
(2014) 07 MAN CK 0002
In the Manipur High Court
Case No : Writ Petition (C) No. 205 of 2013

H.P. Meena

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 09-07-2014

Acts Referred:

Administrative Tribunals Act, 1985 — Section 14, 14(1)(b)(ii)
Constitution of India, 1950 — Article 14, 226

Citation : (2014) 07 MAN CK 0002

Hon'ble Judges : N. Kotiswar Singh, J

Bench : Single Bench

Advocate : Rarry M., Advt, Advocate for the Appellant; Amarjit N., CGSC, Advocate for the Respondent

Final Decision : Dismissed

Judgement

N. Kotiswar Singh, J.—Heard Mr. Rarry M, learned counsel for the petitioners and Mr. Amarjit Naorem, learned CGSC for the respondents.

2. In this writ petition, the petitioners have claimed the following, inter-alia, reliefs:-

ii) Issue Writ in the nature of Mandamus:-

(a) Directing the respondents to hold and convene the Review departmental Promotion Committee within an outer limit of one month from the date of direction issued by this Hon"ble Court, for promotion from Junior Time Scale Grade to Senior Time Scale Grade in Indian Broadcasting (Engineering) Services of Doordarshan and Akashwani for the years 1988-2004, for removal of the anomalies/redressal of bonafide grievance of the Scheduled Tribes Officers working in Akashwani and Doordarshan due to the illegal acts of commissions and omissions of the Respondents:-

(b) Directing the respondents to fill up the backlog vacancy (i.e. w.e.f. 2.7.1997) first on a priority during the proposed Review DPC, with consequential service

and financial benefits from the year 1997;

(c) Direct the Respondents to immediately comply with the directions issued by the Competent Government Authorities to the Respondents vide letter bearing F. No. 1604/74/2010-BA(E) dated 12.07.2012 (at Annexure-P/7) and letter bearing F. No. 10/53/2013-PPC dated 31.01.2013 (at Annexure-P/12 to hold the Review DPC at an early date;

3. The respondent authorities have raised a preliminary objection contending that the present writ petition would not lie inasmuch as the matter is within the domain of the Central Administrative Tribunal in terms of Section 14 of the Administrative Tribunals Act, 1985.

4. Mr. Rarry M, learned counsel for the petitioners however, submits that since the main relief claimed in this writ petition is for issuance of a writ of mandamus for enforcement of the fundamental right of the petitioners, for holding review DPCs, which the authorities themselves had already proposed, the present writ petition is maintainable.

Mr. Rarry, learned counsel for the petitioners has submitted that there is no dispute about the requirement of holding review Departmental Promotion Committees in view of the letter dated 31.01.2013 (Annexure-P/12) by which the Director (Pers) had written to the Director General, All India Radio, Akashvani Bhawan, New Delhi for convening the Review DPCs for promotion from Junior Time Scale to Senior Time Scale in the Indian Broadcasting (Engineering) Services for the year 1998-2004 for removing the anomalies/redressal of bonafide grievances of the Scheduled Caste/Scheduled Tribes Officers working in Akashwani and Doordarshan. Mr. Rarry has submitted that this Court is not called upon to decide on the validity or otherwise of the said letter proposing holding of review Departmental Promotion Committees nor the respondents have raised any dispute relating to the said letter for holding review DPCs as clearly evident from the affidavit-in-opposition filed by the respondents. The only grievance of the petitioners before this Court is that since the review DPCs have not been held as proposed by the Director (Pers) as mentioned in the letter dated 31.01.2013 and as their right to be considered for promotion cannot be ignored, rather their fundamental right to be considered for promotion has been adversely affected due to non holding of review DPCs, the present writ petition has been filed. In short, the submission of Mr. Rarry, learned counsel for the petitioners is that there is no dispute to be considered or decided by the Court relating to the rights of the petitioners as regards their eligibility or otherwise for promotion or seniority or relating to any service condition. The respondent authorities are also not denying their rights to be considered for promotion. The only issue involved is the enforcement of an undisputed right to have the review DPCs, and relates to the duty of the authority to discharge their legal obligation which can be directed by this Court by issuing a writ of mandamus in exercise of jurisdiction under Article 226 of the Constitution of India and as such, Mr. Rarry submits that this Court will have jurisdiction to entertain this writ petition.

In this regard, in support of his contention, Mr. Rarry has referred to the decisions of the Hon'ble Supreme Court rendered in Radha Raman Samanta Vs. Bank of India and Others, and M/s. Style (Dress Land) Vs. Union Territory Chandigarh and Another,

5. Mr. Amarjit Naorem, learned CGSC, however, on the other hand, has contended that assuming that there is no individual rights to be examined or any dispute in terms of eligibility, etc., and even if it is assumed that it is merely a direction for holding review DPCs as proposed by the letter dated 31.01.2013, nevertheless, since it relates to service matters concerning persons appointed to civil service of the Union or any civil post under the Union as contemplated u/s 14(1)(b)(ii) of the Administrative Tribunal Act, this Court will not have any jurisdiction and the appropriate forum would be the Central Administrative Tribunal.

6. On hearing the learned counsel for the parties and consideration of the materials on record, this Court is also of the view that this Court does not have the jurisdiction to entertain this writ petition and the Central Administrative Tribunal would be appropriate forum to decide the issue raised in this writ petition. Mr. Amarjit Naorem, learned CGSC has submitted that the present petitioners are persons, who have been appointed to the Indian Broadcasting (Engineering) Services of Doordarshan and Akashwani under the Union India and as such, they are persons appointed to a civil service/post under the Union as contemplated u/s 14(1)(b)(ii) of the Act. Mr. Rarry, learned counsel for the petitioners does not dispute this fact that the petitioners are appointed to the Indian Broadcasting (Engineering) Services, which is a civil service of the Union.

The contention of Mr. Rarry is that though the petitioners may be appointed to the civil service of the Union, yet, they have not approached this Court for redressal of any individual service related grievance or that there is any dispute with regard to their rights or claims but only for a direction to the respondents to do what the authority themselves had proposed to do.

7. This Court is not able to accept the aforesaid contention of Mr. Rarry, learned counsel for the petitioner because Section 14(1)(b)(ii) of the Administrative Tribunals Act provides that Central Administrative Tribunal shall exercise jurisdiction, powers and authority in relation to "all service matters" concerning a person appointed to any civil service of the Union or any civil post under the Union. Section 14(1)(b)(ii) of the Act reads as follows:-

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).....

(b) all service matters concerning----

(i).....

(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).....

The words "in relation to" and "all service matters concerning" are comprehensive enough to include any aspect relating to service matters. In the present case, the letter dated 31.01.2013 directly relates to the service matters concerning the petitioners and other employees of the Indian Broadcasting (Engineer) Services. Even though the said proposed action of holding review DPCs does not relate to any individual dispute or determination of the right of any particular individual or the petitioners, it relates to the right of all the eligible persons under the Rules, (including the petitioners, if they are eligible) for the purpose of removal of the anomalies/redressal of bonafide grievance of the SC/ST Officers working in Akashwani and Doordarshan. It cannot be said that it is not "in relation to" the "service matters concerning" the employees as contemplated u/s 14(1)(b)(ii) of the Act. These are matters related to the persons covered by Section 14(1)(b)(ii) of the Act. The said proposal for holding review DPCs would obviously affect the rights of some employees inasmuch those who are recommended will be promoted to the Senior Time Scale and those who are not recommended will remain in the Junior Time Scale and the review DPCs have to be conducted by considering cases of all eligible candidates as per Rules. If the said proposed review DPCs are not held, obviously the rights of those eligible and deserving officers for promotion would be adversely affected. Thus, holding or non-holding of the review DPC obviously, is a matter relating to and concerning service of employees who are covered by Section 14 of the Act. Hence, it cannot be said that the relief sought for, as mentioned above, does not relate to service matters concerning a person appointed to a civil service of the Union. The relief claimed certainly relates to service matters concerning a person appointed to a civil service of the Union, in the present case, the Indian Broadcasting (Engineers) Service of Doordarshan and All India Radio and as such, this Court would not have jurisdiction, but the Central Administrative Tribunal would have.

8. The decisions cited by the learned counsel for the petitioners are not applicable in the present case inasmuch as in Radha Rahan Samanta (supra), the Supreme Court was concerned with the absorption of a Badli worker in the Bank of India. There was some dispute as regards the status of the petitioner therein as to whether he was Badli worker or not. While the learned Single Judge of the High Court had held that the petitioner was a Badli worker and was entitled to be absorbed in the service of the Bank, the Division Bench took a different view. In that context, the Hon"ble Supreme Court had held that it was open to the

learned Single Judge to issue appropriate direction to the respondent Bank, if otherwise, justifiable on facts as powers under Article 226 of the Constitution of India is to be exercised for enforcement of the fundamental right. The question whether the High Court or any other forum would be appropriate forum was not an issue in the said case. Similarly, in the case of *Style (Dress land)* (supra), the issue as in the present case was never raised. The issue involved in the said case was whether the action of the authority in increasing the rent of leased commercial premises was arbitrary or not and violative of Article 14 of the Constitution of India and as such, the said cases are not applicable in the facts of the present case.

It may be also noted that the fundamental right as is sought to be enforced by filing this petition relates to the "service matter" concerning persons appointed to a civil service under the Union. Therefore, so long as the relief claimed, whether it is for enforcement of fundamental rights or any other statutory right, if relatable to service matter concerning the persons covered under sub clause (b) (ii) of Section 14 of the Act, the jurisdiction will lie with the Central Administrative Tribunal.

In view of the above and for the reasons discussed, the writ petition stands dismissed as not maintainable. However, liberty is granted to the petitioners to approach the Central Administrative Tribunal for redressal of their grievances, if so advised.