

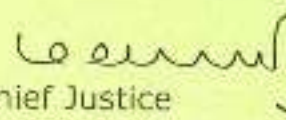


Serial No.	Date	Orders (s) with Signature (s)
1	2	3
05.	17.05.12 (Kohli, CJ)	<p style="text-align: center;">BEFORE</p> <p style="text-align: center;">HON'BLE THE CHIEF JUSTICE MR. JUSTICE PERMOD KOHLI HON'BLE MR. JUSTICE S. P. WANGDI, JUDGE</p> <p>Present: Mr. B. Sharma, Sr. Advocate with Mr. Bhola N. Sharma, Advocate for the petitioners.</p> <p>Mr. Karma Thinlay Namgyal, Central Govt. Advocate for respondents.</p> <p style="text-align: center;">...</p> <p>1. This petition under Article 226 of the Constitution of India has been filed against the order dated 29.08.2011 passed in OA 02/SKM/2011 by the Central Administrative Tribunal, Calcutta Bench, Kolkata (for short, 'CAT'). The brief facts leading to filing of the present petition are being noticed hereinafter.</p> <p>2. The petitioners before us were engaged as casual labourers from time to time between the period 1998 to 2003 by the respondents. They filed the aforementioned OA before the CAT seeking (i) regularization of their services, and (ii) minimum wages at par with the regular permanent workers/labourers.</p> <p>3. From the impugned order, it appears that the petitioners did not press the relief for regularization. In so far the second prayer is concerned, the Tribunal</p>

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	<p style="text-align: center;">Q —</p>	<p>dismissed the petition on the ground that the petitioners were engaged by the 383 COY, ASC (SUP), which is admittedly an Army Unit and under the provision of the Administrative Tribunals Act, 1985, the Tribunal has no jurisdiction to adjudicate upon the service matters in respect to three Armed Forces of the Union, namely, Army, Navy and Air Force. It is under these circumstances, the present petition has been filed before us.</p> <p>4. We have heard the learned counsel for the parties.</p> <p>5. The CAT constituted under the Section 4 of the Administrative Tribunals Act, 1985 exercises the jurisdiction in respect to the matters as specified under Section 14 of the Act. The extract relevant for the purposes of present writ petition is reproduced hereunder:</p> <p style="text-align: center;">"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 in relation to -</p> <p style="text-align: center;">(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;</p> <p style="text-align: center;">....."</p>

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		<p>6. Section 3(q) also defines the 'service matters'. It is not in dispute that the dispute raised in the OA before the Tribunal relate to a service matter as defined under Section 3(q), the petitioners claim regularization in services, which means recruitment. Clause (a) of Section 14 clearly and unambiguously confers the jurisdiction upon the CAT in respect to recruitment and the matters concerning the recruitment to a post connected with defence or in the defence services, being, in either case, a post held by a civilian. Undoubtedly, the post of casual labourer is a civilian post though in the defence service and thus Section 14 confers jurisdiction upon Tribunal to exercise jurisdiction in respect to the recruitment/service matter of posts to be filled by civilian in defence as well.</p> <p>7. In view of the provision of Section 14(a), we are of the considered opinion that the findings of the Tribunal that it does not have the jurisdiction to entertain the OA under the provision of the Act, are erroneous. We accordingly allow this petition, set aside the Order dated 29.08.2011 passed in OA 02/SKM/2011 by the CAT, Calcutta Bench, Kolkata</p>

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		<p>and remit the case back to the Tribunal for fresh adjudication on merits of the controversy between the parties. The parties will appear before the Tribunal on 11.06.2012.</p> <p>8. No order as to costs.</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  Judge 17.05.2012 </div> <div style="text-align: center;">  Chief Justice 17.05.2012 </div> </div>

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 Index : Yes / No
 Internet : Yes / No