Tribunal has no jurisdiction to adjudicate upon the aforesaid three petitions.

4. We are conscious of the situation that the impugned orders in these cases were passed before 20th September, 1985 when the Railway Protection Force was declared an Armed Force of the Union. The question arises whether the Tribunal's jurisdiction will still be excluded by section(2) of the Administrative Tribunals Act. In order to decide this issue the relevant provisions of Section 29 under which these writ petitions were transferred to the Tribunal can be usefully quoted. Sub Section 1 of Section 29 reads as follows :

"Section 29. Transfer of pending cases:

(1) Every suit or other proceeding pending before any court or other authority immediately before the date of establishment of a Tribunal under this Act, being a suit or proceeding the cause of action whereon it is based is such that ~~it would have been, if it had arisen after such establishment, within the jurisdiction of such Tribunal,~~ shall stand transferred on that date of such Tribunal..."
(emphasis supplied)

5. From the aforesaid quotation it is clear that if the causes of action in these three cases had arisen ~~on or~~ after 1-11-1985 when that Tribunals jurisdiction was created and if the Tribunal had jurisdiction as on that date to adjudicate upon those causes of action only then the Tribunal can adjudicate upon these three cases. Since admittedly on 1-11-1985 the Railway Protection Force had been declared ^{an} Armed Force of the Union and the Tribunal's jurisdiction is excluded so far as the members of the Railway Protection Force as on or after 1-11-1985 are concerned, the constructive interpretation of the provision of Section 29 makes it abundantly clear that the Tribunal has no jurisdiction to adjudicate upon these cases also even though the causes of action had arisen before the Railway Protection Force was declared to be an Armed Force of the Union.

6. In view of the above analysis, we find that the Tribunal has no jurisdiction to adjudicate upon these cases. We, therefore, order accordingly and direct that these three cases may be returned to the Registry of the High Court of Judicature at Bombay from where it had been transferred earlier.

There will be no order as to costs. Copies of this order should be placed on all the aforesaid three case files. The order has been pronounced in the open court. today.

S.P. MUKERJI 23.9.86

(S.P.MUKERJI)
MEMBER

(M.B.MUJUMDAR)
MEMBER(J)