
(2009) 08 DEL CK 0201

In the Delhi High Court

Case No : Writ Petition (C) 10987 of 2009

Ajay A.P. Toppo

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 19-08-2009

Acts Referred:

Administrative Tribunals Act, 1985 — Section 14(1), 29, 3

Citation : (2009) 08 DEL CK 0201

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : K.C. Dubey, for the Appellant; Jyoti Singh and Ankur Chhibber, for the Respondent

Judgement

Sanjiv Khanna, J.—Learned Counsel for the respondents, who appears on advance notice, states that the dispute raised in the present writ petition is a service dispute under Administrative Tribunals Act, 1985. She states that the judgment of the Supreme Court in the case of Union of India (UOI) Vs. Rasila Ram and Others, is not applicable as the petitioner is not challenging any order passed under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and in fact no proceedings under the said enactment have been initiated.

2. There is merit in the contention raised by the learned Counsel for the respondents. The petitioner is admittedly an employee of the Central Government. He was allotted a quarter at Janakpuri in view of his employment as a Postal Assistant in the Department of Posts. The respondents have cancelled the said allotment and allotted a flat at Moti Bagh. The dispute is a service dispute as what is challenged in the writ petition is cancellation of allotment of a quarter at Janakpuri and allotment of a new quarter at Moti Bagh. Reference in this regard can be made to the decision of this Court in Dharam Dev Vs. Union of India and Others, , wherein it has been held:

(4) The question which arose for decision is whether the subject matter of dispute arising in this writ is covered by the provisions of Administrative

Tribunals Act, 1985 or not?

(5) Section 3(q) defines service matters as follows:

"Service matters", in relation to a person, means all matters relating to the conditions of his service 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, as the case may be, of any corporation owned or controlled by the Government, as respects:

- (i) remuneration (including allowances), pension and other retirement benefits;
- (ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;
- (iii) leave of any kind ,
- (iv) disciplinary matters; or
- (v) any other matter whatsoever;

(6) Section 14(1)(b) clearly lays down that in respect of service matters, the Administrative Tribunal shall have exclusive jurisdiction and Section 29 of the Act makes it clear that all matters pending in any court which have come under the jurisdiction of the Administrative Tribunal shall stand transferred to said Tribunal. So, it cannot be disputed that right of a particular employee to have an allotment of residential accommodation is a service matter because it is a service benefit which flows from the person being in government service. Section 3(q) clearly lays down that in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union would be included in the definition of "service matters" and then five clauses have been given. First four clauses specifically give certain matters which would be deemed to be covered by the expression "service matters". Clause (v) clearly mentions that any other matter whatsoever, would also be covered by the subject "service matters" but obviously such matters must relate to the conditions of service. Clause (v) cannot be read ejusdem generis with the preceding four clauses. Clause (v) has to be read in connection with the main Clause (q). The main Section 3(q) is quite comprehensive to include all matters pertaining to the service conditions of the employees so it cannot be argued with any rationality that allotment of a government quarter to an employee is not a matter of his service conditions. I, therefore, hold that the subject matter of the present writ clearly falls under the expression "service matters" and thus only the Administrative Tribunal has the jurisdiction to try the matter and the present case would be deemed to have been transferred to the said Tribunal. The parties are directed to appear before the Registrar of the Tribunal on 1st August, 1988. The office shall take steps to send the file to the Tribunal at the earliest.

3. In view of the aforesaid decision, it is held that the present writ petition is not maintainable and the petitioner should invoke jurisdiction of the Central

Administrative Tribunal under the provisions of the Administrative Tribunals Act, 1985.

The writ petition is disposed of.