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STATE OF MAHARASHTRA AND ORS.

v.

CHHAYA AND ORS.

APRIL 9, 1999

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[B.N. KIRPAL AND V.N. KHARE, JJ.]

*Administrative Tribunals Act, 1985 :*

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*Section 5(4)(a)—Scope of—The Chairman may be a Judicial Member or an Administrative Member—Under section 5(4)(a) the Chairman can function at more than one Benches—Purpose of this provision is to enable the Chairman to function at different places when he goes on tour—This provision does not enable the Judicial Member to act as an Administrative Member or vice versa—If the Chairman is a person who was an Administrative Member, then under section 5(4)(a) if he goes to another Bench he can sit on that Bench as an Administrative Member, but certainly not as a Judicial Member—The same is true with regard to the Chairman who is a Judicial Member.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. CC1675/1999.

From the Judgment and Order dated 13/11/1998 in W.P. 1394/98 of the High Court of Bombay, Aurangabad Bench, Aurangabad.

G.B. Sathe for D.M. Nargolkar for the Petitioners.

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The following Order of the Court was delivered :

Delay condoned.

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Learned counsel for the petitioners refers to Section 5, sub-section (4), sub-clause (a) of the Administrative Tribunals Act and submits that the Chairman, who is otherwise a Judicial Member, can act as an Administrative Member also. The said provision reads as follows :-

“(4) Notwithstanding anything contained in sub-section (1), the Chairman-

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(a) may, in addition to discharging the functions of the Judicial

Member or the Administrative Member of the Bench to which he is appointed, discharge the functions of the Judicial Member or, as the case may be, the Administrative Member, of any other Bench." A

In our opinion, the aforesaid submission of the learned counsel is not correct. The Chairman may be a Judicial Member or an Administrative Member. All that this sub-clause permits is that the Chairman can function at more than one Benches. This provision obviously had to be included in order to enable the Chairman to function at different places when he goes on tour. This provision does not enable the Judicial Member to act as an Administrative Member or *vice versa*. If the Chairman is a person who was an Administrative Member, then under Section 5(4)(a) if he goes to another Bench he can sit on that Bench as an Administrative Member, but certainly not as a Judicial Member. The same will be true with regard to the Chairman who is a Judicial Member. B C

We do not find any infirmity in the order of the High Court. The solution to the problem in hand is to make early appointments. D

The special leave petition is dismissed.

T.N.A.

Petition dismissed.