
(1989) 02 KAR CK 0006
In the Karnataka High Court
Case No : W.A. No. 259 of 1989

H. Hombaiaiah

APPELLANT

Vs

Zilla Parishad

RESPONDENT

Date of Decision : 03-02-1989

Acts Referred:

Administrative Tribunals Act, 1985 — Section 15 (1), 15 (2)
Constitution of India, 1950 — Article 226

Citation : (1989) ILR (Kar) 816

Hon'ble Judges : Ramakrishna, J; Chandrakantaraj Urs, J

Bench : Division Bench

Advocate : H. Subramanya Jois, for the Appellant;

Judgement

Chandrakantaraj Urs, J

1. This Writ Appeal is directed against the order of the learned Single Judge dated 11-1-1989 passed in Writ Petition No. 16228/1988. The petitioners approached this Court under Article 226 of the Constitution of India, inter alia contending that the petitioner was a Government Servant and his services had been lent to the Mandal Panchayat. While discharging his duties on such assignment, the Chief Secretary of the Zilla Parishad, who is the Controlling Authority, passed the order impugned dated 5-11-1988, suspending the petitioner. Therefore he contended that Chief Secretary being an Officer of the Zilla Parishad, could not have jurisdiction to pass the order of suspension. The learned Single Judge disposed of the Writ Petition holding that it is not maintainable in this Court in view of Section 15(1) of the Administrative Tribunals Act, 1985 ("the Act" for short). Therefore the present appeal.

2. We have heard Mr. H. Subramanya Jois, learned Counsel appearing for the appellant at length. It is his contention that the Chief Secretary being the Officer of the Zilla Parishad, which is a local authority, could not have suspended the petitioner pending enquiry against the alleged acts of misconduct and therefore, this Court has jurisdiction as Section 15(1) of the Act made provision for holding

the actions of the State Government being questioned and not the action of other authorities answering to that description under the Constitution when there was no Notification under Sub-section (2) of Section 15 of the Act. We are not inclined to accept that argument having regard to the clear and unambiguous language employed in Section 15 read with Clause (b) of Sub-section (1). It is not the action of the Government which is liable to be questioned by the Tribunal in all cases. It is the grievance of the person who holds the post under the State, whether he is working in connection with the affairs of the State or he is on deputation to a local or other authority under the control of the State Government or of any Corporation under the control of the State Government that is to be questioned. This becomes obvious by the nebulous language as we have noticed in Clause (b), which is as follows:-

"15(1) Save as otherwise expressly provided in this Act, the Administrative Tribunal for a State 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--

XX XX XX b) all service matters concerning a person (not being a person referred to in Clause (c) of this sub-section or a Member, person or civilian referred to in Clause (b) of subsection (1) of Section 14 appointed to any civil service of the State or any civil post under the State and pertaining to the service of such person in connection with the affairs of the State or of any local or other authority under the control of the State Government or of any Corporation."

(Underlining is by us)

Therefore, irrespective of who passed the order, we are of the view that the person affected, if he is a Government servant holding a civil post under the Government, he should move the appropriate Tribunal for relief.

The view taken by the learned Single Judge is therefore correct and this Writ Appeal is dismissed.

After we have dictated this order, Sri H. Subrahmanya Jois, Advocate, moved for a Certificate of Fitness to Appeal to the Supreme Court as the ground involves a substantial question of law of general importance which is required to be decided by the Supreme Court. We do not think so, for the reason we have given in the order for dismissing the appeal. Petitioner is free to move the Supreme Court under Article 136 if the petitioner is so advised.