

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~NEW DELHI~~ Hyderabad

O.A. No. 291 of 1989  
~~T.A. No.~~

DATE OF DECISION 28/4/89

Mr. L. P. Shukla Petitioner

Shri Y. Suryanarayana Advocate for the Petitioner(s)

Versus

DRDL, Hyderabad and 2 others Respondent

N. Bhasker Rao, Addl. C.S.C Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. D. Surya Rao, Member (Judl.)

The Hon'ble Mr. D. K. Channavarthy, Member (Adm)

1. Whether Reporters of local papers may be allowed to see the Judgement? yes
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal? yes

MGIPRRND-12 CAT/86-3-12-86-15,000

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ORIGINAL APPLICATION NO.291 of 1989

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JUDGMENT OF THE BENCH DELIVERED BY HON'BLE SHRI D SURYA RAO,  
MEMBER (JUDL.)

The applicant herein is a Major in the Artillery Regiment of the Indian Army. He states that on 20.10.1987 he was posted as Security Officer of the Defence Research Laboratory (DRDL), Hyderabad on deputation. He took charge on 19.1.1988. He has filed this application praying for a direction to quash and set-aside the order No.DRDL/1100/JDA dated 3.4.1989 which reads as follows:-

"A telex message has been received from ITR, Balasore that your services are required there immediately. Kindly suggest probable date of your move to Balasore for 15 days in order to enable to us to arrange for your move.

Wg Cdr DK Sharma is being detailed to take over the charge from you." ✓

It is his case that the order passed by the 2nd respondent dated 3.4.1989 is, apart from being malafide, without jurisdiction as the 2nd respondent and the Research & Development, DRDL, New Delhi have no power to transfer the applicant from DRDL, Hyderabad to Balasore.

2. At the stage of admission, an objection was taken as to the jurisdiction and competency of the Tribunal to entertain this application. The Additional Standing Counsel for the Central Government Shri Bhaskar Rao seeks to contend that

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Section 2(a) of the Administrative Tribunals Act is a bar to the filing of this application. ~~Any Member of the Army Military or Air Force or any armed force of the Union.~~ Shri Y. Suryanarayana, learned counsel for the applicant on the other hand seeks to contend that under Section 14 of the Administrative Tribunals Act, the case can be heard ~~before~~ the Tribunal as it relates to <sup>a</sup>the service matter concerning a person appointed in <sup>a</sup>civil service of the Union or in civil post of the Union. It is contended, by virtue of Section 14(b)(ii) of the Act, that the applicant having been deputed in the DRDL, Hyderabad, a civil organisation, as Security Officer, <sup>holds</sup> ~~it is~~ a civil post under the Union and the applicant can file the application before this Tribunal. Section 14(1) reads as follows:-

"14. Jurisdiction, powers and authority of the Central Administrative Tribunal. - (1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court in relation to-

(a) recruitment, and matters concerning recruitment, to any All-India Service or to any Civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;

(b) all service matters concerning-

(i) a member of any All India Service; or

(ii) a person (not being a member of an All-India Service or a person referred to in clause (c)) appointed to any civil service of the Union or any civil post under the Union; or

(iii) a civilian (not being a member of an All-India service or a person referred to in clause (c)) appointed to any defence service or a post connected with defence;

and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation (or society) owned or controlled by the Government;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation (or society) or other body, at the disposal of the Central Government for such appointment."

3. The question is whether the applicant if deputed to perform the duties on a civil post ceases to be a military officer. Rule 14 of the Administrative Tribunals Act which confers jurisdiction on this Tribunal in regard to the holders of civil posts, is subject to Section 2 of the said Act. Section 2(a) of the Act lays down that provisions of the Act shall not apply to any Members of the Naval, Military or Air Force or any other armed forces. Who are members of military forces is defined in the Army Act. Section 2(a) of the Army Act 1950 states that officers of the regular Army shall be subject to this Act where-ever they may be. (Emphasis is laid by us). No provision has been shown to us which prevents a member of the regular Army from being deputed to perform

certain civilian duties or certain civilian functions and that if so deputed he ceases to be a member of the military force. A member governed by the Army Act i.e., a member of the Military Force of the Union can be deputed to a civilian post on tenure or temporary duty and where-ever he is he will continue to be member of the Military Force. The use of the phrase, "whereever they may be" in Section 2(a) of the Army Act is specific, namely whatever job they may perform they continue to be officers of the regular Army i.e., the Military Force of the Union and consequently the provisions of the ~~Central~~ Administrative Tribunals Act and the jurisdiction of the Tribunal cannot be invoked by any member of such a force.

4. We would hold that the application does not come within the jurisdiction of the Tribunal. The papers may be returned to the counsel for the applicant to enable him to present his case before a Court of competent jurisdiction.

*D. K. Chakravorty*

(D.K. CHAKRAVORTY)  
Member (Admn.)

*D. Surya Rao*

(D. SURYA RAO)  
Member (Judl.)

Dated: 28<sup>th</sup> April, 1989.

s/c  
R. today  
28/4

*6/5/89*

vsn

*L. R. ...*  
*Deputy ...*  
*27/4*