
(2001) 09 RAJ CK 0072
In the Rajasthan High Court
Case No : Special Appeal No. 1305 of 1996

Ram Kishore Meena

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 15-09-2001

Acts Referred:

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

Citation : (2002) 2 RLW 926 : (2002) 1 WLC 479

Hon'ble Judges : Sunil Kumar Garg, J;Arun Madan, J

Bench : Division Bench

Advocate : Prem Asopa, for the Appellant; M. Rafiq, A.A.G. for State, R.C. Joshi and Praveen Balwada, for the Respondent

Final Decision : Allowed

Judgement

Madam, J.—By way of aforesaid appeal the appellant has challenged the order of the learned Single Judge dated 22.8.96 whereby the learned Single Judge dismissed the writ petition filed by the appellant ex-parte. By the said writ petition the petitioner has challenged his dismissal from the services of respondent No. 4 the Rajasthan Social Welfare Advisory Board dt. 27.4.95, Annexure-31 to the petition issued by respondent No. 6Smt. Sariya Khan, Ex-Chairman, Rajasthan Social Welfare Advisory Board (hereinafter referred to as "the Raj. Board.").

2. The main function of the Central Social Welfare Board and the State Advisory Board briefly stated are that the Govt. of India had under the Ministry of Education vide its Resolution dt. 12.8.1953 set up the Central Social Welfare Board with the object of assisting the voluntary organisations throughout the country to maintain and develop their existing programmes and to dovetail them into the general pattern. The Govt. of India, Department of Social Welfare, since had dissolved the said Board w.e.f. 31.3.1969, upon their decision to register a charitable company under the name and style of the Central Social Welfare

Board" u/s 25 of the Companies Act, 1956 w.e.f. 1.4.1969. As per para 2 of Annexure-II attached to the said Notification dt. 22.4.1969, Clause 3(B) (XIX) of the Memorandum of Association and Clause (9) of Article of Association, the Central Social Welfare Board has been given powers for establishment of agencies/offices or branches and State Social Welfare Advisory Board. The Administrative expenditure is to be shared as per clause 4 of said Annexure-II, the Central Social Welfare Board and the State Govt. in the ratio of 50:50 each. The Central Social Welfare Board as well as the State Social Welfare Advisory Board are discharging the same functions which were earlier discharged by the Department of Education and the Social Welfare Department of the Govt. of India and the Department of Social Welfare of the State of Rajasthan for implementing the programmes and schemes and now this work is being done by the Central Social Welfare Board as well as the State social Welfare Advisory Board. The Chairman as well as the members of both the Boards are nominated by the Central Government or by the State Govt., as the case may be. The main function of the State Advisory Board is to examine the applications for grant-in-aid of the voluntary Welfare Institutions under different programmes and recommend the same for the grant of the Central Board as referred in para No. 5 (II) of said Annex-II.

3. The factual matrix giving rise to filing of the writ petition and this appeal briefly stated are that the petitioner Ram Kishore Meena, applicant herein was appointed as Welfare Officer in Central Social Welfare Board (hereinafter referred to as "the Central Board") on 20.1.1979. The petitioner was promoted as Assistant Project Officer in the Central Board on 5.3.1986. Therefore, vide Gazette Notification dt. 5.7.1988 the Rajasthan Board was constituted for three years and the petitioner joined his services on deputation as Secretary to the Raj. Board on 2.11.1988. Therefore, the petitioner was permanently absorbed in the services of Raj. Board w.e.f. 16.2.1991. On constitution of the new Board Smt. Sariya Khan respondent No. 6 was appointed as Chairman of the Raj. Board on 26.3.1993. On 28.2.1994 the power of processing the files were withdrawn from the petitioner by the Chairman of the Raj. Board. It is alleged in the petition that on 31.3.1994 the Chairman, Raj. Board without the approval of the Board recommended the grant to Ravindra Tagore Vidhyala Samiti to the Central Board and on the same day the petitioner was asked for explanation to which petitioner submitted reply on 25.5.1994. On 16.7.1994 respondent No. 6 issued order lowering down the pay scale of the petitioner from 3000-4500 to 2500-4250 retrospectively w.e.f. 16.2.1991 i.e. the date of absorption of the petitioner in the services of the Raj. Board and further, respondent No. 6 issued another order whereby Rs. 49733/- was ordered to be recovered from the petitioner as extra payment of salary and annual grade increments. Ultimately, the petitioner was suspended on 21.7.1994 and was served with the charge sheet on 25.7.1994. Petitioner submitted reply to the charge sheet on 6.8.1994. Therefore, several dates for enquiry were fixed but the petitioner could not attend the enquiry proceedings due to his illness and his wife submitting Medical Certificates to this

effect from time to time. Therefore, no date of enquiry has been intimated to the petitioner. On 15.11.1994 ex-parte proceedings were initiated against the petitioner. On 16.12.1994 the petitioner submitted an application for payment of subsistence allowance. On 31.1.1995, the Rajasthan State Social Welfare Advisory Board was reconstituted.

4. It was only on 25.3.1995 when the petitioner was informed by respondent No. 6 that it has completed the enquiry and gave its report on 2.1.1995. In its letter dt. 25.3.1995 further stated that if the petitioner has any objection against the enquiry report he may do so within two weeks. Petitioner submitted an application on 10.4.1995 asking for statement of witnesses and requested for extending the time for submission of objections till 15.5.1995 but, as no statement of witnesses were made available to the petitioner, he submitted an interim reply.

5. Ultimately, the petitioner was dismissed from the services of respondent No. 4-Raj. Board on 27.4.1995.

6. Feeling aggrieved of the impugned order of dismissal dt. 27.4.1995 the petitioner preferred SB Civil Writ Petition No. 2519/95 challenging the orders dt. 21.7.1994, order of suspension, dt. 25.7.1994, charge sheet and enquiry proceedings conducted therein as well as the order of dismissal dt. 27.4.1995. The petitioner also challenged the order dt. 16.7.1994, lowering down the pay scale from 3000-4500 to 2500- 4250 and order dt. 11.8.1994, order of recovery of Rs. 497333/- on account of extra payment of salary and annual grade increments. The said writ petition was dismissed by the learned Single Judge ex-parte vide order dated 22.8.1996 which runs as under:-

"The writ petition is not maintainable in the Court in view of the provisions of Section 14 of the Central Administrative Tribunal Act. The Central Social welfare Board is an authority which has been empowered in the notification dated 20.4.87. The petitioner may avail the remedy before the Central Administrative Tribunal.

Consequently, the writ petition is dismissed being not maintainable,"

Hence, this appeal.

7. The appellant has challenged the impugned order dt. 22.8.1996 on the grounds inter-alia as under:-

(A) that the impugned order dated 22.8.1996 passed by the learned Single Judge is ex-facie erroneous being contrary to the facts and law as is apparent from the record. Learned Single Judge has dismissed the petition in view of Section 14 of the Central Administrative Tribunal Act, but as a matter of fact, Section 14 are not attracted over the respondent No. 4 of which the appellant petitioner is an employee. From bare reading of the order, it is crystal clear that the learned Single Judge has considered the Central Social Welfare Board as an authority, but has not considered the status of Rajasthan Social Welfare Board while dismissing

the writ petition. Thus, dismissal of the writ petition taking into consideration the status of respondent No. 3 instead of respondent No. 4 is certainly illegal, invalid, unjustified and unwarranted and contrary to the facts mentioned in the record, therefore, the order dated 22.8.1996 deserves to be quashed and set aside on this ground alone.

(B) that the impugned order of the learned Single Judge also deserves to be quashed for the reason that the provisions of Section 14 are not attracted over the respondent No. 4 against which the grievance have been raised in respect of illegal dismissal of the appellant petitioner as he was not the employees of the respondent No.3. Section 14(2) is reproduced hereunder for the ready reference of this Hon"ble Court:-

"14. Jurisdiction, Powers and authority of the Central Administrative Tribunal-

Sub-Clause (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 Govt. of India and to corporations (or societies) owned or controlled by the Government, not being a local or other authority or corporation (or society) controlled or owned by the 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-Sec. in respect of different clauses of, or different categories under any class of, local or other authorities or corporations (or societies)."

The bare perusal of the aforesaid provision makes it very clear that the Central Govt., may apply the provisions of the Central Administrative Tribunal Act and may vest the jurisdiction to the Central Administrative Tribunal in respect of local or other authorities within the territory of India owned or controlled by the Government of India and to the corporation owned or controlled by the Government not being a local or other authorities or corporation controlled or owned by the State Government. The provisions have also been inserted under Sub-rule (2) and accordingly that even the local or other authority controlled or owned by the State Government may be amenable to the Central Administrative Tribunal jurisdiction, but that is only after notification and after considering subjectively and objectively the expediency for the purpose of facilitating transiting to the scheme as envisaged by this Act. It is most respectfully submitted that the Central Government has not issued any Notification in respect of amenability of local or other authority or corporation controlled or owned by the State Government. The Central Government has respondent No, 4 as to its amenability to the jurisdiction of Central Administrative Tribunal. No such notification has either been shown by the respondent nor has been placed on record alongwith their reply. The respondents have shown the notification dated 20.4.1987 by which Central Social Welfare Board (respondent No. 3) has been

treated as authority by the Central Government and accordingly, the Central Social Welfare Board has been empowered to do some work. As such, Notification dated 20.4.1987 is not at all related with the amenability of respondent No. 4 to Central Administrative Tribunal u/s 14 of the Central Administrative Tribunal Act of 1985. Even assuming for a moment but without any admission that the notification dated 20.4.87 is related with the amenability respondent No. 3 to the jurisdiction of the CAT, then also the aforesaid notification does not make the respondent No. 4 amenable to the jurisdiction of the Central Administrative Tribunal. Thus, the learned Single Judge has dismissed the writ petition on the wrong premises without considering the provisions narrated hereinabove. It is further Submitted that the Central Government has also not exercised its powers conferred under the proviso in respect of amenability of the local or other authority or corporation controlled or owned by the State Government. No such notification has been issued by the Central Government considering the expediency for the purpose of facilitating transition to the scheme as envisaged by the Act. Thus, on this count also, the provisions of Section 14(2) are not at all attracted in the present case. It is worth to mention here that respondent No. 4, as a matter of fact, is controlled by the State Government as is evident from the various provisions of articles of association and by laws.

It is also most respectfully submitted that the provision to Section 14(2) are also otherwise applicable on the respondent No, 3 or respondent No. 4 because as per their reply the respondents have come with the plea that the Government of India does not have any control over the affairs of Central Social Welfare Board or Rajasthan Social Welfare Advisory Board (respondent No. 4). In this connection, para No. 2 of the reply may kindly be seen. The respondents have categorically stated that the respondents No. 1 and 2 have no control over the respondent No. 3 & 4. Thus, it is crystal clear that the respondent No. 1 has no control over the affairs of respondent No. 3. Respondents have also not come with the case that the respondent No. 3 is owned by the Central Government. If the respondent No. 3 is not owned by the Central Government nor controlled by it, then, even the Central Government does not have any jurisdiction to issue notification in amenabling the respondent No. 3 to the jurisdiction of the CAT. To amenable a particular corporation or society to the jurisdiction of the Central Administrative Tribunal, the pre-requisite condition is that it should be either owned or controlled by the Government. Since it is clear from the reply that respondent No. 1 which is the Central Government does not own the respondent No. 3 nor has any control over it, as such, even the notification dated 20.4.1987 if it exists in this respect, is having no consequence in the eyes of law. Therefore, the dismissal of the writ petition on the premises of the notification dated 20.4.1987 which pertains to the Central Social Welfare Board is also illegal, invalid and contrary to the provisions of Section 14 itself. As such, the impugned order dated 22.8.1996 deserves to be quashed on this ground alone.

(C) that the impugned order dated 22.8.1996 is also otherwise illegal,

unjustified, unwarranted for the reason that it came to be passed without considering the various contentions raised in para No. 2 of the writ petition which goes to show that the respondent No. 4 is a body constituted by the State Government only after consultation with the respondent No. 3 and its 50% expenditure are borne by the State Government. The petitioner has categorically stated that the respondent No. 3 & 4 are discharging the same functions which were earlier discharged by the Department of Education and the Social Welfare Department of the Government of India and the Department of Social Welfare of the State of Rajasthan for implementing the programmes and schemes. Since the Government of India and the State Government were facing difficulties in the implementation of the programmes and schemes which are bound to be circulated and implemented for the welfare of the society in urban as well as rural areas to achieve the Constitutional goal particularly to implement the rights conferred under Part-III of the Constitution in the form of fundamental rights and the directive principles of the State policies are provided under part - IV which includes several directions given under Articles 37 to 51 of the Constitution of India. To fulfil the mandatory obligations as conferred under Article 37, the respondent No. 3 & 4 came to be created. The respondent No. 4 came to be created by the State Government.

As per the mandate of Article 37, respondent No. 3 & 4 came to be created and the law in the form of articles of Association and Memorandum of Association came to be promulgated by exercising the powers conferred under the provisions of the Companies Act. As such, this memorandum of Association and Articles of Association have the statutory force if they are read with the provisions of Article 37. The objects of the respondent No. 3 & 4 are basically to achieve the targets fixed under different articles of Part-IV. The learned Single Judge has also omitted to consider the another important aspect of the matter that the Accounts of Social Welfare Advisory Board are to be audited by the State auditor General.

That the Rules framed under composition and functioning of the respondent No. 4 are very clear in this connection. Rule 13 clearly stipulates that the accounts of the Board shall be placed before the State Board and the same has to be audited by the State Accountant General or any other auditor appointed by the State Government. The function of the Central Board in this connection is in respect of consultation, but not beyond that. The learned Single Judge has not at all considered this vital aspect of the issue while dismissing the writ petition on the ground of maintainability. It has further been stated by the appellant that Rule 15 further reveals that no amendment to the rules shall be made without prior approval of the State Government and Central Board. Thus, the over-all control of the State Government is abundantly clear at every stage. No amendment or modification in the rules can be made by the Board suo-moto or even after the consultation with the Central Board till the prior approval of the State Government is granted. Deep and pervasive control of the State Government over the affairs of the respondent No. 4 is further evident from Rule 3, 10, 12, 13, & 15 of the Rules pertaining to the respondent No. 4. But, it is shocking that

none of the submission made in para No. 2 of the Writ petition has been considered while dismissing the petition by the learned Single Judge even in the absence of counsel for the petitioner as the petition came to be dismissed on technical ground. It is settled law that if the petition is dismissed on technical ground, then the Hon"ble Court takes into consideration the averment made in the petition, in the interest of justice, But, in the present case, the averment of the petitioner has not been looked into by the learned Single Judge while dismissing the petition on merit, The composition of the State Board shows the pervasive and deep control over the affairs of the Board as is evident from the Rule - 3 of the said rules. The Rule 10(i & ii) is reproduced hereunder for the ready reference of this Hon"ble Court:

10(i) "The Board shall have power to make appointment to posts sanctioned by the Central Board on terms to be prescribed with the prior approval of the Central Board, except the Secretary of the Board who shall be appointed by the Board in consultation with the Central Board.

10(11) The authority competent to promote, degrade or dismiss any officer or servant of the Board shall be the authority empowered to appoint such officer or servants. In these matters, the State Board shall as far as possible apply rules of the State Government/Union Territory."

(D) that the learned Single Judge has further lost sight on the another important aspect of the matter that the rationalisation of the staff structure of the Rajasthan State Welfare Advisory Board needs approval of the State Government prior to making the appointment on the post of staff structure as is evident from the letter dated 7.4.1979. Since the petitioner appellant was not possessing the aforesaid letter at the time of filing the writ petition, as such he could not annex the same with the writ petition, but after the dismissal of the writ petition, he could lay his hands on the copy of letter dated 9.4.1979 which bears the reference of letter dated 7.4.78 is submitted herewith and marked as Annex. A/1.

(E) Both the Boards have the separate entity though with some relations, but the respondent No. 4 cannot be treated at all either of its unit or branch. The employees of the Central Social Welfare Board are sent on deputation to State Social Welfare Advisory Board. It is settled law that in the unit or branch, no deputation can be made. Deputation is also made on the separate and distinct institution/establishment. The petitioner appellant was earlier employed in the Central Social Welfare Board, but subsequently he came on deputation on 2.11.1988 in the services of the respondent No. 4 as Secretary where he came to be absorbed permanently w.e.f. 16.2.1991 after the general Meeting of the Board. Thus the appointing authority of the petitioner appellant is respondent No. 4. His services also came to be terminated by the respondent No. 4. In this connection Rule 2 (vi) is reproduced hereunder for ready reference of this Hon"ble Court:-

"Secretary" means the Secretary of the Board appointed by the Board in

consultation with the Central Welfare Board."

(F) that the interference of the State Government over the administration of the respondent No. 4 is also evident from the fact that the respondent No. 4 has adopted all the service Rules of the State Government including CCA Rules for the purpose of disciplinary action. They have not adopted the CCA Rules of the Central Government. Thus, the respondent No. 4 treating itself as part and parcel of the State Government for the purpose referred in foregoing paragraphs. Therefore, the learned Central Administrative Tribunal cannot have any jurisdiction in such matters. As such, dismissal of the writ petition vide order dated 22.8.1996 is absolutely erroneous on the face of it, therefore, the same deserves to be quashed and set aside on this count alone.

(G) that at the directions of the Government as issued on 16.9.78 the post of Secretary of the respondent No. 4 came to be upgraded. Thus, from the bare perusal of the facts mentioned in the foregoing paragraphs, it clearly reveals that the State Government is having deep and pervasive control over the affairs of the functioning of the respondent No. 4, therefore, the same falls under the ambit of "State" being its instrumentality.

(H) that since the appellant petitioner has been thrown out of employment illegally by the impugned dismissal order dated 27.4.1995 (Annex. 31) under State CCS CCA Rules, 1958 he has prayed to this Court to quash his dismissal order with all consequential benefits alongwith the quashing of other impugned orders referred in prayer clause of the writ petition on the facts and legal grounds mentioned in the body of the writ petition.

8. Last but not the least, it was contended by the learned counsel for the appellant that the learned Single Judge in any event had no jurisdiction to pass the ex-parte order without even affording any hearing to the appellant or to his counsel and without taking into consideration that the appellant was a permanent employee of the State Social Welfare Advisory Board and had functioned as a Secretary from the date of his permanent absorption w.e.f. 16.2.1991 till 21.7.1994 the date of suspension.

9. It was vehemently contended by the learned counsel for the appellant that the impugned order of the learned Single Judge is not sustainable and deserves to be quashed for the reason that the provisions of Section 14 of the Administrative Tribunal Act, 1985 (Act No. 13 of 1985) are not attracted to the instant case since from the bare reading of this provision, it is crystal clear that the learned Single Judge has proceeded on the erroneous assumption that the Central Social Welfare Board was an Authority but not considered amenability of Rajasthan State Social Welfare Advisory Board as to how it was amenable to the jurisdiction of the Central Tribunal (CAT) while dismissing the writ petition. Since the notification dt. 20.4.1987 published in the Gazette of India Extraordinary dt. 2.5.1986 in pursuance of which the Administrative Tribunal Act, (Central) was introduced. In Column No. 7 "Central Social welfare Board" has been shown as

an Authority controlled by Government but, there is no reference regarding any bar to the jurisdiction of this Court in entertaining the writ petition in such matters under Article 226 of the Constitution of India. More so, the learned Single Judge has not taken into consideration that the order dated 16.2.1991 whereby the services of the petitioner were permanently absorbed in the Rajasthan State Social Welfare Advisory Board on the post of Secretary and further that the said order was passed in concurrence of the Central Social Welfare Board and thus stood ratified. Hence, the technical ground of jurisdiction as well as other ground on the aspect of the maintainability of the writ petition, it was submitted by the learned counsellor the petitioner appellant that there is no bar to this Court in entertaining the writ petition nor to the Rajasthan Civil Services Appellate Tribunal. Moreso, the remedy under Article 226 of the Constitution of India being very effective, speedy and efficacious, the petitioner appellant had rightly been advised to file the writ petition.

10. The learned counsel for the petitioner appellant while assailing the impugned order of the learned Single Judge has further contended that the impugned order is also not sustainable In this view of the matter as well that though as per the provisions of Section 14 of the Act of 1985 the Central Social Welfare Advisory Board is an Authority controlled by the Central Govt. and the appellant should avail the remedy only by moving to the Central Administrative Tribunal but when the petitioner having been permanently absorbed by the Rajasthan State Social Welfare Advisory Board as Secretary, then as per the provisions of Section 16 of the Act of 1985 the jurisdiction vests either with the State Administrative Tribunal or this Court under Article 226 of the Constitution of India. Hence, in our view, there was nothing wrong on the part of the appellant in having moving to this Court directly by way of the writ petition, Thus, the learned Single Judge has proceeded on erroneous assumption that jurisdiction to entertain such dispute is confined only to the Central Administrative Tribunal.

11. In support of his contention, learned counsel for the appellant placed reliance upon the judgment of the Apex Court in the matter of Lal Mohammad v. I.R.C.O. (1), wherein the Apex Court held that in case where there is considerable delay, the Court instead of remanding the case should decide the case itself. Learned counsel for the appellant further placed reliance upon the Division Bench's judgment of this Court in the matter of Kulamani Parida v. State Social Welfare Board (2), wherein the Division Bench of this Court held that the State Social Welfare Advisory Board is amenable to writ jurisdiction under Article 226 of the Constitution of India.

12. Learned counsel for the appellant petitioner further contended that the Chairman of the State Social Welfare Advisory Board had no authority to initiate the departmental enquiry against the appellant as she was not the appointing authority.

13. We find force and merit in the contentions advanced by Shri Asopa, learned counsel for the appellant.

14. Reply to the writ petition has only been filed on behalf of respondent No. 4 i.e. The Rajasthan Social Welfare Advisory Board but no reply has been filed either by the Union of India, State Govt. or by respondent Nos. 5 & 6, despite show cause notice to the said respondents.

15. It has been contended by Shri R.C. Joshi, learned counsel appearing for respondent No. 4 that Rajasthan Social Welfare Advisory Board was created under the instructions of respondent No. 3 and further that respondent Nos. 3 & 4 are not the statutory bodies nor they are discharging any sovereign or Governmental functions. Respondent Nos. 1 & 2 have no control over the administration of respondent No. 3 and 4 hence, the said respondents are not "State" within the meaning of Article 12 of the Constitution and hence the writ petition is not maintainable under Article 226 of the Constitution of India. It has further been contended that the functionaries of said respondents are not controlled by the State of Rajasthan nor the State can compel the said respondents to act in a particular manner.

16. On merits, it has been contended by the learned counsel for respondent No. 4 that the petitioner had himself absented from the enquiry proceedings deliberately and in a calculated manner and all the documents were made available to him which were relevant. It is significant to mention that respondent No.4 has not disputed the absorption of the petitioner in the Rajasthan Social Welfare Advisory Board vide order dated 16.2.1991 (Annex.-1). It is further pertinent to mention that the said respondents have also not disputed the fact that the petitioner was working as Secretary at that time but discrepancy with regard to pay scale came to the notice only at the time when the accounts of respondent No. 4 were audited and he was given the correct scale i.e. 2500-75-2800-100-4000-125-4250 to which he was entitled as this scale is given to the Assistant Secretary by the Govt. of Raj. and the petitioner was absorbed on the condition that he will be given salary equivalent to the Assistant Secretary working in the State Govt. It was further contended that as Secretary the petitioner was required to function in accordance with the directions of the Chairman and the Board. It has further been contended that respondent No. 6, Smt. Saria Khan as Chairman of the Board-respondent No. 4 passed an order dated 28.4.1994 (Annex. R.4/1) withdrawing all the powers regarding financial and other powers etc. which earlier stood vested with the petitioner as Secretary of the Board on instructions of respondent No. 3 hence, the question of by passing the petitioner did not arise since the petitioner was not required to process the files pertaining to loans and grants. It has further been contended that the State Govt. has no authority to pass any order as far as the function of the Board are concerned and if any order is passed by any functionaries of the State Govt. at the instance of the petitioner, is of no consequence.

17. We have also perused the provisions of Section 14 of the Central Administrative Tribunal Act, 1985 and from the perusal of the same, we find it crystal clear that the Central Govt. may at its discretion apply the provisions of

the Act, 1985 in respect of local or other authorities within the territory of India owned or controlled by the Govt. of India and also to the Corporations Owned and controlled by the Government not being a local or other authorities or corporation controlled or owned by the State Government. The provisions have also been inserted under Sub-rule (2) as per which even the local or other authority controlled or owned by the State Government may be amenable to the Central Administrative Tribunal Jurisdiction, but that is only after notification and after considering subjectively and objectively the expediency for the purpose of facilitating transition to the Scheme as envisaged by this Act.

18. In the context of the aforestated legislative mandate it is significant to mention that the word "may" in Sub-rule (2) of Section 14 cannot be construed as "shall". It is further significant to mention that the Central Govt. in this regard had neither issued any notification in respect of the amenability of the local or other authorities owned or controlled by the Central Govt. nor issued any notification in respect of respondent No. 4 as to its amenability to the jurisdiction of the Central Administrative Tribunal only and respondents have not disputed this legal preposition.

19. We are thus of the view that this important aspect of the matter had not been taken into consideration by the learned Single Judge while dismissing the writ petition.

20. We have heard learned counsel for the parties at length, examined their rival claims and contentions and also the relevant case law on the subject.

21. Prima facie, we are of the considered opinion that the impugned order dt. 22.8.1996 passed by the learned Single Judge is ex-facie erroneous being contrary to law and the facts as borne out from the record. In this regard, we are of the view that the learned Single Judge had no justification to dismiss the writ petition on the technical ground that the petition was not maintainable in view of the provisions of Section 14 of the Central Administrative Tribunal Act, 1985, rather, as a matter of fact the said provisions are not attracted nor applicable on respondent No. 4 viz. Rajasthan Social Welfare Advisory Board of which the petitioner was a functionary at the relevant point of time while he was performing his duties as Secretary of the Board. We are further of the opinion that the learned Single Judge had under an erroneous assumption considered the Central Social Welfare Board as an Authority amenable to the jurisdiction of the Central Administrative Tribunal while he has not considered the status of Rajasthan Social Welfare Advisory Board in which the petitioner had been permanently absorbed. After his absorption in the said Board he was amenable to the jurisdiction either of the State Administrative Tribunal or alternatively to move this Court for vindication of his rights under Articles 226 & 227 of the Constitution of India and as such, it was not necessary for him to approach the Central Administrative Tribunal only. The learned Single Judge should have examined and decided the case on merits rather than dismissing the same on mere technicalities and that to in violation of the principles of natural justice

since the counsel for the petitioner was not even called upon to argue the matter and the impugned order was rather passed in the absence of the petitioner and his counsel and thus passed ex-parte. The said order cannot be sustained and deserves to be quashed and set-aside.

22. As a result of the above discussion, the appeal is allowed. The impugned order of the learned Single Judge dated 22.8.1996 is quashed and set-aside. The appellant is directed to be reinstated in services of the Rajasthan State Social Welfare Advisory Board with all consequential benefits from the date of his absorption i.e. 16.2.1991 in the Board till the date of dismissal i.e. 27.4.1995 and all other benefits as admissible to the appellant in accordance with the Rules. There is no order as to costs.