

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.1194/2019
With
O.A. No.1195/2019

Reserved on : 12.04.2019

Pronounced on : 16.04.2019

**HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MS. ARADHANA JOHRI, MEMBER (A)**

O.A. No.1194/2019

Dinesh Kumar Singh,
Onsite Manager, Age 39 years,
Group 'B',
S/o Shri Nand Kishor Singh
R/o Green View Apartment, Sector-17,
H-442,
Ghaziabad, UP.

....Applicant

(By Advocate: Shri Rajeev Sharma)

Versus

1. Union of India
Through its Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan,
New Delhi.
2. Food Safety & Standard Authority of India
Through its Chief Executive Officer,
FDA Bhawan, Kotla Road,
New Delhi.

...Respondents

(By Advocates: Shri M.S. Reen for R-1
Shri R.H.A. Sikander with Shri Prateek Gupta for R-2)

O.A. No.1195/2019

Shri Amarsinh Udaysinh Pardeshi,
Technical Officer,
Group 'B',
Age 29 years,
S/o Shri Udaysinh Pardeshi
K-21, Divyanand Ashram,

Krishna Vihar,
Sultanpuri,
New Delhi

....Applicant

(By Advocate: Shri Rajeev Sharma)

Versus

1. Union of India
Through its Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan,
New Delhi.

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(By Advocates: Shri M.S. Reen for R-1
Shri R.H.A. Sikander with Shri Prateek Gupta for R-2)

ORDER

By Shri V. Ajay Kumar, Member (J)

The applicant in OA No.1194/2019 who is working as Consultant (Onsite Manager) on contract basis with effect from 05.12.2016 in the 2nd respondent-Food Safety & Standard Authority of India (in short "FSSAI"), filed the instant OA seeking the following reliefs:-

“(a) To issue direction to the respondents that selection of the applicant in 2016 is as per due process of law and further applicant is not required to undergo same selection process under advertisement dated 26.03.2019.

(b) To declare the post of Consultant (Onsite Manager) is same as IT Assistant.

(c) To issue direction to the respondents to declare that appointment of the applicant as vide communication dated 26.12.2016 is of the nature of regular appointment.

- (d) To quash the advertisement dated 26.03.2019 as illegal and constitutional.
- (e) The Hon'ble Tribunal may pass any other order/direction as deemed fit and proper in the circumstances of the present case and in the interest of justice".

2. It is the case of the applicant that the 2nd respondent-FSSAI, after following due procedure akin to the regular recruitment, selected the applicant against an existing vacancy of Onsite Manager, however, instead of appointing him on regular basis, engaged him as a Consultant (Onsite Manager) on contract basis and accordingly, the applicant has been working as such for all these years to the best satisfaction of one and all and without any blemish. But when the 2nd respondent-FSSAI, instead of absorbing the applicant as a permanent employee on regular basis against the post of Onsite Manager or any equivalent post, issued the impugned Annexure-1 Advertisement No.DR-02/2009 dated 26.03.2019 inviting applications on direct recruitment basis for various posts including to the post of IT Assistant (Pay Level 7), which is equivalent to Onsite Manager, he filed the instant OA aggrieved with the said action.

3. Heard Shri Rajeev Sharma, the learned counsel for the applicant and Shri M.S. Reen, the learned counsel for the respondent No.1 and Shri R.H.A. Sikander with Shri Prateek Gupta, the learned counsel for the respondent No.2-FSSAI on receipt of advance notice.

4. Shri R.H.A. Sikander, the learned counsel appearing for the 2nd respondent-FSSAI opposed the OA, at the threshold, by submitting that this Tribunal has no jurisdiction over the 2nd respondent-FSSAI as the same was an Autonomous and Independent Statutory Authority and not notified under Section 14 of the Administrative Tribunals Act, 1985.

5. In view of the preliminary objection raised, we have heard both the counsels, on the said issue.

6. Shri Rajeev Sharma, the learned counsel appearing for the applicant submitted that though the 2nd respondent-FSSAI is a statutory authority, but the same was under the administrative control of the 1st respondent-Ministry of Health and Family Welfare of the Government of India and hence, this Tribunal has jurisdiction over the same. He further submits that the service conditions of the employees of the 2nd respondent-FSSAI are governed by the Food Safety and Standards Authority of India (Recruitment & Appointment) Regulations, 2018, issued vide Annexure No.3 Notification and as per Regulation 17 of the same, the power of relaxation of the said rules lie with the Central Government and hence, this Tribunal has jurisdiction over the 2nd respondent-FSSAI. The learned counsel further submits that number of OAs were filed against the various actions/orders of the 2nd respondent-FSSAI before this Tribunal and various orders have

also been passed by this Tribunal from time to time in those OAs and hence, this OA cannot be rejected on the ground of lack of jurisdiction.

7. On the other hand, Shri R.H.A. Sikander, the learned counsel appearing for the 2nd respondent-FSSAI submits that once it is admitted that the 2nd respondent-FSSAI is an Independent Autonomous Statutory Authority, unless and until a notification is issued under Section 14 of the Administrative Tribunals Act, 1985, bringing the 2nd respondent-FSSAI under the jurisdiction of this Tribunal, this Tribunal cannot exercise any jurisdiction against the 2nd respondent-FSSAI and cannot entertain the instant OA.

8. The learned counsel further submits that having administrative control and having certain powers in respect of relaxation of service Regulations by the 1st respondent-Union of India, ipso facto, cannot confer any jurisdiction to this Tribunal on the 2nd respondent-FSSAI.

9. Section 14 of the Administrative Tribunals Act, 1985, pertaining to the jurisdiction, powers and authority of the Central Administrative Tribunal, 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”.

10. A bare perusal of Section 14 clearly supports the contention of the learned counsel for the 2nd respondent-FSSAI. Once, it is admitted that the 2nd respondent-FSSAI is an Independent Statutory Authority, unless a specific Notification is issued by the Central Government conferring jurisdiction to this Tribunal on the said Authority, no OA against the said authority is maintainable before this Tribunal. Admittedly, the applicant is challenging the Annexure-1 Advertisement dated 26.03.2019 issued by the 2nd respondent-FSSAI and also seeking directions to the 2nd respondent-FSSAI through the medium of this OA. Hence, this Tribunal cannot entertain the OA against the 2nd respondent-FSSAI and cannot issue any directions, as it has no jurisdiction over the same. Further, pendency of certain OAs wherein the 2nd respondent-FSSAI was a party, on the file of this Tribunal, cannot confer any jurisdiction to this Tribunal over the 2nd respondent-FSSAI unless the same is brought under the purview of this Tribunal by following the procedure enumerated under the

Administrative Tribunals Act, 1985. It is also not the case of the applicant that the 2nd respondent-FSSAI was notified under Section 14 of the Administrative Tribunals Act, 1985. It is also not the case of the applicant that he is seeking any relief against the 1st respondent-Union of India, in connection with the affairs of the 2nd respondent-FSSAI.

11. In the circumstances, the OA is dismissed on the ground of jurisdiction. However, this order shall not preclude the applicant from approaching a competent court of law for redressal of his grievances, in accordance with law. No costs.

12. OA No. 1195/2019 being identical, is also dismissed accordingly. No costs.

Let a copy of this order be placed in both the files.

(ARADHANA JOHRI)
Member (A)

(V. AJAY KUMAR)
Member (J)

RKS