

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.838/98.

Dated: 25-11-98

Obi Shettigar

Applicant.

Mr.A.I.Bhatkar

Advocate for
Applicant.

Versus

Union of India & Ors.

Respondent(s)

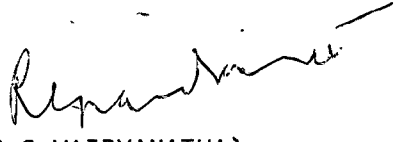
Mr.V.S.Masurkar and Mr.M.Shiraz

Advocates for
Respondent(s)

CORAM :

Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,
Hon'ble Shri D.S.Baweja, Member (A).

- (1) To be referred to the Reporter or not? Yes
- (2) Whether it needs to be circulated to other Benches of the Tribunal? No
- (3) Library? Yes


(R.G.VAIDYANATHA)
VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 838/99.

, this the 25th day of Nov- 1999.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,
Hon'ble Shri D.S.Baweja, Member (A).

Obi Krishna Shettigar,
A-1/02, Lokgram,
Kalyan (East),
Thane.
(By Advocate Mr.A.I.Bhatkar)

...Applicant.

Vs.

1. Union of India through
the Secretary,
Ministry of Communication,
Department of Telecommunication,
Sanchar Bhavan,
Parliament Street,
New Delhi - 110 001.
 2. The Controller General of
Accounts, Govt. of India,
Ministry of Finance,
Department of Expenditure,
Khan Market,
New Delhi.
 3. The Chairman & Managing Director,
Videsh Sanchar Nigam Ltd.,
Videsh Sanchar Bhavan,
M.G.Road, Fort,
Mumbai - 400 001.
 4. The Pay & Accounts Officer,
Department of Company Affairs,
Bank of India Building,
5th Floor, M.G.Road,
Mumbai - 400 023.
- (By Advocate Mr.V.S.Masurkar for
R-1, R-2 and R-4 and Mr.M.Shiraz
for R-3).

...Respondents.

: ORDER :

(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)

This is an application filed under section 19 of

...2.



Administrative Tribunals Act, 1985. The Respondents have filed their reply. We have heard Mr.A.I.Bhatkar, counsel for the applicant, Mr.V.S.Masurkar, counsel for Respondents No.1, 2 and 4 and Mr.M.Shiraz, counsel for Respondent No.3 regarding admission of the application and on the question of jurisdiction and maintainability of the application.

2. The applicant is a Central Government Servant. He was earlier working in the Department of Overseas Communication Services (for short, OCS). But, this department was abolished and in its place a Company was formed in the name of Videsh Sanchar Nigam Limited (for short, VSNL), which is R-3 in this application. The applicant was on deputation to VSNL. There was some correspondence about the absorption of the applicant in VSNL. At one stage, the applicant did not give willingness for absorption. Subsequently, he gave ~~✓~~ willingness for absorption, but his parent department did not give its consent. Subsequently, the applicant was repatriated to the parent department. The applicant is no longer working with the VSNL. On these facts, the applicant has approached this Tribunal praying for a direction that the order of repatriation by the VSNL to the parent department dt. 27.8.1997 be quashed, a direction be issued to the first respondent to give concurrence for absorption of applicant in VSNL and a direction to R-3 to absorb the applicant in its service.

3. The Respondents No.1, 2 and 4 have stated in their reply that they have no objection for absorption of the applicant in the service of VSNL.

The VSNL who is R-3 in the application has taken the stand that the application is not maintainable and this Tribunal

has no jurisdiction to give any relief against R-3, who is a Government Company and not a Department of the Government.

4. In the light of the pleadings and the arguments addressed before us, the question for consideration is whether this Tribunal has jurisdiction to entertain this OA and whether the application is maintainable in this Tribunal.

5. The learned counsel for the applicant placed strong reliance on Section 14 (1) of the Administrative Tribunals Act, 1985, whereas the respondents relied on Section 14(2) of the same Act in support of their contentions. Some decisions were cited at the bar and we have also come across many decisions of the Tribunal expressing view on this question.~~on first principles.~~

No doubt, section 14 (1) (b) (c) of the Administrative Tribunals Act, 1985 provides that this Tribunal has jurisdiction to decide any service dispute in connection with the affairs of the Government of India or any Local Body or other authority or under the control of the Government of India or of any Corporation or Society owned or controlled by the Government. The learned counsel for the applicant, therefore contended that this Tribunal has powers to decide any service dispute even pertaining to a Government Corporation, a Government Society or Local authority controlled by the Government of India. But, we must bear in mind that sub-clause (a) (b) and (c) of Section 14 are controlled by Section 14(1) which clearly provides as "save as otherwise expressly provided in this Act". Therefore, the powers to be exercised under clause (a), (b) and (c) are subject to other provisions in this Act. We cannot read Section 14 (1) in isolation, 14 (1) generally mentions the powers of the Tribunal regarding service disputes of Government and other

authorities like Society, Corporation etc. owned or controlled by the Government of India. But, this is subject to other provisions in the Act as mentioned in Section 14 (1) itself.

Then, Section 14 (2) provides that this Tribunal can exercise jurisdiction over such local or authorities or corporations or societies as may be notified by a Notification by the Central Government.

Therefore, we find that Section 14(1) must be read with Section 14(2). Section 14⁽¹⁾~~(2)~~ generally provides that this Tribunal has powers regarding service matters pertaining to Central Government, Government Corporation, Government Ministry etc., but this is controlled by Section 14 (2) which says that necessary notification must be issued to apply the provision of the Act to a particular government corporation, society etc. Hence by reading of Section 14(1) and (2) together there is no difficulty to hold that this Tribunal can exercise jurisdiction over Government Corporations, Authorities etc. only if there is a Notification under section 14(1) of the Act. We may also mention here that the government has issued many notifications under section 14⁽²⁾~~(1)~~ by extending the jurisdiction of this Tribunal over certain organizations.

6. If we accept the argument of the applicant's counsel that 14 (1) itself gives powers over different Corporations, Authorities etc., then Section 14(2) becomes redundant. One of the fundamental principles of interpretation is that we must reconcile all the provisions ^{of} in the Act. If Section 14(1) by itself is sufficient to give jurisdiction over authorities and corporations, then there is no necessity for a Notification under Section 14(2) of the Act. The fact that the Legislature has

deliberately provided a Notification under section 14(2), we must read 14(1) along with 14(2) to decide whether the Tribunal has jurisdiction over a particular corporation, authority etc.

7. Now, we may refer to some of the decisions having a bearing on the point. The learned counsel for the applicant relied on the observation of a Single Member of Chandigarh Bench of the Tribunal in the case of Dr.S.P.Seth Vs. Union of India & Ors. (1998 (2) SLJ CAT 549). In that case, the dispute was whether the Tribunal has jurisdiction over a Society. It is observed by the learned Single Member that the Society was controlled by the Government and therefore, the Tribunal has jurisdiction to entertain the dispute. In our view, this decision cannot be given any weight for more than one reason. In the first place, it is only a prima facie observation by the learned Member for the purpose of granting interim order and in para 7 he has clearly mentioned that the question of jurisdiction will be decided finally at the time of final hearing. Another reason is that it is an observation by a Single Member and therefore it is not binding on a Division Bench. Thirdly, there are many judgments of Division Benches taking a different view and therefore the observation of a Single Member cannot be given any weight.

Then, reliance was placed on the case of Shri Ram Prakash Vs. Secretary, Planning Commission (1987 (4) ATC 863), where a Government Officer had gone on deputation to Indian Institute of Public Administration, which is a Society under the Societies Registration Act, 1860. The Division Bench has observed that since the Officer had gone on deputation to the Society, the

Tribunal has jurisdiction to adjudicate the dispute.

As against the above two decisions we have come across number of decisions of various Benches of the Tribunal taking a different view. The consistent view taken is that unless there is a Notification under 14(2), the Tribunal cannot exercise any jurisdiction over any authority, corporation, society etc.

8. In 1987 (48) SLR CAT 438 (Dr.A.Muralidharan Vs. Dr.Mohammed Yusuf and Ors.), the question was whether the Tribunal can exercise jurisdiction over Societies and Corporations owned or controlled by Government. The Division Bench of the Madras Bench of this Tribunal held that no such jurisdiction can be exercised in the absence of Notification under section 14(2) of the Administrative Tribunals Act.

In 1994 (6) SLR CAT 483 (Shri Dharam Pak Vashishta Vs. Union of India & Ors.), a Division Bench of the Chandigarh Bench of the Tribunal had to decide whether the Tribunal has jurisdiction over Sainik School which is registered as a Society and which is fully owned and controlled by the Government of India. The Tribunal held that jurisdiction cannot be exercised in the absence of Notification under section 14 (2) of the Administrative Tribunals Act.

In 1991 (4) SLR CAT 230 (A.L.Vohra Vs. Union of India and Ors.), a Division Bench of Chandigarh Bench of the Tribunal was concerned with the question whether the Tribunal has jurisdiction over the Food Corporation of India, which is fully owned and controlled by the Government of India. It was held by the Bench that no jurisdiction can be exercised over the Corporation in the

...7.



absence of Notification under section 14(2) of the Act.

In 1987 (3) SLR CAT 699 (Miss.T.Ponnamma Vs. Union of India and Ors.), a Division Bench of this Bench held that this Tribunal has no jurisdiction over the employees of Cantonment Board, Pune in the absence of Notification under section 14(2) of the Act.

In 1987 (3) SLR CAT 819 (Bal Krishna and Ors. Vs. Kendriya Vidyalaya Sangathan and Ors.), the Principal Bench had an occasion to consider the question whether this Tribunal can exercise jurisdiction over the Kendriya Vidyalaya Sangathan which is a registered Society and fully controlled and owned by Government of India. The Division Bench headed by the then Chairman held that the Tribunal cannot exercise powers over the institution unless a statutory Notification is issued under section 14(2) of the Act. In this connection, we may point out that only few months back we have received a Notification dt. 17.12.1998 issued under section 14 (2) of the Administrative Tribunals Act, 1985 extending the jurisdiction of this Tribunal over number of organisations including Kendriya Vidyalaya Sangathan. Therefore, all these 38 institutions which are mentioned in this Notification dt. 17.12.1998 are now brought under the control and jurisdiction of this Tribunal. In the case of Om Prakash Puri Vs. University Grants Commission (1987 (3) SLR CAT 841), again the Principal Bench of this Tribunal was concerned with the question about jurisdiction over the University Grants Commission which is fully owned by the Government of India, though it is constituted under a statute. It was held by the Principal Bench preceded over by the then

...8.



Chairman that jurisdiction cannot be exercised by this Tribunal unless there is a Notification issued under section 14 (2) of the Act.

Then, we may make useful reference to another decision of the Principal Bench of the Tribunal in R.K.Gupta's case (1987 (3) SLR CAT 846). That was a case, where the question was about jurisdiction over International Air Port Authority which is a Government Corporation fully controlled and owned by the Government of India like VSNL with which we are now concerned. It was held by the Principal Bench that this Tribunal cannot exercise jurisdiction over that Corporation unless a Notification is issued under section 14 (2) of the Act. In this case, there is no dispute that ~~there is~~ no such notification has been issued under section 14 (2) of the Act bringing VSNL within the jurisdiction of this Tribunal. Therefore, we hold that this Tribunal has no jurisdiction over service dispute of the applicant vis-a-vis VSNL and therefore, the present application against R-3 is not maintainable.

The learned counsel for the respondents brought to our notice an unreported Judgment dt. 9.7.1999 in OA 165/94 of this Tribunal, where in the case of VSNL itself, the Bench has observed that the application is not maintainable in the absence of Notification under the Act.

9. Now, the next question is if the application is not maintainable as against R-3, whether the application can be admitted as against other respondents and whether any relief can be given to the applicant.

10. In view of the above discussion, the OA is not maintainable so far as Respondent No.3 is concerned.

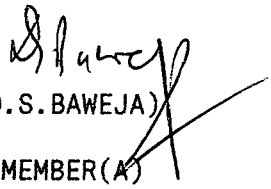
As far as Respondents 1, 2 and 4 are concerned the OA is certainly maintainable, but the question whether the OA should be admitted even against Respondents No.1, 2 and 4.

The main relief asked for in the OA is that Respondent No.3 VSNL should be directed to absorb the applicant. Then, there is another prayer that the order of re-patriation dt.27.8.1997 passed by VSNL (the 3rd respondent) should be quashed. Therefore, these two main reliefs are directed against Respondent No.3, but we have already held that OA is not maintainable against R-3 and therefore prayers (a) and (c) in para 8 of the OA do not survive.

As far as Respondents No.1, 2 and 4 are concerned, there is only one prayer and that is prayer clause (b) in para 8 where the applicant wants a direction to the other respondents to give concurrence to R-3 for absorption of the applicant. This prayer also does not survive since R-1, R-2 and R-4 have admitted in their written statement that they have no objection for applicant's absorption in the office of R-3. Hence, no direction need be given to Respondents No.1, 2 and 4 since they are admitting in the pleadings that they have no objection for applicant's absorption with R-3, but R-3 is not willing for absorption. Respondent No.3 has already repatriated the applicant to the parent department. Hence, irrespective of the concurrence given by Respondents No.1, 2 and 4 no relief can be given to the applicant since the main relief is directed against R-3, but the OA is not maintainable. Even if Respondents 1, 2 and 4 give concurrence, it will be of no use since this Tribunal cannot give any direction to R-3 to absorb the applicant for want of jurisdiction. Hence, in our view, the OA does not survive as

against Respondents No.1, 2 and 4 in view of their admission in the reply mentioned above. Even otherwise, no useful purpose will be served in admitting the OA against Respondents No.1, 2 and 4 when the main relief cannot be granted against R-3 for the reasons already mentioned. Therefore, we hold that there is no necessity of admitting the OA even as against Respondents No.1, 2 and 4.

11. In the result, the application is rejected at the admission stage for the reasons mentioned above. No order as to costs.


(D.S. BAWEJA)

MEMBER(A)


(R.G. VAIDYANATHA)

VICE-CHAIRMAN

B.