
(2013) 06 KL CK 0035
In the High Court Of Kerala
Case No : O.P. (KAT) No. 1286 of 2013

Gireesh Babu and Others

APPELLANT

Vs

Pavithran, T.V. and Others

RESPONDENT

Date of Decision : 19-06-2013

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2013) 3 ILR (Ker) 391 : (2013) 3 KHC 165

Hon'ble Judges : Thottathil B. Radhakrishnan, J; Mathew P. Joseph, J

Bench : Division Bench

Advocate : Kaleeswaram Raj, for the Appellant; P.V. Asha for Respondents 1, 2, 4 to 7 and 9 to 12 and Sri Noble Mathew, Senior Government Pleader, for the Respondent

Judgement

Thottathil B. Radhakrishnan, J.—The petitioners claim that they are holders of National Trade Certificate or National Apprenticeship Certificate in the concerned trade for being considered for appointment to the category of Workshop Attender in terms of the Special Rules for the Kerala Craftsmen Training Subordinate Service. They claim that respondents 1 to 12 do not possess such qualification; yet they have got an order from the Kerala Administrative Tribunal on the basis that Diploma in the concerned branch of Engineering with reference to the relevant trade is equivalent to the aforesaid trade certificate or apprenticeship certificate. Petitioners say that they are aggrieved by it. They have, therefore, invoked Article 227 of the Constitution challenging Ext. P-1 order of the Kerala Administrative Tribunal issued under the provisions of the Administrative Tribunals Act, 1985. The learned counsel for the petitioners made earnest attempt to point out that Jyoti's case [Jyoti K.K. and Others Vs. Kerala Public Service Commission and Others,] relied on by the Tribunal is not decisive and the relevant field of judge made law is occupied by different other precedents laid down by the Division Bench of this Court and also some other judgments of the Honourable Supreme Court of India.

2. This Court, however, even at the stage of consideration of this case for admission, had minted an order indicating that the effect of the pronouncement of the Honourable Supreme Court of India in *Rajeev Kumar and Another Vs. Hemraj Singh Chauhan and Others*, needs to be considered. Hence, notice was issued before admission.

3. We have heard the learned counsel for the petitioners and the learned counsel for the private respondents.

4. Faced with the discussions in paragraphs 7 to 14 of *Rajeev Kumar's* case (*supra*) and the pointed conclusions arrived at in paragraph 11 of that judgment, on the basis of the ratio of *L. Chandra Kumar Vs. Union of India and others*, , the learned counsel for the petitioners attempted to distinguish *Rajeev Kumar's* case by saying that while in that case, the employees? *Rajeev Kumar and another*, had applied for impleadment in a petition pending before the High Court against the decision of the Central Administrative Tribunal, while the petitioners herein have come directly to this Court invoking Article 227 of the Constitution. Though the learned counsel for the petitioners thus tried to draw a distinction between original petitioners and impleading petitioners, we do not see any room for classification of the parties on that basis. We say this because, in *Rajeev Kumar's* case, the categoric statement of the Apex Court is that "the approach made to the High Court for the first time by these appellants in respect of their service disputes over which CAT has jurisdiction, is not legally sustainable". It was also held that the Division Bench of the High Court fell into an error by allowing to treat the High Court as a court of first instance in respect of their service disputes for adjudication for which CAT has been constituted. In *Rajeev Kumar's* case, the Apex Court had pointed out that in view of the clear law laid by the Constitution Bench in *L. Chandra Kumar's* case (*supra*), the approach of the High Court treating itself as the court of first instance overlooking the jurisdiction of the Tribunal was unacceptable. Those principles apply on all fours to matters arising from decisions of all Tribunals constituted under the Administrative Tribunals Act, 1985, including the Kerala Administrative Tribunal.

5. Incidentally, the Apex Court had also noted in *Rajeev Kumar's* case that the Tribunal has also the power of review. We do not see that expression, as excluding any other mode available before the Tribunal, for grant of relief, to persons who were entitled to be heard, if found so; yet, not heard before the verdict was handed down by it. The learned counsel for the petitioners also made reference to *Shama Prashant Raje Vs. Ganpatrao and Others*, to argue that notwithstanding that the jurisdiction of the High Court under Articles 226 and 227 is supervisory and not appellate; if perusal of the order of an inferior tribunal leads to the conclusion that one among the four conditions enumerated in that precedent exists, the High Court would be fully justified in interfering with the findings of the inferior tribunal. We see that such law was laid in consonance with the existing precedent law and that was applied to decisions arising under the rent control laws. The principles laid down by the Constitution Bench in *L.*

Chandra Kumar's case were not adverted to while deciding Shama Prashant Raje's case (supra), which dealt with a different jurisdictional zone. L. Chandra Kumar's case was pointedly adverted to, considered and applied by the Apex Court while deciding Rajeev Kumar's case. We are, therefore, of the view that Rajeev Kumar's case directly applies as the precedent to the case in hand while the ratio in Shama Prashant Raje's case does not apply to the context in hand.

For the aforesaid reasons, we refuse to examine the merits or demerits of the contentions raised in this petition as against the impugned order of the Tribunal and leave the petitioners to seek remedies, as otherwise available in accordance with law. This original petition is accordingly dismissed without expressing anything on the merits of the claim of the petitioners.