
(2007) 01 PAT CK 0003
In the Patna High Court
Case No : CWJC No. 1049 of 2005

Baij Nath Singh and Others	Vs	APPELLANT
Union of India and Others		RESPONDENT

Date of Decision : 25-01-2007

Acts Referred:

Administrative Tribunals Act, 1985 — Section 14
Constitution of India, 1950 — Article 226

Citation : (2007) 1 PLJR 801

Hon'ble Judges : J.N. Bhatt, C.J;S.K. Sinha, J

Bench : Division Bench

Advocate : Ram Kumar Jha and Amar Nath Jha, for the Appellant; R. Ranjan, J.P. Karn and Sachchidanand Singh, for the Respondent

Final Decision : Dismissed

Judgement

1. In this group of four writ petitions, by invocation of Article 226 of the Constitution of India, the challenge is against the order passed by the Central Administrative Tribunal (in short "Tribunal"), Patna Bench, Patna, dated 9.12.2005, in O.A. No. 754 of 2005, and O.A. No. 755 of 2005, and dated 7.3.2005 in O.A. No. 187 of 2005, dated 16.8.2005 in O.A. No. 530 of 2005, by which these O.As. came to be dismissed by the Tribunal on the premises that it has no jurisdiction to entertain the applications as the applicants are officers of the Bharat Sanchar Nigam Limited (in short "BSNL") which has not been notified in terms of the provisions of sub-section (2) of Section 14 of the Central Administrative Tribunal Act, 1985 (in short "the Act"). We have heard the learned counsel appearing for the parties. We have considered the factual matrix. We have also given our threadbare consideration to the text and texture of the entire impugned common order. We have also considered the relevant provisions of law, as well as, relevant case laws.

2. Learned counsel for the petitioners has reiterated the same contentions which were raised before the Tribunal. It has been, vehemently, contended that the

BSNL could not be said to be out of the purview of the jurisdiction of the Tribunal and, also, the service matters of its officers. This submission is countenanced by the learned counsel appearing for the other side. Our attention has also been invited to the two Division Bench decisions of this Court, on reported in Bhagirath Prasad and Another Vs. Hari Narayan Paswan and Others and another unreported judgement dated 6.1.2006 in CWJC No. 2073 of 2003 (Union of India & Ors. vs. Sanjay Kumar Singh & Ors.).

3. In order to appreciate the merits of the aforesaid contentions, let us have a close look into the relevant provisions incorporated in Section 14 in Chapter III of The Administrative Tribunal Act, 1985, (in short the Act") with a view to elucidate the legal proposition enshrined in that Section. Let there be reproduction of Section 14 of the Act, in extenso, hereinbelow:-

"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 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) or 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.

(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 propose 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 subsection (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."

4. It could very well be seen from the reading of the provisions of sub-section (2) of Section 14 of the Act that this Section does not, ipso facto, confer jurisdiction on the Tribunal in respect of the officers and employees of the Government Undertakings or Government companies other than the Government servants. With a view to bring within the ambit and amplitude of the jurisdiction of the Central Administrative Tribunal, the Parliament in its wisdom has rightly prescribed and provided that it is open for the Central Government which 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 society owned or controlled by Government, not being a local or other authority, corporation or society, controlled or owned by a State Government. This will be an important material proposition to appreciate the view taken by the Central Administrative Tribunal, Patna Bench, Patna, which is under challenge before us.

5. There is no dispute about the fact that the petitioners have been officers and employees of the BSNL. Admittedly, BSNL has not been brought within the jurisdiction of the Tribunal, by issuance of the notification of the Central Government, as required and provided by sub-section (2) of Section 14 of the

Act.

6. The contention is that requirement under sub-section (2) of Section 14 would be warranted provided there are employees and not in the case of the officers. Such contention may appear to be alluring but is not an acceptable submission.

7. On a plain perusal of the statutory provisions incorporated in sub-section (2) of Section 14 of the Act, underlying design and desideratum of the entire provisions of Section 14 of the Act, as well as, aim and object of the Act, no such fact comes in the picture nor does it help the cause of the petitioners. Who are the officers and who are employees of the BSNL, are matters of perception and philosophy differing from facts to fact.

8. The views which we are inclined to take at this juncture and that have been reached by the Tribunal are also reinforced by the two decisions, referred to above.

9. After having taken into consideration the overall factual situation, as well as, case laws, propounded and considered hereinbefore and the bare perusal of the provisions of sub-section (2) of Section 14 of the Act, as well as, aims and object of the Act, there remains no manner of doubt. In our opinion, this group of cases are meritless and liable to be rejected at the threshold after hearing both the parties. We, therefore, dismiss all these writ petitions at the admission stage itself. Rule is discharged. No costs.