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Raj Rani (Smt) Vs. Haryana State of Social Welfare Advisory Board and anr.

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Court : Supreme Court of India

Decided On : Apr-04-1994

Reported in : 1995Supp(2)SCC759

Judge : S.C. Agrawal and; M.K. Mukherjee, JJ.

Acts : [Administrative Tribunals Act, 1985](#) - Section 28; [Industrial Disputes Act, 1947](#)

Appeal No. : Civil Appeal No. 138 of 1994

Appellant : Raj Rani (Smt)

Respondent : Haryana State of Social Welfare Advisory Board and anr.

Disposition : Appeal Allowed

Prior history : Arising out of SLP (C) No. 17641 of 1993

Judgement :

S.C. Agrawal and; M.K. Mukherjee, JJ.

1. Delay condoned.

2. Special leave granted.

3. We have heard learned counsel for the parties. A preliminary point of jurisdiction was raised by the learned counsel for the Union of India based on Section 28 of the [Administrative Tribunals Act, 1985](#). He very candidly stated that although this question was not raised in the High Court since there is inherent lack of jurisdiction in the High Court, the matter deserves consideration from this point of view. We have heard the learned counsel for both sides on the said question and we think there is force in the submission.

4. Section 28 of the [Administrative Tribunals Act, 1985](#) in terms states that on and from the date from which any jurisdiction, power and authority becomes exercisable under this Act by a Tribunal in relation to recruitment and matters concerning recruitment to any service or post or service matters concerning members of any service or persons appointed to any service or post, no court except - (a) the Supreme Court; or (b) any Industrial Tribunal, Labour Court or other authority constituted under the [Industrial Disputes Act, 1947](#) or any other corresponding law for the time being in force, shall have, or be entitled to exercise any jurisdiction, powers or authority in relation to such recruitment or matters concerning such recruitment or such service matters.

5. In view of this legal position, there can be no doubt that the High Court does not have jurisdiction in matters of the type referred to in the section. The learned counsel for the respondent was not in a position to point out how the High Court could exercise jurisdiction in regard to a service matter. We, therefore, think that the preliminary contention raised by the learned counsel for the Union of India must be accepted. We accept the same and set aside the impugned order of the High Court and dismiss the writ petition, but in the facts and circumstances of the case we permit the respondent to approach the Tribunal, if so advised, with a fresh petition within 15 days from today whereupon the Tribunal will consider the matter on merits without raising the issue of limitation and without being influenced by the observations of the High Court in the impugned matter on merits. The appeal will stand allowed accordingly with no order as to costs.