



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: July 18, 2023

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+ W.P.(C) 3372/2023

GOVINDRAJU R G

..... Petitioner

Through: Mr. A. K. Behera, Sr. Advocate with
Mr. Amarendra P. Singh, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Vivekanand Mishra, Sr. Panel
Counsel for R-1 & R-2.
Ms. Pratima N. Lakra, CGSC with
Ms. Vanya Bajaj, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO (Oral)

CM APPL. 36094/2023

1. This is an application seeking early hearing of the writ petition.
2. For the reasons stated in the application, the same is allowed.
3. Writ petition is taken up for hearing and the application stands disposed of.

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4. The challenge in this writ petition is to an order dated March 06, 2023 passed by the Central Administrative Tribunal, Principal Bench, New Delhi ('Tribunal' in short) in O.A. No. 367/2023, whereby the Tribunal has



dismissed the Original Application filed by the petitioner on the ground that it did not have the jurisdiction. Relevant parts of the conclusion of the Tribunal in this regard are in paragraph Nos. 16 to 18, which we reproduce as under:

*“16. In view of the aforesaid, we have to see as to whether the refusal of grant of NOC for extension of deputation of the applicant for 6th year started from 24.11.2022 and/or his permanent absorption under the Respondent No.3 by Respondent Nos.1 and 2 is connected with his membership of a combatised cadre of the SSB or not? As noted hereinabove, once the applicant is admittedly a member of a combatised cadre of the SSB, i.e., the armed force of the Union, refusal by the competent authority amongst the Respondent Nos.1 and 2 in issuance of NOC for his absorption under the Respondent No.3 cannot be construed not to be connected with the membership of the applicant of a combatised cadre of the SSB, the armed force of the Union. It would be evident from the Full Bench Order/Judgment of this Tribunal in the case of **Satyendra Narayan Pandey (supra)**, answer ‘No’ to the reference before the Full Bench is for the reason that dispute raised had nothing to do with the membership of the applicant therein of the armed force of the Union. However, in the case in hand, we are of the considered view that the issue raised relates to membership/service matter of member of the armed force. The definition of the expression ‘service matters’ has been considered by the Full Bench in the Judgment under reference which is as under:-*

“3.(q). ‘service matters’ in relation to a person, means all matters relating, to the conditions of his service 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, as the case may be, of any



corporation (or society) owned or controlled by the Government, as respects –

- (i) remuneration (including allowances), pension and other retirement benefits;*
- (ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;*
- (iii) leave of any kind;*
- (iv) disciplinary matters; or*
- (v) any other matter whatsoever;”*

17. Therefore, in our considered view the aforesaid Order/Judgment of the Full Bench of this Tribunal does not help the arguments advanced on behalf of the applicant rather the same supports the preliminary objection raised on behalf of the Respondent nos.1 and 2. Accordingly, we are of the considered

view that the present OA deserves to be dismissed for want of jurisdiction. The same is accordingly dismissed. However, it would be open to the applicant to seek the remedy before the appropriate forum in accordance with law.

18. However, in the facts and circumstances, there shall be no order as to costs.”

5. Mr. A. K. Behera, learned Senior counsel appearing for the petitioner would submit that though the petitioner is working in the SSB but he is seeking appointment / absorption on a civil post of Caretaker in Central Administrative Tribunal and as such, the Tribunal has the jurisdiction to entertain the Original Application.

6. According to him, the issue in hand is covered by the Full Bench Judgment of the Tribunal being **Satyendra Narayan Pandey vs UOI & Ors., (1993) 25 Administrative Tribunals Cases (FB) 177**, which judgment, though relied upon by him was distinguished by the Tribunal erroneously.



7. Mr. Behera has also made submission on merit of the case, inasmuch as the petitioner is entitled to the absorption in Central Administrative Tribunal in view of the policy framed by the Ministry of Home Affairs which contemplate the employer having given NOC for deputation / absorption of the petitioner, the consultation required with the Ministry of Home Affairs must not be read to mean concurrence of the Ministry of Home Affairs.

8. In this regard, he has drawn our attention to the communications exchanged between Central Administrative Tribunal, SSB and Ministry of Home Affairs & Central Administrative Tribunal. He submits, that the order of the Tribunal is required to be set aside and the matter be remanded back to the Tribunal for a decision on merit.

9. There is no dispute and it is a conceded position that the petitioner was seeking appointment / absorption on a civil post of Caretaker in the Tribunal. In that sense, the issue could only be decided by the Tribunal in view of Section 3(q) read with Section 14 of the Administrative Tribunals Act, 1985, inasmuch as in terms of Section 14(1)(a), which reads as under, it is clear that even a matter related to recruitment concerning to All-India Service or to any civil service of the Union or a civil post under the Union, shall fall within the jurisdiction of the Central Administrative Tribunal:

“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 39 [***] 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.”

10. We find, petitioner was justified in relying upon the judgment of the Full Bench of the Tribunal. The Tribunal distinguished the judgment of the Full Bench by holding in paragraph No. 16, which we have reproduced above by stating that the issue raised by the petitioner relates to membership / service matter of a member of the Armed Forces. Suffice to state, the said finding is overlooking the submission that the relief which the petitioner is seeking of absorption on a civil post under the Union, falls within the expression ‘service matter’ as defined under 3(q) of the Administrative Tribunals Act, 1985 and in that sense, the petition was maintainable before the Tribunal.

11. Though submissions have been made on merit of the issue raised by the petitioner seeking his absorption, we say nothing on the same, as the Tribunal has not decided the issue on merit. Accordingly, we deem it appropriate to set aside the judgment of the Tribunal and remand the matter back to the Tribunal by holding that it has the jurisdiction to decide the issue, which has been raised by the petitioner in the O.A. We accordingly revive the O.A. on the Board of the Tribunal. The Tribunal shall decide the issue on merits in accordance with law.

12. Liberty is also granted to the counsel for the parties to file additional affidavits within three weeks from today.

13. As we find that SSB had agreed for extension of deputation till



November 23, 2023, though not agreed to by Ministry of Home Affairs, we deem it appropriate to direct the SSB not to insist on the joining of the petitioner in the SSB till the date of hearing before the Tribunal as fixed by us. The Tribunal shall hear the counsel for the parties on August 10, 2023 and decide the Original Application as expeditiously as possible within two weeks thereafter as an outer limit.

14. The Tribunal shall decide the O.A. on merits without being influenced by any observations made by us in this order.

15. Petition stands disposed of.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

JULY 18, 2023/R



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