

(2013) 11 UK CK 0002
In the Uttarakhand High Court
Case No : Writ Petition (PIL) No. 118 of 2009

Anup Kumar Verma

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 25-11-2013

Acts Referred:

Citation : (2013) 11 UK CK 0002

Hon'ble Judges : Barin Ghosh, C.J.;Serves Kumar Gupta, J

Bench : Division Bench

Advocate : C.D. Bahuguna and Mr. A.K. Verma, for the Appellant; Raman Kumar Shah, Standing Counsel (Central Govt.) for Respondent Nos. 1 to 3 and Mr. Vinay Kumar for the State of Uttarakhand/Respondent No. 4, for the Respondent

Judgement

1. Reply affidavit, filed in Court by the petitioner, is accepted on record. Admit. List for hearing 12 weeks" hence.

2. In the meantime, the Central Government shall consider the fact that, before Tribunals were established, a litigant could approach the State High Court to redress his grievances. Under the Act, there is a provision for setting up of a permanent bench. It has not provided for establishment of circuit benches. In S.P. Sampath Kumar vs. Union of India & others, the Hon"ble Supreme Court made the following observation:

The Government should set up a permanent bench and, if that is not feasible having regard to the volume of work, then, at least, a circuit bench of the Administrative Tribunal wherever there is a seat of the High Court on or before 31st March, 1987 so that the provisions of the Act could be sustained.

3. Taking clue from the said observation, on the basis of volume of work available in a State, 16 additional permanent benches, and not circuit benches, have been established. One of those benches has been established at Allahabad. At the time of establishment of the bench at Allahabad, the State of Uttarakhand was not created. State of Uttarakhand is in existence since 9th November, 2000.

No such bench has been established in the State of Uttarakhand. No provision for holding regular circuits in any part of Uttarakhand has been made. Because 94 cases are pending, in the affidavit filed by the Union of India, it has stated that it may not be justifiable to establish a separate bench of the Tribunal in the State of Uttarakhand. In other words, the Central Government has expressed a contrary view of its policy of taking the courts to the doorsteps of the litigants.

4. The fact remains that the judgment of the Hon''ble Supreme Court rendered in the case of S.P. Sampath Kumar vs. Union of India & others has been practically reversed by a larger bench of the Hon''ble Supreme Court in the case of L. Chandrakumar vs. Union of India. In view of the latter judgment of the Hon''ble Supreme Court, a litigant, dissatisfied with the decision of the Tribunal, is entitled to approach the High Court. In L. Chandrakumar, however, it has not been stated, which High Court has to be approached. Having regard to the jurisdiction of the High Courts exercisable under Article 226 of the Constitution of India, a litigant, dissatisfied with the decision of the Tribunal at Allahabad, may approach this High Court; but, in view of the provisions of Article 227 of the Constitution of India, he is required to approach the Hon''ble Allahabad High Court. In L. Chandrakumar, the Hon''ble Supreme Court has observed that the Tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/227 of the Constitution of India. Having regard to the situation as it appears to us, there may be conflict pertaining to the exercise of jurisdiction by the two High Courts relating to a matter pertaining to exclusively of the State of Uttarakhand. We, accordingly, feel that the number of pendency is not an appropriate guideline for establishment of separate bench of the Tribunal.

5. We, therefore, direct the Central Government to consider this aspect of the matter and file an affidavit dealing with the subject discussed above within 10 weeks from today. Let a copy of this order be handed over to the learned counsel appearing for the Central Government.