

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No.231/2016

Dated this the 3rd day of March, 2017

CORAM: HON'BLE MS. B.BHAMATHI, MEMBER (A)

1. Akshay Tripathi S/o Late
Poonam Tripathi
2. Abhinav Tripathi S/o Late
Poonam Tripathi,
M.D.I. 38,
Sector-1,
Jankipuram,
Lucknow-U.P. . . . **Applicants.**

(By Advocate Shri Anup Deshmukh)

Versus.

1. Union of India,
Chairman, through
Atomic Energy Education Society,
Anushakti Nagar,
Mumbai-400094.
2. Secretary,
Atomic Energy Education Society,
Mumbai-400094.
3. Principal,
Atomic Energy Central School-3,
Tarapur. . . . **Respondents.**

(By Advocate Shri V.S. Masurkar)

Reserved on 16.02.2017.

Pronounced on 03.03.2017

O R D E R

Per:-HON'BLE MS.B. BHAMATHI, MEMBER (A)

This OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"i. The Hon'ble Tribunal may be pleased to direct the respondents to consider the grievance of the applicants to be appointed on compassionate ground according to dying-in-harness rules/guidelines"

ii. The Hon'ble Tribunal may further be pleased to pass any order, direction as deem fit and proper in the interest of justice.

iii. To issue award cost and compensation in favour of applicant".

2. The case of the applicants is that their mother Ms.Poonam Tripathi was a senior teacher TGT (SS) Hindi at Atomic Energy Central School, Tarapur. She died due to ill health on 7.12.2014 leaving behind three sons and one daughter. Two of the elder sons are applicants in this case. The applicant's father also died in 1998. He was unemployed in his entire life time and hence Late Ms.Poonam Tripathi was saddled with the sole responsibility of bringing up the family on her own income, which she did despite her health condition.

2.1 Applicant No.1 filed application for grant of compassionate appointment on 4.11.2015 and 23.12.2015 to the respondents. No action has been taken.

2.2 All retiral benefits due to the applicants have been paid under the orders of the Secretary, Atomic Energy Education Society (AEES) vide order dt. 23.10.2015.

2.3 The applicants have relied upon the judgment of the Hon'ble Supreme Court in **Umesh Kumar Nagpal vs State Of Haryana (JT 1994 (3) 525)**, while staking their claim for compassionate appointment.

3. In the affidavit in reply, the respondents have raised the preliminary objection that the AEES does not fall within the jurisdiction of this Tribunal and hence this Tribunal has no jurisdiction to hear and decide the matter on merit.

3.1 The respondents have further stated that in **O.A. Nos.754/2010** and **755/2010** delivered on 03.03.2011, in similarly situated cases, this Tribunal allowed the OAs to be withdrawn with liberty to present the same before the appropriate court on the ground that this Tribunal has no jurisdiction to adjudicate cases of AEES.

3.2 AEES is neither Union of India, nor the local or other authority within the territory of India under Section 14 (2) of the Administrative Tribunals Act, 1985. It is a Registered Body under the Societies Act, 1860 and Bombay Public Trust Act, 1950. It is an autonomous body under the Department of Atomic Energy.

No notification as envisaged under section 14(2) of the Administrative Tribunals Act, 1985 has been issued in relation to the said Society applying the provisions of the Administrative Tribunals Act, 1985.

3.3 At one stage, the AEES had suggested to the Department of Atomic Energy, Government of India to issue a notification under section 14 (2) of the Administrative Tribunals Act, 1985 to cover the employees of AEES. However, the Department turned down the said request vide letter dt. 1.6.2004. There is no change in the situation as no notification has been issued, even as of today, to cover AEES within the jurisdiction of this Tribunal. On this ground alone, the O.A. is liable to be dismissed.

4. In the rejoinder, the applicant has denied and disputed the contentions of the respondents in the reply to the O.A. and have submitted that this Tribunal has jurisdiction to adjudicate the grievance of the applicant.

5. The Tribunal has gone through the O.A. alongwith Annexures A-1 to A-3 and rejoinder filed by the applicant.

6. The Tribunal has also gone through the reply along with Exhibit-R-1 filed by the respondents.

7. The Tribunal heard the learned counsel for the applicant and the learned counsel for the respondents

and carefully considered the facts, circumstances, law points and rival contentions in the case.

8. Section 14 (2) of the Administrative Tribunals Act, 1985 reads as follows :-

"(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 controller by Government, not being a local or other authority or corporation [or society] controller or owned by a State Government".

9. The order of this Tribunal in O.A. Nos.754/2010 and 755/2010 decided on 3.3.2011 reads as follows :-

" The grievance raised by the applicant in these two OAs is against the Atomic Energy Education Society, which is an Autonomous Body under the Department of Atomic Energy, Government of India.

2. The learned counsel for the applicant fairly submits that the said Society has not been brought under the purview of this Tribunal by way of Notification under Section 14(2) of the Administrative Tribunals Act, 1985. Under the circumstances, the learned counsel for the applicant fairly states that this Tribunal lacks jurisdiction to entertain the two OAs. He, therefore, seeks permission to withdraw the two OAs with liberty to approach the appropriate forum as per law.

3. The two OAs are disposed of as withdrawn with liberty as sought by the learned counsel for the applicant. No order as to costs".

10. The R-1 and R-2 respondents in this O.A. were R-2 and R-3, respectively in OA Nos.754 and 755/2010. The respondents are :-

"1. Union of India,
Chairman, through
Atomic Energy Education
Society,
Anushakti Nagar,
Mumbai-400094.

2. Secretary,
Atomic Energy Education
Society,
Mumbai-400094.

3. Principal,
Atomic Energy Central School-3,
Tarapur".

11. The respondents have also placed on record the order of Government of India dt. 1.6.2004, wherein the Government of India decided in the Department of Atomic Energy that the Recruitment and Service matters of employees of AEES may not be brought under the purview of the Administrative Tribunals Act, 1985. This order was communicated by the Department of Atomic Energy to the Secretary, AEES, Mumbai. This letter forms part of record in O.A. Nos.754 and 755/2010 when the two OAs were dismissed, *inter alia*, on the basis of the said order, as also in this O.A., showing that situation has not altered for the A.T. Act, 1985 to cover the case of applicant.

12. The applicants have not challenged any impugned order of the respondents, who have accepted the direction of the Department of Atomic Energy dt. 1.6.2004. It is therefore clear that no order

accepting or rejecting the case of applicants could also have been passed by the AEEs as the AEEs is not governed by the scheme of compassionate appointment of Government of India. It was up to applicant to have challenged the order of Department of Atomic Energy dt. 1.6.2004 before the appropriate forum, although not before this Tribunal.

13. In view of the above, it is evident that the O.A. is not maintainable under Section 14(2) of the Administrative Tribunals Act, 1985 and is liable to be dismissed on grounds of lack of jurisdiction on the side of this Tribunal.

14. Accordingly, the O.A. is dismissed. No costs.

(MS . B . BHAMATHI)
MEMBER (A)

B.