

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-3900/2015

Reserved on : 21.12.2015.

Pronounced on : 07.01.2016.

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. Shekhar Agarwal, Member (A)

Sh. M.S. Sunil,
S/o M. Subramaniam
Currently posted as
SR,DSC/RPF, Delhi Division,
Panchkuian Road,
New Delhi.

.... Applicant

(through Sh. Sujit Kr. Singh, Advocate)

Versus

1. Ministry of Railway
Through Member Staff
Railway Board,
Rail Bhawan, Raisina Road,
New Delhi.
2. Director General,
Railway Protection Force
Railway Board,
Rail Bhawan, Raisina Road,
New Delhi.
3. General Manager,
Northern Railways,
Baroda House,
New Delhi.
4. Shashi Kumar,
Currently Posted as
Sr. DSC/RPF,
Hyderabad Division,
Hyderabad, Telangana.

..... Respondents

(through Sh. R.N. Singh with Sh. Amit Sinha, Sh. Pushkar Sood, Sh. Dharmendra Sharma with Ms. Swati Jain, Advocates)

O R D E R

Mr. Shekhar Agarwal, Member (A)

The applicant joined the Railway Protection Force in the year 2000 and is currently working in Delhi on the post of Senior Divisional Security Commissioner.

He has filed this O.A. seeking the following relief:-

“(a) Pass an order quashing and setting aside the transfer order No. 2015/Sec(E)/TR-2/3, dated 01.10.2015 whereby the Applicant has been transferred to Hyderabad from Delhi;

(b) Pass an order quashing and setting aside office order No. 2015/Sec(E)/TR/2/3 dated 16.10.2015 whereby the Representation of the Applicant has been rejected;

(c) Pass an order declaring office order dated 9.10.2015 issued by Respondent No.2 as illegal, void ab initio and set aside the same; and/or

(d) Pass any other further orders/directions as may be deemed necessary and fit in the facts of this case.”

2. The respondents have filed their reply in which they have taken a preliminary objection that the applicant was a Member of Railway Protection Force, which is an Armed Force of Union. Thus, under Section-2(a) of the Administrative Tribunals Act, 1985, this Tribunal does not have jurisdiction to entertain this O.A.

3. To counter this argument of the respondents, learned counsel for the applicant argued that the applicant was a superior officer and not a Member of the Force. He submitted that superior officers are appointed under Section-4 of the RPF Act, 1957 by the Central Government. Section-4 of the said Act reads as follows:-

“4. Appointment and powers of superior officers.- [(1) The Central Government may appoint a person to be the Director-General of the Force and may appoint other persons to be inspector-General, Additional Inspectors-General, or deputy Inspector-General, Assistant Inspector-General, Senior Commandants, Commandants or Assistant Commandants of the Force.]

(2) The [Director-General] and every other superior officer so appointed shall possess and exercise such powers and authority over the members of the Force under their respective commands as is provided by or under this Act.”

3.1 On the other hand, the Members of the Force are appointed under Section-6 of the Act, which reads as follows:-

"6. Appointment of members of the force.- The appointment of enrolled members of the Force shall rest with the Inspector-General, Additional Inspector-General or Deputy Inspector-General, who shall exercise that power in accordance with rules made under this Act:

Provided that the power of appointment under this section may also be exercised by other superior officer as the Inspector-General, Additional Inspector-General, or Deputy Inspector-General concerned may, by order, specify in this behalf.] "

3.2 Even Section-2(bb)(c) says that a Member of the Force means a person appointed to the Force under this Act. Further, he argued that under Rule-54.1 of the Railway Protection Force Rules, 1987 superior officers of the Force are appointed in the following manner:-

" The cadre of superior officers of the Force shall be manned by-

- (a) direct recruits through the Civil Services Examination conducted by the Union Public Service Commission,
- (b) promotees from lower ranks of the Force,
- (c) deputationists from Indian Police Service and other State Police Services,
- (d) occasional admission of other qualified persons on the recommendation of the Union Public Service Commission, who would enter laterally as considered necessary from time to time."

3.3 Learned counsel submitted that the applicant had also been selected through the Civil Services Examination conducted by UPSC. Further, he submitted that the formats for writing Confidential Reports in respect of superior officers has been prescribed to be the same as that for officers of Indian Police Service under the All India Services (Confidential Rolls), 1970, under Rule-108.3.1 of the aforesaid Rules whereas confidential reports in respect of Constables and other officers are written as per provisions of Rule-108.1 of the said Rules. Further, Rule-32.1 lays down that as far as superior officers were concerned, they would be governed by the Railway Servants (Discipline & Appeal) Rules, 1968 as amended from time to time with certain modifications. Against this Members of

the Force were governed by Chapter-XI & XII of the Railway Protection Force Rules, 1987 as laid down in Rule-132.2. Thus, on the basis of these arguments, learned counsel for the applicant submitted that the applicant was not a member of the Railway Protection Force and was, therefore, not covered by Section-2 of the Administrative Tribunals Act, 1985.

4. On the other hand, respondents argued that Section-3 of the Railway Protection Force Act, 1957 reads as follows:-

“Constitution of the Force.”-(1) There shall be constituted and maintained by the Central Government [an armed force of the Union] to be called the Railway Protection Force for the better protection and security of railway property.

(2) The Force shall be constituted in such manner, shall consist of such number of [superior officers, subordinate officers, under officers and other enrolled members] of the Force and shall receive such pay and other remuneration as may prescribed.”

4.1 A mere reading of this Section makes it abundantly clear that RPF is an Armed Force of the Union and that this Force comprises of both superior officers as well as subordinate officers and enrolled Members. Thus, superior officers were also a part of the Force. The respondents also relied on the judgment of a Co-ordinate Bench of this Tribunal in OA-2066/2014 dated 17.10.2014 in which it has been held that Railway Protection Force was an Armed Force of the Union as per Section-3 of the Railway Protection Force Act and, therefore, Members of this Force fell outside the jurisdiction of this Tribunal as per provisions of Section - 2(a) of Administrative Tribunals Act, 1985. The respondents also relied on the ruling of Hon'ble Calcutta High Court in the case of Dr. Banipada Saha Vs. UOI & Ors. dated 11.08.1994, in Para-15 of which Hon'ble High Court has held that even an IPS Officer working in Railway Protection Force as Inspector General and seeking appointment to the post of Director General of RPF fell outside the jurisdiction of the CAT.

5. We have heard both sides and have perused the material on record.

Section-2(a) of the Administrative Tribunals Act, 1985 reads as follows:-

“Act Not to apply to certain persons.- The provisions of this Act shall not apply to-

Any member of the naval, military or air forces or of any other armed forces of the Union.”

5.1 Thus, it is clear that this Tribunal will not have jurisdiction over any Member of the Armed Forces of the Union. Section-3(1) of the Railway Protection Force Act, 1957 quoted above makes it abundantly clear that Railway Protection Force was an Armed Force of the Union. Further, Section-3 of the said Act makes it clear that the Force shall comprise of both superior officers as well as other Members. Thus, there is no doubt that even superior officers were part of the Railway Protection Force and were, therefore, Members of the Armed Forces of the Union. While it may be true that superior officers are recruited through the Civil Services Examination or that their confidential rolls are written on the same format as that prescribed for IPS officers or that they are governed by disciplinary rules applicable to Railway servants, it does not take away the fact that they were still Members of the Railway Protection Force, which is an Armed Force of the Union. Taking the aforesaid into consideration along with the judgments relied upon by the respondents, we have no hesitation in arriving at the conclusion that this Tribunal does not have jurisdiction to entertain this O.A. as the applicant is a Member of the Armed Force of the Union.

6. We, therefore, dismiss this O.A. for want of jurisdiction. The applicant shall, however, have liberty to approach appropriate forum in accordance with law. No costs.

(Shekhar Agarwal)
Member (A)

(V. Ajay Kumar)
Member (J)

/Vinita/

