

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

**ORIGINAL APPLICATION NO. 060/01516/2017
(CWP No. 10037 of 2013)**

Chandigarh, this the 2nd day of July, 2018

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

...

Somraj, s/o Bahadur Chand, R/o Vill. Budha Nagar, Tehsil Pathankot, Distt. Gurdaspur.

....APPLICANT

(Argued by: Shri Karambir Singh Kahlon, Advocate)

VERSUS

1. The Secretary to the Government of India, Department of Defence, South Block, New Delhi.
2. Chief Engineer, Project, Udayak-cum-Disciplinary Authority, Headquarters of the Chief Engineer, Project Udayak, Pin 931715, C/o 99 APO.
3. DGBR-cum-Appellate Authority, through the officer Incharge, DG Camp, Pune-15.

....RESPONDENTS

(By Advocate: Shri Ram Lal Gupta)

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J)

The applicant, initially approached the Hon'ble jurisdictional High Court by filing CWP No. 10037 of 2013, wherein he impugned the dismissal order dated 12.2.2011 (Annexure P-9). After exchange of pleadings, the matter came up for hearing before the Hon'ble Single Judge in the High Court. Vide its order dated 24.11.2017 Hon'ble High Court transferred the matter for adjudication before the Tribunal as per argument raised by the learned counsel as

jurisdiction lie before this Tribunal. It is thereafter, that the matter is listed before this Tribunal.

2. Today, Shri Ram Lal Gupta, learned Senior Counsel appearing on behalf of respondents submitted that this Tribunal has no jurisdiction to entertain the plea raised by an employee of General Reserve Engineering Force (GREF) as held by the Hon'ble Supreme Court of India in Civil Appeal No. 10131 of 2016 (arising out of SLP (c) No. 31556 of 23013) titled **Mohammed Ansari Vs. Union of India & Ors.** Therefore, he submitted that as per liberty granted by the Hon'ble High Court, while sending the matter to this Tribunal with regard to jurisdiction, this petition be sent back to Hon'ble High Court for adjudication as it is only the Hon'ble High Court which can entertain the petition on behalf of petitioner.

3. Learned counsel for applicant does not oppose the prayer made by the learned counsel for respondents.

4. Considering the above, we left with no option, but to transfer this petition to the Hon'ble High Court for adjudication, in terms of observations made by the Hon'ble Supreme Court in paras 33, 34 & 35 of the order, read as under:-

“33. From the aforesaid, the legal position that emerges is that AFT shall have jurisdiction (i) to hear appeals arising out of courts martial verdicts qua GREF personnel. To this extent alone the AFT shall have jurisdiction. At the same time if the punishment is imposed on GREF personnel by way of departmental proceedings held under the CCS(CCA) Rules, 1965 the same cannot be agitated before the AFT and (ii) AFT shall have no jurisdiction to hear and decide grievances of GREF personnel relating to their terms and conditions of service or alternatively put ‘service matters’.

34. At this stage, it is necessary to recapitulate that during the pendency of the matter before the High Court, the Central Administrative Tribunal had passed the final order on 5.11.2012 in favour of the appellant. Be that as it may,

the tribunal does not have the jurisdiction to deal with an issue of upgradation or the nature of lis raised by the appellant before it. In the absence of lack of inherent jurisdiction to deal with the issue, the said judgment is a nullity. It has no existence in law. It is well settled in law that the judgment 32 passed is a nullity if it is passed by a court having no inherent jurisdiction. The decree to be called a nullity is to be understood in the sense that it is ultra vires the powers of the court passing the decree and not merely voidable decree. [See *Hiralal Moolchand Doshi v. Barot Raman Lal Ranchhoddas*].

“35. In view of the aforesaid, we dismiss the appeal and concur with the view expressed by the High Court that it only has the jurisdiction to deal with the controversy raised by the appellant. The challenge was by the Union of India and its functionaries to the order dated 18.6.2012 passed by the tribunal negativing the preliminary objection raised by the Central Government as regards the jurisdiction of the tribunal. Thus, the grievance agitated by the appellant has really not been addressed by any competent forum. His grievance deserves to be dealt with in accordance with law. In view of the obtaining situation, we grant liberty to the appellant to approach the High Court for redressal of his grievances within three months hence. We request the High Court to dispose of the matter, if filed, on its own merits and not throw at the threshold on the ground of delay and laches. There shall be no order as to costs.”

5. Therefore, the Registry is directed to sent back this petition alongwith record to Hon’ble High Court.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 02.07.2018

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