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INDERMANI KIRTIPAL

v.

THE UNION OF INDIA AND ORS.

FEBRUARY 6, 1996

B

[K. RAMASWAMY, B.L. HANSARIA AND G.B. PATTANAIK, JJ.]

Administrative Tribunals Act, 1985 :

C

S.5—Matter relating to promotion—Single member—Whether could decide the matter—Held, since Tribunal consists of several members, a bench consisting of a single member may also be competent to dispose of certain matters—Matter decided after considering the case on merits—Hence not open to the unsuccessful party to plead that the Single member had no jurisdiction to decide the issue or that the order suffers from initial lack of jurisdiction.

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CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)
No. 21870 of 1993.

From the Judgment and Order dated 11.5.93 of the Central Administrative Tribunal, New Delhi in O.A. No. 648 of 1992.

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Dinesh Kumar Garg for the Petitioner.

The following Order of the Court was delivered :

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The petitioner has raised a jurisdictional issue. The learned single Member of the Tribunal has dismissed the petitioner's application in O.A. No. 648/92 by order dated May 11, 1993. Learned counsel Shri D.K. Garg relies upon Section 5 of the administrative Tribunals Act, 1985 (for short, the 'Act') to contend that the single Member had no jurisdiction to decide the matter relating to promotion of the petitioner. His case is that he joined the Department as a semi-skilled workman and was later on appointed as Asstt. Store Keeper against OEP vacancy in Dehradun. When juniors and also seniors to him were promoted in OEP Section, he was singled out violating his right for consideration for appointment to the higher post in OEP Section. The case of the respondents is that he was in Maintenance Section, though at the initial stage when OEP Section was a cell he had worked therein. Therefore, he was not eligible to be considered. All others

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were transferred along with the posts to the Ordnance factory while he

remained in Maintenance Section. As a consequence, they formed a class, A
the petitioner being a class apart.

The question, therefore, is whether the learned single Member of the Tribunal was competent to decide the matter. We are of the view that the member had the jurisdiction to decide the matter for the reason that it is not a case of initial lack of jurisdiction. Undoubtedly, the vice-Chairman of the Tribunal by operation of sub-Section (1) of Section 5 has been empowered to classify classes of cases and make sitting arrangements of benches for convenient disposal of cases; and he had ordered accordingly. Sub-Section (2) enumerates various categories of cases which the members would be competent to dispose of. When its member would dispose of which matter is one of administrative convenience; it does not relate to his jurisdiction. Even under Section 21 of the Civil Procedure Code objections relating to pecuniary or territorial jurisdictional should be raised at the earliest and if the parties omit to plead and raise the objection, at a later stage, unsuccessful party would be precluded to raise lack of jurisdiction. Since the Tribunal consists of several members, a bench consisting of a single member may also be competent to dispose of certain matters. The matter having been decided by him after considering the case on merits, it is no longer open to the unsuccessful party to plead that the member had no jurisdiction to decide the issue of that the order suffers from initial lack of jurisdiction. It may be a case of improper disposal of the matter without touching the jurisdiction of the member who decided the matter. B
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Under these circumstances, we do not think there is any lack of jurisdiction warranting interference. The petition is accordingly dismissed.

G.N.

Petition dismissed. F