
(1987) 10 AHC CK 0059

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 18296 of 1987

Durjan Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 20-10-1987

Acts Referred:

Administrative Tribunals Act, 1985 — Section 14, 28, 3
Constitution of India, 1950 — Article 136, 14, 16(1), 226, 227

Citation : (1988) 1 AWC 439

Hon'ble Judges : S.K. Dhaon, J; B.L. Yadav, J

Bench : Division Bench

Advocate : T. Rathore, for the Appellant;

Final Decision : Dismissed

Judgement

S.K. Dhaon, J.—An assistant in the Post and Telegraph Department has invoked the jurisdiction of this Court under Article 226 of the Constitution with a prayer that the Respondents may be restrained from taking any disciplinary proceedings against him.

2. The petitioner has come out with the case that at the relevant time he was employed as a clerk in the Postal Department. A first information report had been lodged, investigation followed and a charge-sheet submitted against the petitioner. Thus, he is facing a prosecution before a competent court of law. During the pendency of the criminal case, departmental proceedings have been initiated. If such proceedings are allowed to continue, the petitioner will be seriously prejudiced in the trial before the criminal court.

3. Is the jurisdiction of this Court barred in view of the provisions of Section 28 read with Section 14 of the Administrative Tribunals Act, 1985 (hereinafter referred to as the Act) ? Obviously, the petitioner contends that this Court has the jurisdiction to issue a direction as prayed for by him. In our view we have no such jurisdiction. Section 3(q) of the Act defines "service matters" in relation to a

person, to mean: "all matters relating to the conditions of his service in connection, with the affairs of the Union or of any State 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, amongst others, disciplinary matters, or any other matter whatsoever." There is no dispute that the petitioner is in service in connection with the affairs of the Union. Section 14 in so far as it is relevant to the present controversy, reads: "save as otherwise expressly provided in the 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 under Article 136 of the Constitution) in relation to all service matters concerning a person appointed to any civil service of the Union or any civil post under the Union and pertaining to the service of such a person. The expression "in relation to" embraces words of comprehensive and not of restrictive contents. If we substitute "disciplinary matters or any other matters whatsoever" for "all service matters", it will be immediately seen that the Administrative Tribunals u/s 14 stand conferred with the jurisdiction and powers of all courts except the Supreme Court in relation to disciplinary proceedings and any other matter whatsoever concerning a person appointed to any civil service under the Union or any civil post, under the Union. Thus, the Administrative Tribunal has been given the exclusive jurisdiction power and authority (except in the case of the Supreme Court) in relation to disciplinary matters or any other matter whatsoever concerning the petitioner. The grievance of the petitioner in this Court squarely concerns the petitioner in relation to disciplinary matters or at any rate, any other matter whatsoever. The conclusion, therefore, is inevitable that the Central Administrative Tribunal has the jurisdiction, power and authority to deal with the grievance of the petitioner as contained in the instant petition.

4. Let us now read Section 28. It says that on and from the date from which any jurisdiction, powers and authority becomes exercisable under the 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 the Supreme Court under Article 136 of the Constitution) shall have, or be entitled to exercise any jurisdiction, powers or authority in relation to such recruitment or matter concerning such recruitment or such service matters. The provision under reference, namely, Section 28 ousts the jurisdiction, powers and authority of all, the courts except the Supreme Court in relation to the three matters. Firstly, recruitment, secondly, matters concerning recruitment and thirdly, service matters concerning persons appointed to any post. For ascertaining the amplitude of the expression "service matters" we have to necessarily refer to the statutory definition in Section 3(q). Once that is done, disciplinary matters or any other matters whatsoever have to be read in place of "service matters" in Section 28. The petitioner, we may repeat, is a person appointed to a post within

the meaning of the said provision. Again the inevitable conclusion is that the jurisdiction, powers and authority of all courts except the Supreme Court in relation to the disciplinary matters or any other matters concerning the petitioner stand ousted. A fortiori, the jurisdiction of this Court too stands excluded.

5. In *S.P. Sampath Kumar v. Union of India* AIR 1987 SC 386, the Supreme Court held that the High Court has been supplanted by the Administrative Tribunal. The Administrative Tribunal has been created in substitution of the High Court and the jurisdiction of the High Court under Articles 226 and 227 has been taken away and vested in the Administrative Tribunal. It has been held that the attempt of Parliament in constituting the Administrative Tribunal under Article 323-A of the Constitution is to substitute the Administrative Tribunal in place of the High Court, thereby providing another alternative institutional mechanisms or arrangement for judicial review.

6. In *J.B. Chopra and Others Vs. Union of India (UOI) and Others*, , the Supreme Court observed that the Administrative Tribunal being a substitute of the High Court had the necessary jurisdiction, powers and authority to adjudicate upon all disputes relating to service matters including the power to deal with all questions pertaining to the constitutional validity or otherwise of such laws as of pending Articles 14 and 16(1) of the Constitution.

7. We have, therefore, no alternative but to come to the conclusion that this Court cannot give any relief to the petitioner as it has no jurisdiction to entertain this petition.

8. The petition is dismissed summarily.