

CENTRAL ADMINISTRATIVE TRIBUNAL,

CHANDIGARH BENCH

O.A.No.060/01121/2014

Decided on : 15.12.2014

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. RAJWANT SANDHU, MEMBER (A)**

P.S. Sawhney R/o Flat No. 130, Sector 45-A, Chandigarh-160047, Ex Head of Civil Engineering, Chandigarh College of Engg. & Tech, Sector 26, Chandigarh.

By: Self.

Applicant

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Versus

Home Secretary, CHANDIGARH ADMINISTRATION, Deluxe Bldg, Sector 9, Chandigarh-160017.

By: None.

Respondents

O R D E R (ORAL)
HON'BLE MR. SANJEEV KAUSHIK , MEMBER (J)

1. The applicant has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:

"(i) Directions to the respondent to decide the representation

Dt. 20 Oct 14 in one month."

(ii) Any other relief to which this applicant is found entitled to".

2. The applicant pleads that he is a recognized Inventor / Scientist with 04 patents to his credit. It was in 1977 that he was selected

and appointed as Head of the Department in the Central Polytechnic, Chandigarh (now Chandigarh College of Engg. And Technology) from amongst 242 applicants through the Union Public Service Commission. Prior thereto, he had worked as Lecturer in Civil Engineering at Government Polytechnic, Nanded, Maharashtra. There he had unique opportunity of supervising the construction of "SHIKARGHAT BRIDGE" on Godavari, costing 22 Lacs then, totally by Kar Seva voluntary social service and donations (Annexure A-1). He is a Post Graduate in Structural Engineering from Roorkee University and has done research work in the field of Construction Technology vide Annexures A-2 to A-5 etc.). He is also author of Open University for India (Annexure A-6) which was presented in London in an International Symposium titled as Frontiers in Education in 1994. He had been invited to deliver expert Lectures to various august bodies vide Annexure A-7 and even the courts of the country recognized him as an Expert vide Annexure A-8. He was deputed to USA by the Government of India under UNDP assignment vide Annexure A-9. He was deputed to the First World Congress of Engineering Education by the respondent vide Annexure A-15. He had shifted to Chandigarh in 1977. Ever since then the respondents have been using his expertise for the purpose and more specifically, Annexure A-10, which is a set of Nomograms useful in designing RCC slabs.

3. The applicant pleads that as agreed by the Chief Engineer of the respondent vide Annexure A-11, the technology has been extensively used by his office and is being used even now. Its advantage lies in reducing the design time for a RCC slabs from one hour to 5 minutes only and even a novice can use it. Similarly, Annexure A-14 is a novel technique developed by applicant. By using this technique the pre-casting of R CC units, which earlier used to take minimum 24 hours, can now be accomplished in 30 minutes. Annexures A-12 and A-13 are two books published by applicant through M/s Macmillan India Ltd. Annexures A-15 to Annexure A-23 exhibit other similar academic activities of the applicant, at the National and International level. The applicant has crossed 75 years of age and is not keeping good health and is suffering from many geriatric diseases vide Annexure A-25.

4. After going through the Original Application one fails to find any trace of 'service dispute' raised by the applicant and as such we focused our attention to representation dated 20.10.2014 (Annexure A-26) from which it has become clear that the applicant has requested the Home Secretary, Chandigarh Administration, Chandigarh to direct the authorities of CCETY to identify and offer half acre of land in the campus of CCET so that the work of the applicant scattered at many places is consolidated at one place. Now one can find that the applicant is interested in allotment of half acre of land from CCET.

5. The applicant who appears in person made a fervent request to issue direction to the respondents to take a decision on the representation filed by him on the premise that it would not cause any prejudice to the respondents. We have considered the submissions.

6. When the O.A. was filed by the applicant, even the Registry of the Tribunal raised an objection that case does not appear to be a service dispute. However, in insistence of the applicant it was posted for preliminary hearing before this Bench.

7. First of all, we would proceed to examine the question of jurisdiction. Section 14 of the Administrative Tribunals Act, 1985, relating to jurisdiction of this Tribunal being relevant is reproduced as under :-

"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 Court³) 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 services 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.

[Explanation.—For the removal of doubts, it is hereby declared that references to “Union” in this sub-section shall be construed as including references also to a Union territory.]

(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations [or societies] owned or controlled by Government, not being a local or other authority or corporation [or society] controlled or owned by a State Government: Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations [or societies].

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation [or society], all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court) in relation to—

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation [or society]; and
(b) all service matters concerning a person [other than a person referred to in clause (a) or clause (b) of sub-section (1)] appointed to any service or post in connection with the affairs of such local or other authority or corporation [or society] and pertaining to the service of such person in connection with such affairs."

8. A perusal of the extraction in extenso above would make it clear that one can approach this Tribunal in regard to ***all service matters*** pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post. The service matter has been defined in section 3 (q) and (r) of A.T. Act, 1985, as under:-

"(q) "service matters", in relation to a person, means all matters relating to the conditions of his service 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, as the case may be, of any corporation [or society] owned or controlled by the Government, as respects—

(i) remuneration (including allowances), pension and other retirement benefits;

(ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;

(iii) leave of any kind;

(iv) disciplinary matters; or (v) any other matter whatsoever;

(r) "service rules as to redressal of grievances", in relation to any matter, means the rules, regulations, orders or other instruments or arrangements as in force for the time being with respect to redressal, otherwise than under this Act, of any grievances in relation to such matters"

9. A perusal of the afore extraction leaves no manner of doubt that the service dispute for which an application can be filed in this Tribunal has been defined crystal clear and that is all matters relating to the conditions of service of an aggrieved person. The term "service dispute"

came to be defined by a Full Bench of this Tribunal in the case of The Indian National NGO's v. Secretary, Ministry of Defence, (1992) 21 ATC 261 in which it was held that the expression "service matters" takes colour from the expression "all matters relating to the conditions of his service", appearing in clause (q) or section 3 of the Act and, therefore, the matter must have proximate nexus to conditions of service and has to be read 'ejusdem generis'. The effect of the Full Bench decision is that, to be a matter for consideration by the Tribunal "any other matter" must have a nexus with the conditions of service, as are coming with the subject jurisdiction of the Tribunal, enumerated in sub-clause (i) to (iv) of clause (q).

10. The question of allotment of land raised by the applicant does not fall, from any stretch of imagination within the meaning of "service dispute" or "any other matter" relating to service dispute or flowing there from and as such we are of the view that this Tribunal cannot entertain the present Original Application.

11. The plea of the applicant to direct the respondents to decide his representation, we are afraid, cannot be accepted as having held that we have no jurisdiction to entertain this Original Application, it would not be in the fitness of things to issue any direction to the respondents to decide the representation of the applicant on account of principle of *coram non judice*. It is trite law that a judgment and order passed by the Court

having no jurisdiction would be nullity. In **Kiran Singh and Others Vs. Chaman Paswan & Others**, AIR 1954 SC 340, the Hon'ble Apex Court has held thus:

"It is a fundamental principle well established that a decree passed by a Court without jurisdiction is a nullity, and that its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon, even at the stage of execution and even in collateral proceedings. A defect of jurisdiction, whether it is pecuniary or territorial, or whether it is in respect of the subject-matter of the action, strikes at the very authority of the Court to pass any decree, and such a defect cannot be cured even by consent of parties.

A judgment or order passed by a court lacking territorial jurisdiction, thus, would be *coram non judice*. Thus, if a district court, where the plaintiff resides but where no cause of action arose otherwise, adjudicates a matter relating to infringement of trade mark under the 1958 Act, its judgment would be a nullity".

12. In view of the above discussion, this Original Application is rejected on the ground of jurisdiction. The applicant would be, however, free to approach the competent forum for redressal of his grievance.

13. No costs.


(SANJEEV KAUSHIK)
MEMBER (J)


(RAJWANT SANDHU)
MEMBER (A)

Place: Chandigarh
Dated: 15.12.2014