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(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH  
AT JAIPUR

O.A. No. 572/90

Date of Order: 24.3.1992

Net Ram Bugalia

Applicant

Mr. R.N. Sharma

Counsel for Applicant.

Versus

Union of India & Ors

Respondents

Mr. S.C. Mittal

Counsel for Respondents.

CORAM:

HON' BLE MR. KAUSHAL KUMAR, VICE-CHAIRMAN

HON' BLE MR. GOPAL KRISHNA, MEMBER (JUDICIAL)

MR. KAUSHAL KUMAR, VICE-CHAIRMAN

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant who is working as Assistant Project Officer, Zila Sainik Board, Jhunjhunu has prayed for issue of a direction to the respondents 'to permit the applicant to continue to work as Assistant Project Officer as a Central Government employee covered by the Central pay scale and to be given all the benefits of Central Government employee'. In the relief clause, issue of several other directions has also been prayed for.

2. The respondents, in their reply, have raised a preliminary objection that the present application is not maintainable since the applicant had already filed a Writ Petition in the High Court of Rajasthan against certain orders which have been impugned in this application as well.

3. The jurisdiction, powers and authority of the Central Administrative Tribunal have been prescribed in Section 14 of the Administrative Tribunals Act, 1985. As per Section 14(1) clause (b) (ii), the Tribunal shall exercise jurisdiction, powers and authority in respect of service matters in respect of a person, not being a member of All India service or a

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person referred to in clause (c), appointed to any civil service of the Union or any Civil post under the Union. The applicant was appointed as Assistant Project Officer by the Secretary, Zila Sainik Board, Jhunjhunu working under the State Government of Rajasthan vide order dated 2nd August, 1985 (Annexure A-5) reproduced below:

"GOVERNMENT OF RAJASTHAN

OFFICE OF THE SECRETARY ZILA SAINIK BOARD, JHUNJHUNU

OFFICE ORDER

On being selected by the Selection Committee Ex-JCO-55948X Sub(H/Capt) N.R. Bugalia is hereby appointed as Asst Project Officer in PEXSEM Scheme in the Central pay Scale Rs. 500-900 subject to approval of Director General Resettlement, New Delhi.

The appointment is purely temporary upto 30 Sept 1985 and services may be terminated on short notice also.

Sd///  
Secretary  
Zila Sainik Board, Jhunjhunu

No. 2131-37

Dated 02.8.85".

4. Merely because the applicant has been given a Central pay scale or his appointment was subject to approval of a Central Government authority, it can not be held that he holds a Civil post under the Union. The learned counsel for the applicant drew our attention to Government of India, Ministry of Defence, Director General of Resettlement letter dated 7th October, 1985 filed as Annexure A-6 with the application, which states that the Assistant Project Officer and Clerk employed for implementation of PEXSEM Scheme will be treated as staff of Directorate General Resettlement, Ministry of Defence and their pay and allowances will be

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drawn by DGR from the CDA (HQ). The letter further states that they will be treated as Central Government employees for the purpose of pay and allowances and will be entitled for Earned Leave, Casual Leave, Medical Leave etc. as per Central Government rules.

5. The above letter only stipulates that the Assistant Project Officer will be treated as Central Government employee for certain purposes. He does not automatically become <sup>a</sup> Central Government employee by virtue of the said letter. The learned counsel for the respondents, Shri Mittal clarified that 50% of the expenditure on pay and allowances is contributed by the Central Government and the remaining 50% expenditure is met by the State Government.

6. It has been stated by the respondents in their reply dated 20th January, 1992 as follows:

"(1) That the Government of India, Ministry of Defence, New Delhi, has conveyed the sanction of the President of India for continuance of the post of the Asstt. Project Officer, Zila Sainik Board, Jhunjhunu upto 30.9.1985 vide Annexure A-12. The PEXSEM Scheme was converted into a Centrally Sponsored Scheme and the expenditure thereon was to be shared by the Centre and the State in equal proportion i.e. 50 : 50. The Government of India, did not convey the sanction of the President of India for continuance of the aforesaid post afterwards and as such it became obligatory and necessary for the Government of Rajasthan to create the post as in its absence it was not possible to post anybody there. The creation of the post was also necessary for paying the salary of the incumbent. In these circumstances, order Annexure A1 was issued and the contention of the applicant that the said order has been issued without any authority to harass, humiliate the applicant is altogether unwarranted and misconceived".

7. The above clearly establishes beyond any doubt that the applicant does not hold a Civil post under the Union.

*h. k. m. s.*  
24/3/92  
8. From the averments made in the reply filed on behalf of the respondents it is also clear that the applicant has not approached this Tribunal with clean hands. It has been stated at Sl.No. 8 of the Application under the Heading "Matters

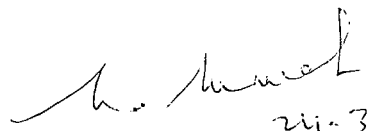
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not previously filed or pending with other Court" that  
" the applicant further declares that he had not previously  
filed any application, writ petition or suit regarding the  
matters in respect of which this application has been made,  
before any court of law or any other authority or any other  
Bench of the Tribunal, and nor any such application, writ  
petition or suit is pending before any of them except the  
representation dated 27.8.90 as stated above".

9. This position has been controverted by the respondents.  
The respondents have filed a copy of the writ petition  
filed by the applicant in the Rajasthan High Court in which  
one of the reliefs prayed for is for quashing the order  
dated 18.9.90 which order is also sought to be quashed in  
the present application as per particulars given against  
item No. 3 of the application.

10. In view of the above discussion, we hold that the  
Tribunal has no jurisdiction to entertain the present  
application and the present application is not maintainable.  
The applicant may, if so advised, file a petition before  
the appropriate forum in accordance with Law. There shall  
be no order as to costs.

Gp Krishna 24-3-92.  
(GOPAL KRISHNA)  
Member (Judicial)

  
24-3-92  
(KAUSHAL KUMAR)  
Vice-Chairman

