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**(2016) 08 P&H CK 0293**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : CWP No. 6781 of 2016**

Mohar Singh

APPELLANT

Vs

Union of India

RESPONDENT

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**Date of Decision :** 04-08-2016

**Acts Referred:**

Administrative Tribunals Act, 1985 — Section 14  
Constitution of India, 1950 — Article 226, Article 227

**Citation :** (2017) 1 SCT 357

**Hon'ble Judges :** Ajay Kumar Mittal and Ramendra Jain, JJ.

**Bench :** Division Bench

**Advocate :** Rao D.S. Nirban, Advocate, for the Petitioner; I.S. Sidhu, Advocate, for the Respondent Nos. 1 to 5.

**Final Decision :** Dismissed

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## Judgement

Ajay Kumar Mittal, J. - The petitioner prays for quashing the orders dated 29.2.2016 dismissing his application before the Central Administrative Tribunal (CAT), Chandigarh Bench and 8.6.2015, terminating his engagement as Senior Project Fellow (SPF), Annexures P.10 and P.6 respectively. Further prayer has been made for a direction to the respondents to reinstate the petitioner on the post of SPF.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The respondents invited online applications for the post of Project Fellows/Senior Project Fellows at CSIR-CSIO Chandigarh vide advertisement No.6/2013 for 12th five year plan on stipend of Rs. 18000/- per month plus 20% HRA for SPF. The tenure of the Follow was to be co-terminus with the expiry of the project i.e. March 2017. In pursuance to the above advertisement, the petitioner being eligible for the project at Sr.No.4 applied online and the offer of engagement as Project Fellow Sr.No.4 in the CSIR 12th Five years plan was issued to him on the terms and conditions mentioned in the appointment letter dated 8.8.2013, Annexure P.2. The engagement of the

petitioner was upto March 2017 or duration of the project whichever was earlier. The petitioner possessing requisite qualifications and experience was appointed as SPF at CSIO, Chandigarh and took over charge as Senior Project Fellow upto March 2017 on 30.10.2013, Annexure P.3. Respondent No.3 - Project-in- Charge issued a letter dated 8.5.2015, Annexure P.5 to the petitioner for submitting six monthly work report on the project by 14.5.2015. The petitioner submitted the project report on 14.5.2015 for the last one and half years from October 2013 to March 2014, March 2014 to October 2014 and October 2014 to April 2015. The engagement of the petitioner was upgraded from Project Fellow to Senior Project Fellow on the basis of his qualifications and work experience vide letter dated 18.10.2013, Annexure P.4. Thereafter, respondent No.4 issued termination letter dated 8.6.2015, Annexure P.6. According to the petitioner, neither any reason was assigned nor any prior notice was given to him before passing the termination order. The other SPFs were still continuing despite the fact that they also submitted six monthly reports after more than one year. Further, respondent No.4 was not competent to issue the termination order. The petitioner submitted a representation to respondent No.2 for reconsideration of the termination order and for reinstating him in the service. The project report was asked for the first time on 8.5.2015 by the Project-in-Charge and the same was submitted on 14.5.2015 without any delay. There was no deliberate attempt to delay the submission of the project report. Aggrieved by the action taken by the respondents, the petitioner filed CWP No.13036 of 2015 in this Court. Vide order dated 3.7.2015, Annexure P.8, this Court stayed the eviction of the petitioner from the official accommodation. Later on, the writ petition was dismissed as withdrawn with liberty to file application before the Chandigarh Bench of CAT vide order dated 29.7.2015, Annexure P.9. Vide order dated 29.2.2016, Annexure P.10, the Tribunal dismissed the application on the ground that it had no jurisdiction because the petitioner was engaged as Senior Project Fellow and he did not belong to service or post as defined in Section 14 of the Central Administrative Tribunals Act, 1985 (in short, "the CAT Act"). According to the petitioner, he was not afforded any opportunity of hearing by the respondents nor he was served any notice before terminating his services. Hence the instant writ petition by the petitioner.

3. A written statement has been filed on behalf of respondent Nos. 1 to 5 wherein it has been inter alia stated that the petitioner had not submitted six monthly reports. He submitted the same only in response to the letter dated 8.5.2015 which were not found to be satisfactory. The deployment of the petitioner was purely temporary and on contract basis subject to renewal as mentioned in the offer of appointment. Thus, no hearing was required before terminating the contract. On these premises, prayer for dismissal of the petition has been made.

4. We have heard learned counsel for the parties.

5. It has been categorically recorded by the Tribunal that as per Section 14 of the

CAT Act, the powers are exercised by it relating to recruitment to any service or post and all other service matters. The service matter should relate to any service or post. In the present case, the petitioner did not belong to any service or post in CSIO. The engagement of the petitioner was subject to renewal on the basis of evaluation of his performance after every six months. He was to be paid stipend and not salary. Thus, the petitioner did not belong to any service or post. The project reports submitted by the petitioner were not found to be satisfactory. Further, the engagement of the petitioner was terminated in view of recommendations of Chief Scientist, respondent No.2 who was the in-charge of the project. Learned counsel for the petitioner has not been able to produce any material on record to substantiate the claim made by the petitioner. The relevant findings recorded by the Tribunal read thus:-

"10. We have carefully considered the matter. As regards plea of respondents that this Tribunal has no jurisdiction, there is considerable merit in the said plea. According to Section 14 of the Act, the Tribunal exercises powers relating to recruitment to any service or post and all other service matters. Thus, basic requirement for applicability of the Act and jurisdiction of the Tribunal is that the service matter should relate to any service or post. In the instant case, however, the applicant did not belong to any service or post in CSIO. The applicant was engaged vide offer letter dated 8.8.2013 (Annexure A.3) containing the terms and conditions of engagement of the applicant. As already noticed, condition No.1 in the said letter specifically states that it is not an offer of appointment in CSIR/CSIO, temporary or otherwise and that it is a contract. The word 'not' has been highlighted by underlining it. It is thus evident that the applicant was not offered any appointment, temporary or otherwise, in CSIO. On the other hand, he was engaged purely on contract and temporary basis. Besides it, he was to be paid stipend and not salary. Thus, the applicant did not belong to any service nor held any post in CSIO. Consequently, notwithstanding that the Central Govt. by notification has applied the provisions of the Act to CSIO, the issue raised by the applicant in the OA does not fall within the purview of the Act because it does not relate to any service matter pertaining to any service or post. Contention of counsel for the applicant that the respondents had taken objection in the High Court that the Tribunal has jurisdiction, cannot be accepted in view of order (Annexure A.9) passed by the High Court. The said order is reproduced hereunder:-

"Learned counsel for the petitioner has accepted that the respondent-organization is one of the entities to which the Administrative Tribunals Act 1985 applies and prays for permission to withdraw this petition with liberty to approach the Central Administrative Tribunal.

Allowed as prayed for.

Dismissed as withdrawn with the aforesaid liberty. A photocopy of this order be given to the learned counsel for the petitioner under the signature of the Bench

Secretary."

Thus, it was counsel for the applicant himself who accepted that the Act applied to the respondents CSIO and accordingly counsel for the applicant sought permission to withdraw the writ petition with liberty to approach the Tribunal. Even otherwise, jurisdiction on a court or Tribunal cannot be conferred even by consent of parties. In the instant case, since the applicant did not hold any post and did not belong to any service in CSIO, his grievance does not fall within the purview of the Tribunal under the Act as the grievance does not relate to any service matter pertaining to any service or post. Thus, preliminary objection raised by counsel for the respondents is upheld.

11. Even on merits, the applicant cannot be succeeded. As already noticed, engagement of the applicant was subject to renewal/confirmation based on his performance evaluation after every six months. Stand of the respondents in the written statement is that project reports submitted by the applicant were not found satisfactory and therefore he was disengaged. The applicant did not controvert the said stand because he did not file any rejoinder. Contention of counsel for the applicant that no such ground has been mentioned in the impugned termination order (Annexure A.1) is untenable because it has been mentioned even in the said order that engagement of the applicant was being terminated in view of recommendations of Chief Scientist (respondent No.2) who was the incharge of the project. Obviously the said recommendation was to disengage the applicant because his performance was not found satisfactory."

6. The findings recorded by the Tribunal have not been shown to be illegal or perverse by the learned counsel for the petitioner warranting interference by this Court in writ jurisdiction under Articles 226/227 of the Constitution of India. Consequently, finding no merit in the petition, the same is hereby dismissed.