

(2016) 01 KAR CK 0084
In the Karnataka High Court
Case No : Writ Petition No. 207615/2015 (S-RES)

Dattatreya

APPELLANT

Vs

Principal Accountant General of Karnataka and Others

RESPONDENT

Date of Decision : 06-01-2016

Acts Referred:

Administrative Tribunals Act, 1985 — Section 3
Constitution of India, 1950 — Article 226, Article 323-A

Citation : (2016) 01 KAR CK 0084

Hon'ble Judges : Ram Mohan Reddy, J.

Bench : Single Bench

Advocate : P. Vilaskumar, Advocate, for the Appellant; Archana P. Tiwari, AGA, for the Respondent

Final Decision : Dismissed

Judgement

Ram Mohan Reddy, J.—1. Petitioner claiming to have superannuated from service under the State of Karnataka has presented this petition to quash the endorsement dated 14.07.2015 Annexure-D; the communication dated 03.06.2015 between Addl. Chief Secretary and Commissioner Annexure-E; the endorsement dated 28.05.2015 Annexure-F issued by the Deputy Secretary to Government Department of law disentitling the petitioner for the benefit of treating him to be in service for the period from 01.01.1979 to 29.03.1982, on the premise that they are illegal and arbitrary.

2. Clause (q) of Section 3 of the Administrative Tribunals Act, 1985, defines "Service matters" as Service matters in relation to a person means all matters relating to the conditions of his service. Such service must be in connection with-

(a) the affairs of the Union, or

(b) of any State, or

(c) of any local or other authority within the territory of India or under the control of the Government of India, or

(d) of any corporation (society) 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.

3. The Administrative Tribunals Act, 1985, was promulgated to provide for adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts 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 of India in pursuance of Article 323-A of the Constitution of India and for matters connected therewith or incidental thereto.

4. The State of Karnataka constituted the Karnataka Administrative Tribunal in terms of the aforesaid Act for the purpose of adjudication or trial of disputes and complaints with respect to conditions of service and recruitment of persons appointed to public services and posts connected with the affairs.

5. Thus the well known proposition of law that when a matter falls under any specific provisions, then it must be governed by that provision and not by the general provision (*Generalia Specialibus non derogant*). In addition the Tribunal deemed to possess by necessary intendment such powers as are necessary to make its orders effective. This principle is embodied in the maxim "*ubi aliquid conceditur, conceditur et id sine quo res ipsa esse non potest*" (Where anything is conceded, there is conceded also anything without which the thing itself cannot exist). Whenever anything is required to be done by law and it is found impossible to do that thing unless something not authorised in express terms be also done that something else will be supplied by necessary intendment.

6. Regard being had to the nature of dispute and reliefs invoking the extraordinary writ jurisdiction under Article 226 of the Constitution, petitioner having not made out an exceptional case for interference, except that he has attained the age of superannuation and has a dispute with his employer the State, in the circumstances, the decision of the Apex Court in *T.K. Rangarajan vs. Government of Tamil Nadu and Ors*, AIR 2003 SC 3032 has no application. The facts of that case reveals exceptional circumstances where lakhs of employees of State of Tamil Nadu were arrested and put behind bars and their personal liberty was at stake, hence invoked the writ jurisdiction under Article 226 of Constitution where the Apex Court observed was an exceptional circumstance which the

Administrative Tribunal was incapable of handling and therefore opined that it is a fit case for being considered by the writ court in exercise of extra-ordinary jurisdiction.

7. Although Sri Vilaskumar, learned counsel for the petitioner besieges the Court to take a similar view as has been done in Rangarajan's case, in my considered opinion is unacceptable for the aforesaid reasons.

Reserving liberty to the petitioner to approach the Karnataka Administrative Tribunal under the Administrative Tribunals Act 1985, for the reliefs in this petition which if done, there is no reason to believe that the Tribunal would not consider the same, petition is rejected.