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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on: 19.03.2026

Judgment pronounced on: 02.04.2026

Judgment uploaded on: 02.04.2026

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W.P.(C) 3162/2026, CM APPL. 15250/2026, CM APPL.
15251/2026 and CM APPL. 15252/2026

NBCC INDIA LIMITED AND ANRPetitioners

Through: Mr. Brijender Chahar, ASG
with Mr. R.V. Sinha, Mr. A.S.
Singh and Ms. Shriya Sharma,
Adv.

versus

NOVMAN AHMED AND ANRRespondents

Through: Mr. Sudhir Nandraj Jog and Mr.
A.K. Behra, Senior Advocates
with Ms. Sakshi Kakkar, Mr.
Shakti Singh and Mr. Sarthak
Karol, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T

ANIL KSHETARPAL, J.:

1. Through the present Petition filed under Article 226 of the Constitution of India, 1950 [hereinafter referred to as 'Constitution'], NBCC (India) Limited/Petitioner No.1 and its subsidiary company HSCC (India) Limited/Petitioner No.2, seeks issuance of a writ in the nature of certiorari to quash the orders dated 23.02.2026 [hereinafter referred to as 'IO-1'] and 27.02.2026 [hereinafter referred to as 'IO-2'] passed by the Central Administrative Tribunal, Principal Bench,



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New Delhi [hereinafter referred to as ‘Tribunal’]. It may be relevant to highlight that the Petitioners in the present case are incorporated Government companies.

2. At the outset it may be noticed that the present petition raises a question of considerable significance touching upon the jurisdictional contours of the Tribunal. Therefore, the question that would be answered by way of this judgment is whether an employee appointed by the Hon’ble President of India, also acting in the capacity of a President of an incorporated Government company, can be said, in the eye of the law, to hold a civil post within the contours of Section 14(1) of the Administrative Tribunal Act, 1985 [hereinafter referred to as ‘Act of 1985’], thereby conferring jurisdiction upon the Tribunal to entertain and decide service dispute.

A. FACTUAL BACKGROUND:

3. In order to comprehend the controversy involved in the present case, the relevant facts in brief are required to be noticed.

4. Upon enactment of the Act of 1985, the Tribunal was duly constituted, ushering in a specialized adjudicatory regime for service jurisprudence. The Petitioner No.1 is an incorporated Government company functioning under the aegis of Respondent No.2/Ministry of Housing and Urban Affairs, Government of India (‘MoHUA’). Whereas, the Petitioner No.2 is a subsidiary company, incorporated under the Companies Act, 1956 [hereinafter referred to as ‘Act of 1956’] on 13.03.1983, thereby operating within the corporate fold of the Petitioner No.1.



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5. The dispute seeking jurisdiction of this Court originates from a Recruitment Notice issued by the Department of Personnel and Training ('DoPT') inviting applications for the post of Managing Director ('MD') to the Petitioner No.2. At the relevant point of time, the Respondent No.1 was serving as an Executive Director (Engineering) [hereinafter referred to as 'ED (Eng.)'] with the Petitioner No.1. Having been duly selected by the Search-cum-Selection Committee, the Respondent No.1 was relieved from his erstwhile position of ED (Eng.) by the Petitioner No.1. Thereafter, *vide* Order dated 22.02.2023, the Respondent No.2 conveyed approval of the Competent Authority for appointment of the Respondent No.1 as MD-Petitioner No.2, for a tenure of five years, from the date of assumption of charge till a period of five years or until the date of his superannuation or until further orders, whichever event were to occur earliest. Pursuant thereto, the Respondent No.1 assumed charge of the office of MD-Petitioner No.2.

6. However, the Respondent No.1's tenure as MD-Petitioner no.2 was short lived as on 18.11.2025, the Company Secretary of the Petitioner No.1, acting in furtherance of a decision of its Board of Directors (BoD), sought an explanation from the Respondent No.1 regarding alleged serious procedural lapses, irregularities in project execution and other operational and administrative matters. Confronted with the gravity of the issues raised, the Respondent No.1 sought an extension of ten more days for furnishing a detailed response; however, he was granted five days of time to submit his response. Consequently, the Respondent No.1 submitted his response



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on 07.12.2025, comprising of more than 2500 pages along with supporting annexures.

7. Thereafter, the matter was placed before the BoD of the Petitioner No.1, in the meeting held on 11.12.2025. Upon consideration, the reply of Respondent No.1 was not found satisfactory and consequently, a decision was taken to forward the details of the reply, alongwith remarks of BoD, to the Administrative Ministry for such further action. In the meantime, the powers vested in MD-Petitioner No.2 were directed to be seized immediately. This decision of the BoD was formally communicated to the Respondent No.1 *vide* communication dated 16.12.2025. In response, Respondent No.1 *vide* email dated 23.12.2025, furnished his comments pointing out the lacunae and infirmities in the observation and conclusions arrived at by the BoD.

8. On 31.01.2026, the meeting of BoD of the Petitioner No.2 was held, wherein the recommendations made by BoD of the Petitioner No.1 was adopted and the decision so crystallized was duly communicated to the Respondent No.1. Consequent upon approval of the Competent Authority, the Respondent No.1 was repatriated to his parent Cadre, namely, NBCC (India) Limited/Petitioner No.1, and in the same breath, his services from the post of MD-Petitioner No.2 was terminated with immediate effect. In swift succession, on 09.02.2026, a new incumbent assumed the additional charge of MD-Petitioner No.2.

9. Aggrieved by the aforesaid chain of events, the Respondent



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No.1 invoked jurisdiction of the Tribunal by filing an Original Application (O.A.) under Section 19 of the Act of 1985. However, at the very threshold a preliminary objection pertaining to the maintainability of the O.A. was raised by learned counsel for the Petitioners and the Respondent No.2, objecting the very jurisdiction of the Tribunal to entertain the said O.A in absence of notification u/s 14(2) of the Act of 1985 bringing employees of the Petitioner No.2 within its jurisdiction.

10. On 23.02.2026, the aforesaid preliminary objection was overruled by the Tribunal, while recording the following reasons:

i. That the Respondent No.1, in substance and effect, had sought relief against the Petitioner No.1 and the Respondent No.2, entities amenable to jurisdiction of the Tribunal, and not against the Petitioner No.2 per se.

ii. That the Respondent No.1 was appointed by the Respondent No.2. Hence, the O.A. is maintainable in terms of Section 14(1)(b)(ii) of the Act of 1985 because he was holding a civil post.

iii. That the Respondent No.1 is MD of the Petitioner No.2 and was appointed by the Respondent No.2. Hence, the O.A. is maintainable at the behest of the Respondent No.1 and not by other employees of the Petitioner No.2, since his appointment and termination can only be done by the Respondent No.2.

11. Thereafter, the hearing of the matter was adjourned to 27.02.2026 by the Tribunal and while recording the following reasons,



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the Tribunal proceeded to stay termination of the service of the Respondent No.1 from the office of the Petitioner No.2:

- i. That the resolution dated 11.12.2025 is penal in nature and new departmental proceedings have been initiated. It was further observed that the Respondent No.1 had submitted a voluminous reply, running into more than 2500 pages, on 07.12.2025, however, the decision thereon was arrived at within a span of merely four days;
- ii. That the Respondent No.1 was neither given three months' notice nor any payment in lieu thereof was made, requirements which are mandatory in nature;
- iii. That the Respondent No.1 having been appointed on a tenured post, could not have been repatriated to the Petitioner No.1;
- iv. That only the Hon'ble President of India, being the Appointing Authority of the Respondent No.1, had the power to terminate his tenure appointment. Hence, strong *prima facie* case is made out in favour of the Respondent No.1.

12. Aggrieved by the conclusions drawn and decisions rendered by the Tribunal, the present petition assailing the correctness of the Impugned Orders, has been filed.

13. We have heard learned counsel appearing for the parties and with their able assistance have perused the paperbook. However, before advertng to the rival submissions advanced by the parties, we deem it appropriate to reproduce the relevant provision of Act of 1985, which forms the bedrock of arguments advanced by the parties.



The relevant extract is as follows:

“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—*

(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;*

(b) *all service matters concerning—*

(i) *a member of any All-India Service; or*

(ii) *a person [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or*

(iii) *a civilian [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any defence services or a post connected with defence,*

and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation [or society] owned or controlled by the Government;

(c) *all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation [or society] or other body, at the disposal of the Central Government for such appointment.*

[Explanation.—For the removal of doubts, it is hereby declared that references to “Union” in this sub-section shall be construed as including references also to a Union territory.]

(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 or under the control of the Government 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:

Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations [or societies].

(3) Save as otherwise 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) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation [or society]; and

(b) all service matters concerning a person [other than a person referred to in clause (a) or clause (b) of sub-section (1)] appointed to any service or post in connection with the affairs of such local or other authority or corporation [or society] and pertaining to the service of such person in connection with such affairs.”

B. CONTENTIONS OF THE PARTIES:

14. This Court has heard learned counsel for the parties at length and with their able assistance, perused the paperbook along with the written submissions filed by them.

15. Learned senior counsel for the Respondent No.1, has raised a preliminary objection with respect to the present petition. In support of his case, it has been argued that the Petitioners do not possess the requisite *locus standi* to challenge the IO-2, since the Appointing Authority as well as the Disciplinary Authority of Respondent No.1 is the Hon'ble President of India whereas the Order dated 04.02.2026, terminating the service of the Respondent No.1 came to be issued by the Respondent No.2. In this regard, reliance has been placed upon the



judgments passed by the Supreme Court in *State of Uttar Pradesh and Anr. v. Audh Narain Singh*¹; and *Anr. and State of Orrisa v. Ram Chandra Dev & Anr.*².

16. *Per contra*, while controverting the aforesaid submissions, learned ASG appearing on behalf of the Petitioners, have argued that there was no master and servant relationship between the Petitioner No.2 and the Respondent No.1. To substantiate the aforesaid, it was argued that the Petitioner No.2 is a company incorporated under the Act of 1956 and as such it is not a government department, and the official working therein can also not be categorised as civil post holders or government servant. Reliance in this regard has been placed upon the judgments passed by the Supreme Court in *Dr. S.L. Agarwal v. The General Manager, Hindustan Steel Ltd*³, *S.S. Dhanoa v. Municipal Corporation, Delhi & Ors.*⁴, *Heavy Engineering Mazdoor Union v State of Bihar & Ors.*⁵, and *Praga Tools Corporation v. C.A. Imanuel & Ors.*⁶.

17. Learned ASG, while controverting the conclusion arrived at by the Tribunal, has made the following submissions:

17.1 It has been argued that the Impugned Orders are perverse in nature as the Petitioner No.2 is a distinct entity in terms of Section 2(20) of the Companies Act, 2013 [hereinafter referred to as 'Act of 2013']. Whereas the appointment of MD-Petitioner No.2, was made in

¹ AIR 1965 SC 360

² AIR 1964 SC 685

³ (1970) 1 SCC 177

⁴ (1981) 3 SCC 431

⁵ (1969) 1 SCC 765

⁶ (1969) 1 SCC 585



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terms of Sections 196 and 197 of the Act of 2013 and the employees are paid from the funds of company.

17.2 It is argued that the reliance placed upon the judgment of Supreme Court in *State of Gujarat & Ors. v. Raman Lal Keshav Lal & Ors.*⁷ by the Tribunal in the IO-1, is perverse in view of the declaration of law on the issue of civil post holder.

17.3 Learned ASG argued that the IO-2 is also bad in law as the Tribunal failed to take into consideration that an interim relief in the matter of termination, should not be granted when it effectively acts as a final relief. Reliance in this regard was placed upon *Ashok Kumar Bajpai v. Dr. [Smt.] Ranjana Bajpai*⁸. Additionally, it was contended that the Tribunal failed to appreciate the fact that after the Respondent No.1 was relieved from the post of MD-Petitioner No.2, a new incumbent had assumed charge of the said office.

18. *Per contra*, learned senior counsel for the Respondent No.1 has made the following submissions:

18.1 A reliance was placed on Article 323 A (1) of the Constitution and Sections 14(1) and 19(1) of the Act of 1985 to argue that upon a bare reading of the aforesaid provisions, it becomes manifest that the Respondent No.1 has rightly challenged the Order dated 04.02.2026, since Respondent No.2 and Petitioner No.1, both are amendable to the jurisdiction of the Tribunal. Reliance in this regard was placed on the judgment of Supreme Court in *L Chandra Kumar v UOI*⁹ and *Rajeev*

⁷ (1980) 4 SCC 653

⁸ 2003 SCC OnLine ALL 1296

⁹ (1997) 3 SCC 261



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*Kumar v Hemraj Singh Chauhan*¹⁰ to argue that the Tribunals created under Articles 323-A and 323-B of the Constitution, will function as a court of first instance.

18.2 It is argued that the O.A. is maintainable even without impleading the Petitioner No.2, since no relief is sought against it and it merely acted as an agent, with the principal authority being responsible for the said termination as held in the judgment of this Court in *Vinay v. Union of India*¹¹. It is further contended that the Petitioner No.2, being a government controlled Central Public Sector Enterprise (CPSE) under the Respondent No.2, cannot be treated as wholly independent. Further, it is his case that posts in such government-controlled entities qualify as civil posts under Section 14(1) of the Act of 1985, requiring no separate notification under Section 14(2) of the Act of 1985.

18.3 It has been argued that the Respondent No.1 was appointed through a Government-prescribed process, with the appointment, service conditions, supervision and disciplinary control vested in the Hon'ble President of India. This, as per the Respondent No.1, establishes a clear master-servant relationship with the Respondent No.2 and not the Petitioners. Hence, only the Respondent No.2 is competent to take action.

18.4 While supporting the conclusions drawn by the Tribunal, it was stated that the termination was rightly stayed as it was stigmatic, arbitrary and passed in violation of principles of natural justice,

¹⁰ (2010) 4 SCC 554

¹¹ 2024 SCC OnLine Del 6369



without notice, hearing or any proper inquiry by the Competent Authority. It has also been the case of the Respondent No.1 that there has been a clear non-compliance with the prescribed procedure and terms of appointment, including failure to provide notice or salary in lieu thereof and lack of approval/participation of the Competent Authority. Hence, the interim relief was justified in light of *Deoraj v. State of Maharashtra & Ors.*¹².

C. ANALYSIS AND REASONING:

19. Having heard the rival submissions advanced by the learned counsel for the parties and upon perusal of the record, this Bench has identified the following issues for consideration:

(A.) Whether the Petitioners have the *locus standi* to maintain the present petition?

(B.) Whether the Respondent No.1 holds a post under the Union within the meaning of Section 14(1) of the Act of 1985?

(C.) Whether the appointment and termination of the Respondent No.1 are acts of Union of India or corporate act of the Petitioner No.2, and whether the Petitioner No.2 is the Competent Authority in this regard?

(A.) WHETHER THE PETITIONERS HAVE THE LOCUS STANDI TO MAINTAIN THE PRESENT PETITION?

20. Learned senior counsel for the Respondent No.1 has at the outset raised objections pertaining to the *locus standi* of the

¹² (2004) 4 SCC 697



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Petitioners. However, in the considered view of this Court, the said objection must be examined in light of the prayer sought by the Respondent No.1 in the O.A., which is reproduced hereinbelow for ready reference:

“That In light of the facts and circumstances aforesaid, it is most respectfully prayed that this Hon’ble Tribunal may be pleased to:

a. Quash the Office Order No. 0-17034/21/2020-PS (E-9090867) dated 04.02.2026 passed by the Respondent No.1; and

b. Quash: the Communication bearing No. HSCC/196-BM/2025-26 dated 02.02.2026 of Company Secretary of Respondent No.3 (NBCC) by which Petitioner has been informed that the powers of the Petitioners have been seized and same has been delegated to the Chairperson of the NBCC(India)Ltd. in the capacity as Chairman, HSCC (India) Ltd.

c. Direct the Respondent No. 1 to reinstate the Applicant on his post of Managing Director in the Respondent No. 2 Company; and

d. Pass any such order (s) as this Hon’ble Tribunal may deem fit and just in the interest of justice.”

21. The Respondent No.1 by way of filing the O.A. has prayed for quashing of HSCC Board Resolution dated 02.02.2026 while reiterating the decision taken by the BoD of the Petitioner No.1. It is on the basis of this resolution that, the Competent Authority had conveyed its approval for the repatriation of the Respondent No.1 to his parent cadre, which simultaneously resulted in his termination from the post of MD-Petitioner No.2. It is pertinent to note that the Competent Authority, namely the President of the Petitioner No.2, had sanctioned and conveyed its approval to the resolution passed by the BoD of the Petitioner No.1.

22. By virtue of the enabling powers conferred under Article of Association (AoA) of the Petitioner No.2, as explained in the succeeding paragraphs of this judgment, the President of the company



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is authorised to convey such approval. It becomes important to highlight that this decision cannot be said to have been taken by the Respondent No.2; rather it was taken by the Hon'ble President of India, in her capacity of President of the Petitioner No.2, who is the head of the company and as such there existed a relationship of master and servant between the Petitioner No.2 and the Respondent No.1. Thus, the decision to terminate the services was not taken by the President in her individual executive capacity, rather it was the decision of a company head, who is the employer of the Respondent No.1.

23. The reliance placed on the judgment of Supreme Court in *Audh Narain Singh (Supra)* is distinguishable on the facts of the present case. In the said decision, at the relevant time, the context involved treasuries being managed through Government Treasurers, who, in turn, had appointed Tahvildars. The dispute therein, concerned the termination of service of one such Tahvildar, who was dispensed with by the Collector, thereby raising the question of whether a Tahvildar qualified as a Government servant and a holder of a civil post. The Five-Judge bench of Supreme Court held that the Tahvildar was indeed a Government servant and holder of a civil post. Consequently, his services could not be terminated in violation of Article 311 of the Constitution. Hence, the ratio of the aforesaid judgment bears no application to the facts and circumstances of the present case.

24. Similarly, the case of *Ram Chandra Dev (Supra)* is entirely distinguishable and bears no relevance to the present controversy. In the aforesaid judgment, the dispute arose from a Writ Petition filed by



the Zamindars who claimed permanent settlement rights over land in the Ganjam Plains. The land in question was acquired by both the States of Orissa and Andhra Pradesh, under the Estate Abolition Act. The Five-Judge Bench of the Supreme Court held that the Petitioners therein had no legal right and consequently, their Petition was not maintainable. In the present case, the issues concern the appointment, tenure, and termination of an employee in an incorporated Government company, and do not involve claims to proprietary or settled rights under a statutory abolition scheme. Therefore, the principles laid down in the aforesaid judgment are wholly inapplicable to the facts and legal questions at hand.

25. In view of the aforesaid discussion, we deem it appropriate to state that the Petitioner No.2 possessed the requisite *locus standi* to file the present Petition because the resolution dated 02.02.2026, which forms the subject matter of challenge before the Tribunal, has been passed by the BoD of the Petitioner No.2. Therefore, the company, as the employing entity, is the proper party to maintain the petition, ensuring that the adjudication pertains to the entity directly responsible for the administrative action impugned.

(B.) WHETHER THE RESPONDENT NO.1 HOLDS A POST UNDER THE UNION WITHIN THE MEANING OF SECTION 14(1) OF THE ACT OF 1985?

26. Chapter 1 of Part XIV of the Constitution which delineates the framework governing ‘Services Under the Union and the State’, thereby furnishing the constitutional backdrop against which the expression ‘civil post’ must be understood and interpreted. The said



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expression, though not exhaustively defined, finds its conceptual foundation within this constitutional scheme and in particular under Article 310 of the Constitution. While the services under the Union and the State stand regulated by the provisions contained in Chapter 1 of Part XIV of the Constitution, Article 310 of the Constitution specifically provides for both defence services under the Union of India and civil services under the Union of India or State. It is within this constitutional architecture that the concept of a civil post emerges, not as a verbal construct but as a juridical expression, denoting a post borne on the establishment of the Union or a State, subject to the sovereign position held by the President or Governor, as the case may be.

27. It has been contended on behalf of the Respondent No.1 that the Petitioner No.2, being a wholly owned subsidiary of the Petitioner No.1 and with the Hon'ble President of India playing a vital role as per AoA, cannot be regarded as a completely independent entity. However, this argument lacks substance.

28. It may be noted that the Petitioner No.1 is an incorporated Government company, which was incorporated on 15.11.1980. In turn, the Petitioner No.2 is a subsidiary company of the Petitioner No.1, incorporated in the year 1983, thereby forming part of the same corporate structure.

29. Further, a perusal of AoA of the Petitioner No.2, reveals the pervasive imprint of control, wherein the Hon'ble President of India is a major shareholder of the Petitioner No.2. Whereas Articles 94 and



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95 of the AoA confers upon the Hon'ble President of India an authority to appoint the Chairman, MD and Directors. Further, Article 120 clothes the Hon'ble President of India with the power to nominate any person as her representative, thereby enabling the exercise of such authority through a designated channel. In particular Clause 3 of Article 120 of the AoA, authorises the Hon'ble President of India to not only cancel any appointment made but also make fresh appointments, as circumstances may warrant.

30. As is evident from the statutory scheme, the Petitioner No.2, though a subsidiary of the Petitioner No.1, is not denuded of its independent corporate existence; rather, it stands as an independent incorporated company, possessing its own legal identity and corporate authority. Section 2(87) of the Act of 2013, while delineating the contours of a subsidiary company, predicates such status upon control exercised by the holding company, either over the composition of the board of directors, or the exercise of control over more than one-half of the total voting power either alone or with its subsidiaries.

31. However, the explanation provided therein confirms that a subsidiary company is still a body corporate in its own right. Additionally, Section 2(46) of the Act of 2013 defines a holding company as one of which other companies are subsidiaries, implicitly recognising distinct corporate existence of each entity in the group. Against the aforesaid definitions provided therein, the Act of 2013 proceeds on the basis that a subsidiary is an independent company merely subject to control in terms of board or voting power, and not as a department or branch of the holding company.



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32. In this regard a reference may also be made to the judgment of Supreme Court in *Balwant Rai Saluja & Anr. v Air India Ltd. & Ors.*¹³, wherein the Court affirmed that a subsidiary company is a distinct legal entity, even if wholly owned and controlled by the holding company. The Court while relying on *Vodafone International Holdings BV v Union of India*¹⁴, reiterated that the holding company does not own the subsidiary's assets and that the business of a subsidiary is managed by its own Board, notwithstanding shareholding control. With the aforesaid observations, it was highlighted that any lifting of the corporate veil to treat the two entities as one is an exception that must be specifically justified.

33. In the present case, the Respondent No.1 has made no arguments thereby seeking to lift the corporate veil between the Petitioner No.1 and the Petitioner No. 2, therefore, in absence of any such claims made, the Petitioner No.2 could not be regarded as equivalent to Government, since it exercises powers and functions through a separate legal persona. The Petitioner No.2 while functioning as a subsidiary of the Petitioner No.1, nonetheless, retains an independent juristic identity and autonomy as explained in the preceding paragraphs. Moreover, the fact that the Hon'ble President of India, in her capacity as the President of the Petitioner No.2, exercises a significant role under the AoA does not lead to a conclusion that the Petitioner No.2 is not an independent entity. In other words, corporate control or representation by the Hon'ble

¹³ (2013) 15 SCC 85



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President of India does not equate to subordination to the Union in the constitutional sense. The Petitioner No.2 remains a distinct legal entity, capable of exercising its powers, rights, and obligations independently of the Union or the Petitioner No.1.

34. The Supreme Court in *Dr. S.L Agarwal (Supra)*, examined the concept of a civil post in the context of a Government company. After relying upon the judgment passed in *Praga Tools Corporation (Supra)*, it was held that such a company is different from the State, and the employees of an incorporated Government company cannot be said to hold a civil post. Consequently, the employees of an incorporated Government company would not fall within the description of a holder of a civil post under the Union, as stated in Articles 310 and 311 of the Constitution. More so, since in the case of the Petitioner No.2, the service conditions of its employees, are governed by HSCC India Limited Conduct, Discipline and Appeal Rules, 1985, thereby reflecting the Petitioner No.2's internal statutory regime.

35. The Tribunal has relied upon the judgment passed by the Supreme Court in *Raman Lal Keshav Lal (Supra)* to come to a conclusion that the Respondent No.1 falls within the contours of Section 14(1)(b)(ii) of the Act of 1985, thereby enabling the jurisdiction of the Tribunal. However, such reliance placed by the Tribunal is distinguishable, since, in the aforesaid decision, a Five-Judge Bench of the Supreme Court was called upon to examine and determine the following two issues:

¹⁴ (2012) 6 SCC 613



- “1. *The Panchayat Service constituted under the Panchayats Act is a civil service of the State of Gujarat; and*
2. *that under the unamended Act, there was a common centralized Panchayat Service.*”

36. The factual matrix requiring adjudication of the Supreme Court, pertained to employees of the Municipalities/Municipal Corporations, who had been posted in the Panchayat services of the State Government. A Writ Petition was filed seeking issuance of a writ in the nature of mandamus for the appointment of such employees in equivalent posts within the Panchayat services of the State Government along with consequential reliefs. Therefore, it may be pertinent to highlight that the questions and legal issues arising in ***Raman Lal Keshav Lal (Supra)*** were of materially different character from those in the present case. Accordingly, the context of inter-posting under the State framework cannot be equated with the appointment and tenure of the Respondent No.1 in a wholly or partially Government-controlled company.

37. Similarly, the reliance placed by the learned senior counsel for the Respondent No.1 on the judgment of Supreme Court in ***Kanak Chandra Dutta (Supra)***, is also distinguishable. In the said decision, the Court examined whether a Mauzadar in the Assam Valley held a civil post under the State of Assam, thereby attracting the protection under Article 311(2) of the Constitution. Faced with the aforesaid controversy, the Court went on to observe that there existed a master servant relationship between the Deputy Commissioner and the Mauzadar, as the latter functioned as a subordinate public servant working under the direct supervision and control of the Deputy



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Commissioner. The duties discharged by the Mauzadar were integrally connected with the affairs of the State, including the collection of land revenue, poll tax, house tax, tauzi-bahir revenue and the obligation to deposit the same into treasury within one month of the date of which they fall due for payment. Against the discharge of these functions, a Mauzadar was paid remuneration by way of a commission on the collection of government dues.

38. On the contrary, the Respondent No.1 in the present case, was not discharging any functions for or on behalf of the Respondent No.2, rather he was appointed by the Petitioner No.2 to perform the corporate objectives highlighted in its Memorandum of Association. Further, his remuneration was also drawn from the funds of the Petitioner No.2 and not from the Consolidated Fund or any government treasury of the Respondent No.2. Thus, the essential indicia of a civil post, namely, performance of duties in connection with the affairs of the State and the existence of a direct master-servant relationship with the Government, are conspicuously absent. Consequently, the ratio of *Kanak Chandra Dutta (Supra)* has no application to the facts of the present case.

39. The Tribunal, by way of the IO-1, has held that, notwithstanding the fact that the Central Government has not issued any notification under Section 14(2) of the Act of 1985 in respect of the Petitioner No.2, the OA filed by the Respondent No.1 is maintainable in terms of Section 14(1)(b)(ii) of the Act of 1985. In view of this determination, it becomes necessary to undertake a detailed examination of Section 14 of the Act of 1985.



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40. Section 14(1)(b)(ii) of the Act of 1985 specifically deals with an individual who is appointed to a civil service of the Union or any civil post under the Union. On the contrary, in the present case, the Respondent No.1 was not appointed to any civil service of the Union, nor did he hold any civil post under the Union. Nevertheless, the Tribunal proceeded on the observation that the Respondent No.1 had been appointed by the Union of India, however, such observation, in view of this Court, constitutes a fundamental factual error.

41. In the present case, the appointment of the Respondent No.1 was made by the Hon'ble President of India, acting in the capacity of the President of the Petitioner No.2, and not in her capacity as the constitutional head of the Union. To put it differently, the appointment was made pursuant to the AoA of the incorporated Government company and was accordingly, tenure based and corporate in character, rather than a civil post held under the Union. Consequently, the Tribunal has erred in concluding that the Respondent No.1 has been appointed to a civil post by the Respondent No.2. In fact, the position held by the Respondent No.1 falls squarely within the ambit of a tenured post in an incorporated Government company, and, as such, he cannot be regarded as a 'holder of a civil post' for the purpose of Section 14 of the Act of 1985.

42. While it is correct that a notification under Section 14(2) of the Act of 1985 has been issued by the Central Government with respect to the Petitioner No.1, however, we must not lose sight of the fact that the present dispute pertains exclusively to the services of Respondent No.1 with the Petitioner No.2, especially in the light of the prayer



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made by way of filing the O.A. In that context, the existence of notification *qua* the Petitioner No.1 cannot, ipso facto, be determinative of the jurisdiction of the Tribunal over dispute pertaining to the Petitioner No.2.

43. Additionally, it is also pertinent to highlight that the very fact that the notification was issued in relation to the Petitioner No.1, is a jurisdictional precondition for bringing an authority or body within the ambit of the Tribunal, thereby enabling the employees of the Petitioner No.1 to seek redressal of their grievance before the Tribunal. Consequently, the absence of such a notification in respect of the Petitioner No. 2 assumes critical significance. As already established in the preceding paragraphs, the Petitioner No.2 being an independent entity with its own administrative and managerial framework, cannot be subsumed within the ambit of the Petitioner No.1 merely by virtue of a notification issued in respect of the latter. Since, the statutory requirement under Section 14(2) of the Act of 1985 does not highlight or talk about such implied extension, and there exists an absence of a specific notification particularly with respect to the Petitioner No.2, we are not convinced that, it can be brought within the jurisdictional sweep of the Tribunal by a process of association or inference.

44. Accordingly, in view of the absence of notification under Section 14(2) of the Act of 1985 and taking into consideration the relief sought by the Respondent No.1 by way of the O.A., we are of the view that the Tribunal has erred in observing that the Respondent No.1 is seeking relief against the Petitioner No.1 and the Respondent



No.2. In fact, the O.A. filed by the Respondent No.1 was directed solely against the Petitioner No.2, an entity in which the appointment and termination of Respondent No.1 occurred.

45. Pithily put, the appointments made by the Hon'ble President of India, in her capacity as the President of an incorporated Government company, cannot be equated with the appointments to a civil post connected with the affairs of the Union of India. The appointment of the Respondent No.1 was intrinsically linked to the affairs of the Petitioner No.2 and not to that of the Respondent No.2, thereby placing him outside the statutory ambit of the various services falling under Section 14(1) of the Act of 1985.

(C.) WHETHER THE APPOINTMENT AND TERMINATION OF THE RESPONDENT NO.1 ARE ACTS OF UNION OF INDIA OR CORPORATE ACT OF THE PETITIONER NO.2, AND WHETHER THE PETITIONER NO.2 IS THE COMPETENT AUTHORITY IN THIS REGARD?

46. The argument of learned senior counsel for the Respondent No.1 to the effect that the appointment was made by the Hon'ble President of India is not wholly correct. The appointment was, in fact, made by the President of the Government company in accordance with her enabling powers conferred under Articles 94 and 95 of the AoA. Accordingly, the Respondent No.1 cannot claim that the Hon'ble President of India, in her individual capacity or in a capacity of a Constitutional Head of the Country, is his master or employee. The authority exercised was purely corporate in nature, arising from the company as a legal entity and not from the constitutional executive capacity.



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47. Against this backdrop, the contention of the Respondent No.1 that the Petitioner No.2 is neither his Appointing Authority nor the Authority for passing the termination order, is also incorrect. On the contrary, the decision of termination has been taken by the BoD of the Petitioner No.2, which, upon consideration, concluded that the explanation furnished by the Respondent No.1 was not satisfactory. The ultimate authority in this regard was the President of the company, who is the Competent Authority as per Article 112 of the AoA, which authorises the President to remove any Director including the Chairman from the office of the Petitioner No.2. Thus, both the initiation and the approval of the termination were intrinsically linked to the corporate governance structure of the Petitioner No.2, establishing it as the proper authority in the matter.

48. The reliance placed by the Respondent No.1 upon the judgment passed by this Court in *Vinay (Supra)* is also distinguishable. This Court in the said decision while dealing with a writ petition filed under Article 226 of the Constitution, dismissed the same on the ground that the Petitioners have an alternative remedy of filing an O.A. before the Tribunal. In the said case, the Petitioners sought a direction to the Respondents to keep in abeyance the entire joining process of candidates selected pursuant to a recruitment process for filling up the post of Examiner of Patents and Designs Group 'A' (Gazetted), conducted by Controller General of Patents, Design and Trademark, Department of Promotion of Industry and Internal Trade, Ministry of Commerce and Industry. Upon consideration, the learned Single Judge came to a conclusion that since the matter was related to



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a recruitment exam and interference in an administrative structure, it fell squarely within the jurisdiction of the Tribunal and hence, the Petitioners were relegated to the alternative statutory remedy. Accordingly, this judgment is also not applicable to the facts of the present case, since the dispute before this Court has come after exhausting the alternative remedy available to the Respondent No.1 under service jurisprudence.

49. In a similar vein, the reliance placed by learned senior counsels for the Respondent No.1 on the judgments of Supreme Court in *L Chandra Kumar (Supra)* and *Rajeev Kumar (Supra)*, to argue that the Tribunal created under Articles 323-A and 323-B of the Constitution, is the first court of instance, is also rendered infructuous. Particularly, when this Court in preceding paragraphs have already observed that the Respondent No.1 does not hold a post as provided under Section 14(1) of the Act of 1985 and accordingly, is not entitled to file an application before the Tribunal.

50. In *L Chandra Kumar (Supra)*, the question that fell before the Seven-Judge Bench, *inter alia*, was to assess whether a Tribunal, constituted under the aforesaid Articles has the competence/jurisdiction to test the validity of a statutory provision/rule and whether the Tribunals could be considered to be an effective substitute for the High Courts in discharging the power of judicial review. While answering the aforesaid questions, it was observed by the Court that in dispute pertaining to service, the Court of first instance is the Tribunal. On the contrary, the question that has fallen for the consideration of this Court is whether or not the



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Respondent No.1 held a post falling under Section 14 of the Act of 1985, thereby making him amenable to invoke the jurisdiction of the Tribunal; accordingly, the decision rendered by the Supreme Court in *L Chandra Kumar (Supra)* is not applicable to the facts and circumstances of the present case.

51. Similarly, in *Rajeev Kumar (Supra)*, the Supreme Court was met against the factual matrix of Appellants, who were a non-State Civil Service Officers, filing an impleadment application for the first time before the Delhi High Court in a proceeding initiated against the order passed by the Tribunal in an O.A. filed by one Hemraj Singh and four others, however, the Appellants therein were not a party before the Tribunal. Pithily put, the Appellants therein participated in the proceedings for the first time before the Delhi High Court in a proceeding challenging the Order of the Tribunal, while placing specific reliance on *L Chandra (Supra)*, to establish that if their rights are being affected by the judgment of Tribunal, they can come before the High Court for the first time, even if they were not a party to the proceedings before the Tribunal. The Supreme Court in the said decision, held that the Appellants have misinterpreted the law laid down in *L Chandra (Supra)* and have failed to treat the High Court as the first instance, when they had the remedy to approach the Tribunal. However, in the present case, this Court is not placed with a similar dispute as the Respondent No.1 herein had effectuated its alternative statutory remedy. Therefore, the said decision also has no bearing on the facts of the present case.

52. The next argument of the learned senior counsel for the



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Respondent No.1 also lacks substance. It has been argued that the Government has laid down certain procedures for appointments in the Government Companies and that the Petitioner No.2, being a Mini Ratna CPSE and a wholly owned company of the Petitioner No.1 which is under the administrative control of the Respondent No.2, is subject to a pervasive governmental control. However, the said assertion is insufficient to conclude that the Disciplinary Authority over the Respondent No.1 is the Hon'ble President of India in her individual constitutional capacity. The Disciplinary Authority is, in fact, the President of the company, who happens to be the Hon'ble President of India. Therefore, the exercise of disciplinary powers arises from the corporate office, not from the personal constitutional role of the President. Accordingly, the legal consequences of such action must be viewed in a corporate and not a constitutional context.

53. Having meticulously examined the nature of the post held by the Respondent No.1, and upon drawing a clear distinction between an employee of the Union and an employee of an incorporated Government company; based on the statutory provisions and judgments of the Supreme Court discussed in the preceding paragraphs, this Court is satisfied that the post held by the Respondent No.1 does not constitute a post under the Union within the meaning of Section 14(1) of the Act of 1985.

54. In consequence, the Tribunal lacked the jurisdiction to entertain the O.A. filed by the Respondent No.1. The absence of jurisdiction is a fundamental and incurable defect, rendering all consequential orders, including the order passed by the Tribunal in the form of IO-2,



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void ab initio. In view thereof, this Court refrains from commenting upon the correctness or merits of IO-2, since the same is also found to be without jurisdiction.

D. CONCLUSION:

55. In view of the aforesaid discussion and conclusion arrived at hereinabove, the present Petition is allowed. The Impugned Order dated 23.02.2026 is hereby set aside and it is held that the Original Application filed by the Respondent No.1 was not maintainable before the Tribunal for want of jurisdiction.

56. As a necessary corollary, the Impugned Order dated 27.02.2026, being founded upon proceedings conducted without jurisdiction, is also declared to be void and is accordingly set aside.

57. All the pending applications also stand closed.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

APRIL 02, 2026

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