
(2001) 08 DEL CK 0071

In the Delhi High Court

Case No : Civil Writ Petition No. 2702 of 2001

Shri Ram Gopal Verma

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 24-08-2001

Acts Referred:

Administrative Tribunals Act, 1985 — Section 14(1), 14(2), 14(3)

Citation : (2002) 61 DRJ 712

Hon'ble Judges : Sharda Aggarwal, J;B.A. Khan, J

Bench : Division Bench

Advocate : R.K. Kapoor, for the Appellant; Jayant Bhushan, for the Respondent

Final Decision : Dismissed

Judgement

Khan, J.—The short question involved is whether Central Administrative Tribunal's (CAT) jurisdiction extended to Mahanagar Telephone Nigam Limited (MTNL) also. Tribunal by impugned order dated 18.10.2000 has washed its hands off holding that it enjoyed no such jurisdiction. But petitioner was still wanting the jurisdiction to be vested in it in the facts and circumstances of the case.

2. Petitioner belongs to TES Group B service in Department of Telecommunication (DOT). While he was on deputation to MTNL, he was charged of some irregularities and finally placed under suspension in view of the pendency of criminal prosecution against him by order dated 3.4.2000 passed by Chief General Manager of MTNL. He challenged This in QA 789/2000 which was opposed by respondents on the jurisdictional plea that Tribunal had no jurisdiction to entertain any complaint/grievance connected with service matters in MTNL. Tribunal accepted This position and dismissed petitioner's QA by impugned order dated 18.10.2000. Petitioner has now filed This petition assailing Tribunal's order and for directing it to decide his QA on merits.

3. Petitioner's case is that he continued to be the employee of DOT and belonged to its TES Group B service inspire of his deputation to MTNL and, Therefore, was

within his rights to seek redressal of his service grievance by the Tribunal. His counsel Mr. Kapoor submitted that though Central Government had not issued any notification u/s 14(2) of the Administrative Tribunals Act, 1985 to bring MTNL within Tribunal jurisdiction, it was not required also in the present case because Tribunal was to examine petitioner's service grievance who was admittedly holding a civil post in DOT and figured in the seniority list of TES Group B Officers even today. Apart from This, his order of suspension though passed by the Chief General Manager, MTNL, was to be approved by DOT also making it a composite order in the process which was cognizable by Tribunal.

4. Learned counsel for respondent Mr. Jayant Bhushan, on the contrary, submitted that MTNL, a Government Company could be brought within the jurisdiction of Tribunal only by a notification to be issued by the Central Government u/s 14(2) of the Act and so long as This notification was not issued, Tribunal could not assume jurisdiction in respect of any service matter under MTNL. He placed reliance on a Supreme Court judgment in A.P. State Electricity Board v. M.A. Hai Azami 1991 Supp (1) Supreme Court Cases 660 which according to him squarely covered the point in issue ousting Tribunal's jurisdiction over MTNL.

5. There is no dispute that MTNL was a Government company incorporated under the Companies Act and was a distinct legal entity. It is also admitted by both sides that it was not covered by provisions of Section 14(1) of the Act and could be brought within Tribunal jurisdiction only through a notification to be issued by Central Government. This sub-section reads thus:-

"(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 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.

(3) Save as otherwise expressly provided in This Act, the Central 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).....

(b).....

A combined reading of the two provisions shows that provision of sub-section 3 could be applied to local or other authorities under the control of the Government and to Corporations or societies owned and controlled by the Government by a Notification to be issued by the Central Government. No such notification was admittedly issued till date to extend jurisdiction of Tribunal to MTNL. That being

so, was Tribunal still obliged to entertain petitioner's OA challenging his suspension order which was passed by General Manager of MTNL and which was not endorsed to have been approved by DOT. The answer in our view was in negative because petitioner was challenging suspension order passed by the Chief General Manager of MTNL suspending him from the post of SDE (Cables), a post under MTNL and not from any post under DOT. It is true that petitioner maintained his lien to the TES Group B service in DOT but that was of no avail to him because his challenge was directed against suspension from the post of SDE (Cables) in MTNL and passed by the Competent Authority of MTNL. His service status enjoyed by him in DOT would not confer jurisdiction on Tribunal which otherwise was not admittedly vested in it for want of requisite notification u/s 14(2). Therefore, even when he held a lien on the post of TES Officer, his grievance directed against order suspending him from the post of SDE (Cables) in MTNL was not entertainable by Tribunal for lack of jurisdiction. It is also not the case that impugned order of his suspensions was a composite order passed with the approval of DOT which could perhaps provide some basis for Tribunal's jurisdiction. This order was passed by the Chief General Manager on his own and it is not for us to examine whether it was passed validly or otherwise.

6. We are supported in This by the Supreme Court judgment in A.P. State Electricity Board (supra) which also dealt with a similar case of a deputationist holding that so long as concerned employee had sought relief against the Electricity Board, Tribunal had no jurisdiction in the matter. Therefore, it all comes to whether relief sought was relatable to his post in the parent department or the borrowing corporation. If it was against the later one, Tribunal would assume jurisdiction only upon a Notification to be issued by Central Government u/s 14(2) of the Act. The employees retention of a lien on a post in the parent department was irrelevant for the purpose. In the present case also, petitioner had not sought any relief in his OA related to his post in the parent department but had questioned his suspension from the post of SDE (Cables) in MTNL which admittedly was not covered by the requisite Notification.

7. We accordingly hold that since Central Government had not issued any notification u/s 14(2) of the Act to apply provisions of sub-section 3 to MTNL, CAT was not vested with any jurisdiction to entertain any petition related to any service dispute in the MTNL.

8. This petition accordingly fails and is dismissed. It shall be open to petitioner to take appropriate remedy before a competent forum to seek redressal of his grievance and time taken by him in pursuing his case before Tribunal and This court shall not come in his way in case of any limitation bar involved.