

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLDG.NO.6, PRESCOT RD, 4TH FLR,
MUMBAI - 400 001.

ORIGINAL APPLICATION NO: 1357/95.

DATED THIS 16th DAY OF JUNE, 1997.

CORAM : Hon'ble Shri B.S.Hegde, Member (J).

Hon'ble Shri M.R.Kolhatkar, Member (A).

Dhanji Keru Barbole,
residing at Darphal (seena),
Tal. Macha, Dist. Solapur.

... Applicant.

By Advocate Shri Suresh Kumar.

v/s.

1. The Union of India.
2. The Security Officer,
Railway Protection Force,
South Central Railway,
Solapur.
3. Shri Gurudatt,
Enquiry Officer,
I.P.F. Daund,
Now transferred at Khandava,
Bhusawal Division.
4. The Chief Security Officer,
Railway Protection Force,
Bombay V.T.
5. The Director General,
Railway Protection Force,
Rail Mantralay,
New Delhi.

... Respondents.

None for respondents.

§ ORDER §

§ Per Shri B.S.Hegde, Member(J) §

Heard Shri Suresh Kumar for the applicant.

Shri D.E.Rai, representative of the respondents is present, met his counsel. Despite sufficient opportunity being given to respondents, they did not care to file reply. Initially, the applicant has filed Writ Petition in Bombay High Court in 1987. The removal order was issued by respondents dated 26/2/1985 against which he preferred an appeal on 22/2/85 which was dismissed by the respondents vide their letter dated 22/4/85. Thereafter he filed a



Writ Petition in Bombay High Court. The matter came up for admission on 23/2/95. The respondents department took a stand that the High Court had no jurisdiction to proceed with the case in view of the provision of the Administrative Tribunals Act, 1985. The High Court agreed with the contention of the respondents and transferred the petition to Tribunal for want of jurisdiction and also observed that Section 10 of the Railway Protection Force Act, 1957, provides "that all members of the Railway Protection Force shall be regarded as railway servants within the meaning of Indian Railways Act, 1890. In view of this, the petitioner must be deemed to be Railway Servant' as defined in section 10 of the Railway Protection Force Act, 1957. In that view of the matter, the petitioner will have to agitate his rights before the Central Administrative Tribunal constituted under the Administrative Tribunals Act, 1985 thereby the matter is transferred to Central Administrative Tribunal for further disposal.

2. The Learned Counsel for the applicant, Shri Suresh Kumar drew our attention to the Railway Protection Force (Amendment) Act, 1985, which provides for the constitution and regulation of an ~~Armed Force~~ of the Union, etc. and which came into force on 1/10/1985. Till then the employees of Railway Protection Force were treated as Railway Servants. In support of his contention, he has drawn our attention to the decision of the Bombay Bench of the Tribunal in OA No.814/91 decided on 17/9/92 in Subhaerabhai Mishra v/s. G.M., Central Railway, Bombay wherein the Tribunal held that

"Section 19(1) of the Amended Act provided that existing member of the Force became the member of the Armed Force of the Union immediately on the commencement of Amended Act. Till that time, he could not become member of the Armed Force inspite of the Provisions as contained in section 19(1) of the Amended Act and he be treated as a member of the Force as contemplated in section 3 of the Act as

As

unamended. Hence Tribunal has the Jurisdiction to entertain the application."

3. The ratio laid down in that decision will squarely apply to this case, as the removal order issued in this case is dated 20/2/85 and hence prior to the amended Act. Thereby, this Tribunal has got jurisdiction. This has not been rebutted by the respondents either filing any reply or by the Counsel.

4. In the result, we are inclined to accede to the arguments of the Counsel for applicant that the Tribunal has jurisdiction to entertain this petition and accordingly admit the OA. The respondents are directed to file their reply if any within four weeks from the date of receipt of this order failing which the matter will be decided ex parte.

List the matter for completion of pleadings before Registrar on 23/7/97 and then in sine die list.

M.R. Kolhatkar

(M.R. KOLHATKAR)
MEMBER (A)

B. S. Hegde

(B. S. HEGDE)
MEMBER (J)

abp.

add. 20/6/97
Order/Judgment dispatched
to App. / Respondent (s)
on 22/6/97
68
30/6/97