IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

OP (CAT).No. 8 of 2015 (Z)

AGAINST THE ORDER/JUDGMENT IN OA 181/2015 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH DATED

PETITIONER(S):

1. **AHMED KOYA P,**
   AGED 43 YEARS,
   S/O P.CHERIYAKOYA (LATE, CONSTABLE-5100023
   INDIAN RESERVE BATTALION, HEAD QUARTER KAVARATTI,
   RESIDING AT PATHUMMATHADA HOUSE,
   AMINI ISLAND-682 552, UNION TERRITORY OF LAKSHADWEEP.

2. **CHERIYAKOYA N.C., AGED 36 YEARS,**
   S/O SHAIK B (LATE), CONSTABLE 5100065, INDIAN RESERVE BATTALION,
   AMINI UNIT, RESIDING AT NOORUMME CHETTA HOUSE,
   AMINI ISLAND-682 552, UNION TERRITORY OF LAKSHADWEEP.

3. **ZAINU ABID P.P., AGED 34 YEARS,**
   S/O BADARUDHEEN K.,
   HEAD CONSTABLE-619 9287, INDIAN RESERVE BATTALION,
   AMINI UNIT, PACKARCHIYA PURA, ANDROTH ISLAND,
   UNION TERRITORY OF LAKSHADWEEP.

4. **FAROOK M., AGED 39 YEARS,**
   S/O HAMZAKOYA CHP, CONSTABLE-5199069, INDIAN RESERVE BATTALION,
   AMINI UNIT, RESIDING AT MANDAYTHAKKAL HOUSE,
   AMINI ISLAND 682 552, UNION TERRITORY OF LAKSHADWEEP.

5. **ASHRAF K.K., AGED 37 YEARS,**
   S/O NALLAKOYA,
   CONSTABLE-519 9041, INIDAN RESERVE BATTALION,
   AMINI UNIT, RESIDING AT KEELAKUNHIKAM HOUSE,
   AMINI ISLAND-682 552, UNION TERRITORY OF LAKSHADWEEP.

6. **ABDUL FATH B.M., AGED 33 YEARS,**
   S/O MOHAMMED ABDUL JALAL A.C., CONSTABLE-5101049,
   INDIAN RESERVE BATTALION, AMINI UNIT,
   RESIDING AT BARKATH MANZIL,
   AGATHI ISLAND 682 553, UNION TERRITORY OF LAKSHADWEEP.

7. **ABDUL KADER KOYA, AGED 37 YEARS,**
   ATAKOYA A.P.
   CONSTABLE-51010001, INDIAN RESERVE BATTALION,
   AMINI UNIT, RESIDING AT KANDAIAYKKAL HOSUE,
   AMINI ISLAND-682 552, UNION TERRITORY OF LAKSHADWEEP

8. MOHAMMED YHASEEN M.P.,
S/O POOKUNHI.L,
CONSTABLE-5101093, INDIAN RESERVE BATTALION,
AMINI UNIT, RESIDINGT AT MAIDANAPURA HOUSE,
ANDROTH ISLAND 682 551, UNION TERRITORY OF LAKSHADWEEP.

BY ADVS.SRI.P.RAVINDRAN (SR.)
SRI.M.R.SABU

RESPONDENT(S):
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1. THE ADMINISTRATOR,
UNION TERRITORY OF LAKSHADWEEP, KAVARATTIN-682 555.

2. THE COMMANDANT,
INDIA RESERVE BATTALION,
LAKSHADWEEP DAMAN AND DIU AND DADRA AND NAGAR HAVELI,
HEAD QUARTERS OF KAVARATTI-682 555.

3. THE UNION OF INDIA,
REPRESENTED BY SECRETARY GOVERNMENT OF INDIA,
MINISTRY OF HOME AFFAIRS, ANL SECTION NORTH BLOCK,
NEW DELHI-110 001.

R2 & 3 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R1,R2 BY ADV. SRI.S.RADHAKRISHNAN,SC,LAKSHADWEEP ADMN

THIS OP (CAT) HAVING COME UP FOR ADMISSION ON 14-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

DG

OP (CAT).No. 8 of 2015 (Z)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF O.A.NO.181/00006 OF 2015 ALONG WITH ANNEXURES.

EXHIBIT P2: TRUE COPY OF ORDER DATED 13.1.2015.

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

P.A TO JUDGE

THOTTATHIL B.RADHAKRISHNAN &

K.HARILAL, JJ.

O.P.(CAT).No.8 of 2015

Dated this the 14th day of January, 2015

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1. We have heard the learned senior counsel for the petitioners and the learned standing counsel for the Union Territory of Lakshadweep and also the learned Assistant Solicitor General of India on behalf of the Union of India. This original petition is filed invoking Article 227 of the Constitution of India, seeking interference with the refusal of the Central Administrative Tribunal to grant interim relief in favour of the petitioners who filed an original application invoking the provisions of the Administrative Tribunals Act, 1985, challenging their movement as part of the India Reserve Battalion from Lakshadweep to other Union Territories.

2. At the outset, we may record that it appears that the learned Tribunal was faced with a situation of incapacity to discharge its statutory duties which are fundamentally judicial in nature.

We say this because, when the Tribunal faced arguments on the question of jurisdiction of the Tribunal to entertain matters touching the India Reserve Battalion, the Ernakulam Bench of the Tribunal was left with only one member being available. That judicial member, going by the Rules of the Tribunal, could not decide the question of jurisdiction and, therefore, deferred the issue for consideration to 22.1.2015, when one more member is expected to be available to have a Division Bench. We, sitting in jurisdiction under Article 227 of the Constitution of India, within the format of the law lead by the Honourable Supreme Court of India in **L.Chandrakumar v. Union of India [(1997) 3 SCC 261],** take the view that when a system is brought through statute law, putting exclusive jurisdiction on certain Tribunals, it is the primary minimum requirement that such Tribunals should be manned. Otherwise, it will be a perilous situation for the citizens and they would be driven from pillar to post for relief. We are unable to understand why the office of the members of the Central Administrative Tribunal remains vacant. We write this to alert the concerned authorities through the Assistant Solicitor General of India that this Court expects prompt and immediate action to fill up

the vacancies and make the Tribunal meaningfully functional rather than let it exist for skeletal purposes.

3. Onto the merits, the learned Tribunal considered the application for interim relief and has refused to grant it. The learned senior counsel for the petitioners may be justified in saying that the order does not by itself reflect any reason attributed by the Tribunal to refuse interim relief. Be that as it may, we will examine whether we would interfere with the refusal of the Tribunal to grant interim relief.

4. Annexure A11 along with Exhibit P1 original application is a communication from the Ministry of Home Affairs issued on 12.12.2014. This is the trump card of the petitioners. They say that through the issuance of Annexure A11, a system had been brought to place, whereby in so far as Lakshadweep is concerned, the India Reserve Battalion will be renamed as State Armed Police and that unit will function as an exclusive one to regulate the policing activity in the Union Territory of Lakshadweep. Annexure A20 is an office order dated 26.6.2014, whereby the Annual Company Movement of the

India Reserve Battalion has been scheduled by the Commandant of the India Reserve Battalion who has headquarters at Kavarathi. The India Reserve Battalion, going by Annexure A20, is the uniform force meant for Union Territories of Lakshadweep, Daman & Diu, Dadra & Nagar Haveli and Silvassa.

5. Therefore, the process that can be seen from Annexure A20 is the management of a single unit called the India Reserve Battalion for the purpose of the four Union Territories. There appears to be an Annual Company Movement in that Reserve Battalion under orders of superiors. Going by the materials on record, it could be noted that the movement is on a regular basis. Annexure A11 shows that certain critical decisions were taken for a different mode of management in so far as the Union Territory of Lakshadweep is concerned. However, that material concludes saying that the said order would be implemented only after the infrastructure has been made available by the Union Territory Administration for deployment to CRPF and that CRPF Companies have actually been deployed. This is because, Annexure A11 deals also with

bringing of CRPF personnel to augment the Force in so far as Union Territory of Lakshadweep is concerned. We note all this in view of the controversy raised by the petitioners that on the face of Annexure A11, there is no question of any annual movement from the Lakshadweep continuing to exist notwithstanding Annexure A20. At this juncture, we may notice that the learned standing counsel for Union Territory of Lakshadweep has provided us a photostat of letter No.U-14012/3/2013-ANL dated 1.1.2015 issued by the Under Secretary to Government of India in the Ministry of Home Affairs to the Administrator, UT of Lakshadweep stating that the movement of the India Reserve Battalion personnel from one Union Territory to another on completion of tenure may be allowed to be continued, till the time a final decision is taken on the subject. Therefore, the clearance given by the Ministry of Home Affairs is to operate the movement of Battalions in terms of what has already been noted by us through Annexure A20. That being so, we would remind ourselves that we are dealing with a uniformed sector and the object and purpose sought to be achieved by constituting the Reserve Battalion for police purposes is not to be tinkered with, since the primary

concern in such matters should be best left to the discipline of the administration.

6. For the aforesaid reasons, we are of the view that the petitioners were not eligible to any interim relief at the hands of the Tribunal notwithstanding the fact that the original application is still pending with the Tribunal. The challenge against the impugned order of the Tribunal, therefore, fails.

In the result, this original petition is dismissed, without prejudice to the contentions before the Tribunal in pending original application.

Sd/-
(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

Sd/-
(K.HARILAL, JUDGE)

//TRUE COPY//

P.A TO JUDGE

DG