

Central Administrative Tribunal  
Principal Bench  
New Delhi

O.A.No.2977/2016

M.A.No.2768/2016

Order Reserved on: 23.09.2016

Order pronounced on 28.09.2016

Hon'ble Shri V. Ajay Kumar, Member (J)

Hon'ble Shri V. N. Gaur, Member (A)

Shri Vivek Kant Srivastava

S/o Shri LP Srivastava

Aged 45 years

Lower Divisional (sic. Division) Clerk

Bureau of Indian Standard

Plot No.20/0, Site IV

Sahibabad, District Ghaziabad.

... Applicant

(By Advocate: Ms. Charu Ambwani)

Versus

1. Bureau of Indian Standards

Through the Director General

Manak Bhavan

9, Bahadur Shah Zafar Marg

New Delhi – 110 002.

2. Bureau of Indian Standards

Through the Deputy Director General (Labs)

Manak Bhavan

9, Bahadur Shah Zafar Marg

New Delhi – 110 002.

... Respondents

(By Advocate: Shri S. Nandakumar with Shri Parivesh Singh, Shri Prateek Gupta and Shri P. Srinivasan)

**ORDER**

**By V. Ajay Kumar, Member (J):**

The applicant, an LDC, in the respondent-Bureau of Indian Standards (in short, BIS) filed the OA, seeking to quash and set aside its orders dated 30.06.2016 and 27.07.2016 whereunder the applicant was placed under suspension and shifted to Bangalore.

2. This Tribunal, by its Order dated 01.09.2016 while issuing notice to the respondents stayed the operation of the impugned order with regard to the transfer of the applicant.

3. The respondents filed MA No.2768/2016 praying for dismissal of the OA and for vacation of the stay on the ground that this Tribunal has no jurisdiction against the service matters of the employees of Bureau of Indian Standards.

4. Heard both sides and perused the pleadings on record.

5. Section 14 of the Administrative Tribunals Act, 1985 reads 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 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 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."

6. As per the aforesaid Section, to confer jurisdiction of this Tribunal on any local or other authority 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, a specific Notification is required to be issued.

7. Admittedly, the Respondent-Bureau of Indian Standard is a body corporate, created by a statute, and hence, unless a Notification is issued, this Tribunal cannot exercise any jurisdiction over the service matters of its employees. Admittedly, it has not brought to our notice by the applicant that any such Notification is issued by the concerned Government.

8. However, the learned counsel for the applicant by placing reliance on a decision of the Hon'ble High Court of Allahabad, in **Dwijendra Nath Roy v. Union of India & Others**, 2008(70) ALR 698, vehemently submitted that this Tribunal has jurisdiction to entertain the present OA.

9. In **Dwijendra Nath Roy** (supra), the petitioner is an employee of National Test House, which is under the administrative control of Ministry of Consumer Affairs, Food and Public Distribution, Government of India. The Hon'ble High Court of Allahabad, after considering the decision of the Hon'ble Apex Court in **L. Chandra Kumar v. Union of India & Others**, (1997) 3 SCC 261, and Section 14 of the Administrative Tribunals Act, 1985, after observing:

"8. A bare perusal of above quoted provision makes it crystal clear that all service matters concerning to not only All-India Service but also to any civil service of the Union or to any civil post under the Union, fall within the jurisdiction, power and authority of the Central Administrative Tribunal.

9. Learned Counsel appearing for the petitioners contended that pursuant to Section 14(2) of the Act, the Central Government must, by notification, provide, whether a particular department under the control of the Government of India and the corporations or societies owned or controlled by the Government, will go for the purpose of service matters, before the Central Administrative Tribunal."

and having found that the petitioner therein was holding a civil post, held that the Central Administrative Tribunal is having jurisdiction.

10. However, in the present case, the respondent-BIS is a Corporation and its employees cannot be said that they are holding any civil post under the Union, and hence, this Tribunal has no jurisdiction over them.

11. In OA No.397/1999, in identical circumstances, this Tribunal at Jaipur Bench by its Order dated 26.06.2000 held that this Tribunal has no jurisdiction in respect of the service matters of the respondent-BIS.

12. In the circumstances and for the aforesaid reasons, the OA is dismissed for want of jurisdiction and the interim stay is accordingly vacated. However, this order shall not preclude the applicant from availing the remedies before a competent court of law, if so advised, in accordance with law. No costs.

(V. N. Gaur)  
Member (A)

(V. Ajay Kumar)  
Member (J)