
(2011) 08 AP CK 0062

In the Andhra Pradesh High Court

Case No : Writ Petition No. 20674 of 2011

B. Satyanarayana

APPELLANT

Vs

A.P. Administrative Tribunal and Others

RESPONDENT

Date of Decision : 02-08-2011

Acts Referred:

Andhra Pradesh Administrative Tribunals Act, 1985 — Section 15(1), 15(2), 15(3), 19, 2
Constitution of India, 1950 — Article 136

Citation : (2011) 5 ALD 705

Hon'ble Judges : V.V.S. Rao, J;K.G. Shankar, J

Bench : Division Bench

Advocate : S.A.K. Mynoddin, for the Appellant; K. Madhava Reddy, G.P., for the Respondent

Final Decision : Dismissed

Judgement

V.V.S. Rao, J.—The Petitioner is working as a Clerk in Andhra Pradesh State Road Transport Corporation (APSRTC). Disciplinary enquiry was conducted by the third Respondent. The Secretary, APSRTC, PF Trust, issued orders on 02.08.2006 reducing the pay of the Petitioner by one incremental stage for a period of two years. Aggrieved by the same, he preferred an appeal to the Deputy Chief Accounts Officer (T&S), who rejected the same, on 09.10.2006. He, thereafter, filed O.A. No. 17294 of 2008. The Registry of the Andhra Pradesh Administrative Tribunal (hereafter, Administrative Tribunal) raised an objection as to the maintainability in O.A.SR. No. 17294 of 2008. By an order, dated 05.10.2010, the learned Administrative Tribunal upheld the office objection observing that the Government has not issued any notification vesting jurisdiction on the Administrative Tribunal to adjudicate the matters pertaining the service conditions of APSRTC employees. This order is assailed in the writ petition.

2. Learned Counsel for the Petitioner submits that when the A.P.Administrative Tribunal Act, 1985 (the Act, for brevity) was enacted, Section 2 excluded the

members of naval, military or air forces or of any other armed forces of the Union, any person governed by the provisions of the Industrial Disputes Act, 1947, officers or servants of the Supreme Court or High Courts or Courts subordinate thereto, and the person appointed to the secretarial staff of either House of Parliament or to the secretarial staff of any State Legislature or a House thereof or, in the case of a Union Territory having a Legislature, of that Legislature. By Central Act No. 19 of 1986 with effect from 01.11.1985, Section 2(b) was omitted and therefore, the statutory bar in so far as workmen are concerned, has now been removed. According to the counsel, after deletion of Section 2(b), every workman including an employee of APSRTC has a right to approach Administrative Tribunal constituted u/s 4(2) of the Act.

3. Government Pleader for Services-II and the standing counsel for APSRTC opposed the writ petition. They placed reliance on Ch. Raji Reddy and Others Vs. APSRTC and Another, and Khader Sheriff Vs. State of A.P. and Another, and submit that unless and until a notification is issued by the Government of Andhra Pradesh u/s 15(2) of the Act, the learned Tribunal is not vested with the jurisdiction in relation to service matters of the employees/workmen of APSRTC.

4. Does an employee of APSRTC has a remedy u/s 19 of the Act to seek redressal in relation to any service matter? Our enquiry is limited to this short question. After giving anxious consideration, we are convinced that employees of APSRTC like the Petitioner are not entitled to approach the Administrative Tribunal nor can it entertain original application from such an employee. The brief reasons are as follows.

5. As per Section 19 of the Act -"subject to the other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for redressal of the grievance". But, every grievance is not redressible by the Administrative Tribunal. It is only the grievance pertaining to the matter within the jurisdiction that can be agitated u/s 19 of the Act. This is again, however, subject to other provisions of the Act. The question to be addressed is whether the grievance of the Petitioner pertaining to the reduction of pay by one incremental stage as an employee of APSRTC is within the jurisdiction of the Tribunal.

6. "Service matter" in relation to a person means, "all matters relating to the conditions of his service (i) in connection with the affairs of the Union; (ii) of a State; (iii) of any local or other authority within the territory of India or under the control of Government of India; or (iv) "as the case may be", of any corporation or society owned or controlled by the Government in respect of remuneration, pension, retiral benefits, service tenure, disciplinary matters etc. (Section 3(q)). The Administrative Tribunal constituted u/s 4(2) of the Act shall exercise all the jurisdiction in relation to the recruitment to any civil services of the State, or any civil post under the State, all service matters concerning a person appointed to any civil service of any civil post under the State, and all service matters pertaining to service in connection with the affairs of the State

concerning a person appointed to any service or post being a person whose services have been placed by any local authority as is controlled or owned by the State Government at the disposal of the State, for appointment to a civil post or to any civil service. In addition, the Administrative Tribunal shall also exercise the power and jurisdiction in relation to the service matters of persons holding the posts in connection with the affairs of local or other authority or corporation or society if a notification is issued by the State Government u/s 15(2) of the Act to that effect. Thus, reading Section 3(q) and Sub-sections (1), (2) and (3) of Section 15 of the Act, it becomes clear that the Administrative Tribunal shall have power and jurisdiction initially in relation to service matters as stipulated in these provisions, concerning a person appointed to any civil service or any civil post and nextly in relation to persons appointed in connection with affairs of a corporation only if the State Government issues a notification applying the provisions of Sub-section (3) of Section 15 of the Act. The phrase "as the case may be" in Section 3(q) before the phrase "of any corporation or society owned or controlled by the Government" makes it clear that the service matters in relation to persons appointed to a corporation under the control of the Government would come within the jurisdiction of the Administrative Tribunal only when a notification is issued by the State Government (Khader Sheriff).

7. What is the effect of Section 3 of the Administrative Tribunals (Amendment) Act, 1986? By the said provision, Section 2(b) was omitted and a part of Section 28 was substituted. Before amendment, Section 2 read as under.

2. Act not to apply to certain persons.-The provisions of this Act shall not apply to,-

(a) any member of the naval, military or air force or of other armed forces of the Union;

(b) any person governed by the provisions of the Industrial Disputes Act, 1947 (14 of 1947), in regard to such matters in respect of which he is so governed;

(c) any officer or servant of the Supreme Court or of any High Court;

(d) any person appointed to the secretarial staff of either House of Parliament or to the secretariat staff of any State Legislature or a House thereof or, in the case of a Union territory having a Legislature, of that Legislature.

8. From the above, Section 2(b) was omitted. In Section 28 words "no Court (except the Supreme Court under Article 136 of the Constitution) shall have" were substituted and the post amendment Section 28 reads as under.

28. Exclusion of jurisdiction of courts except the Supreme Court under Article 136 of the Constitution: On and from the date from which any jurisdiction, power and authority becomes exercisable under this Act by a Tribunal in relation to recruitment and matters concerning recruitment to any service or post or service matters concerning members of any service or persons appointed to any service or post, No. Court except-

(a) the Supreme Court; or

(b) any Industrial Tribunal, Labour Court or other authority constituted under the Industrial Disputes Act, 1947 (14 of 1947), or any other corresponding law for the time being in force

shall have, or be entitled to exercise any jurisdiction, powers or authority in relation to such requirement or such service matters.

9. The amendment, in our considered opinion, was made to safeguard the rights of employees whose disputes are industrial disputes as well as service matters. It was never intended to enlarge the jurisdiction of the Administrative Tribunal and extend its jurisdiction even to service matters in relation to persons appointed in connection with the affairs of the corporation. The submission of the counsel for Petitioner, therefore, cannot be accepted. The omission of Section 2(b) by itself does not confer the jurisdiction on the Administrative Tribunal nor bring the service matters of APSRTC employees within its jurisdiction. Therefore, though for a different reason, we do not find any substance in the writ petition.

10. The writ petition is therefore dismissed. No. costs.