
(2012) 10 AP CK 0086

In the Andhra Pradesh High Court

Case No : Writ Petition No. 22756 of 2012

Indian Telecom Service Association, AP Chapter and Another	APPELLANT
Vs	
Union of India and 7 Others	RESPONDENT

Date of Decision : 01-10-2012

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19, 25
Constitution of India, 1950 — Article 14

Citation : (2013) 1 ALD 178 : (2013) 2 ALT 118

Hon'ble Judges : G. Rohini, J;C. Praveen Kumar, J

Bench : Division Bench

Advocate : G. Jhansi, for the Appellant; Ponnam Ashok Goud, Asst. Solicitor General of India, for the Respondent

Final Decision : Dismissed

Judgement

G. Rohini, J.—The 1st petitioner is an Association of The Indian Telecommunication Service Group-A Officers and the 2nd petitioner is one of its members. They filed O.A. No. 465 of 2012 before the Central Administrative Tribunal, Hyderabad Bench u/s 19 of the Administrative Tribunals Act, 1985 challenging the proceedings of the 1st respondent dated 19.3.2012 as well as the Memo dated 27.12.2011 issued by the 3rd respondent and seeking a consequential direction to the 2nd respondent to take necessary steps for placing the Cadre Review Proposal of Indian Telecommunication Service before the Cadre Review Committee in accordance with the procedure envisaged in the Memo dated 14.12.2010. The said O.A. was admitted and by order dated 26.4.2012 the impugned order dated 27.12.2011 was suspended. While so, the respondents 1 to 6 herein filed a Transfer Petition being P.T. No. 114 of 2012 before the Central Administrative Tribunal, Principal Bench, New Delhi u/s 25 of the Administrative Tribunals Act, 1985 read with Rule 6 of Central Administrative Tribunal Procedure Rules, 1987 seeking transfer of O.A. No. 465 of 2012 along with O.A. No. 69 of 2012 pending on the file of the Central Administrative Tribunal, Hyderabad Bench and also O.A. No. 77 of 2012 pending before the Central Administrative Tribunal,

Jaipur Bench to the Central Administrative Tribunal, Principal Bench, New Delhi pleading that all the said O.As. involved the same questions of fact and law and that they are filed with a common prayer to quash the proceedings of the Department of Telecommunications, dated 27.12.2011 for constitution of Surplus Cell Establishment. It is also pleaded that there is every likelihood of similar O.As. being filed before other Benches of the CAT at other States and for convenience of the parties and to avoid conflicting decisions by the different Benches, it is necessary that all the matters are heard together by the Principal Bench of CAT.

2. Having entertained P.T. No. 114 of 2012, the Central Administrative Tribunal, Principal Bench passed the following order on 30.5.2012:

I have heard Mr. Rattan Lal, Advocate for petitioner/respondent for transfer of OA No. 465/2012 from Hyderabad Bench to Principal Bench. Learned Advocate for applicant argued that identical cases are pending in different benches of the CAT and in order to maintain the consistency in the order and avoiding conflicts orders. It is expedient in the interest of justice that all identical matters may be decided by one Bench. Considering the argument of learned advocate for applicant, it will be appropriate to issue notice to applicant for filing the counter reply within a period of four weeks. Hence, issue notice to the respondents returnable at an early date for filing the counter reply within a period of four weeks from the date of service.

Rejoinder, if any, be filed within two weeks.

List on 1.8.2012.

3. Aggrieved by the same, the present writ petition is filed seeking a Writ of Prohibition directing the Principal Bench, CAT, New Delhi not to hear and/or dispose of the Transfer Petition contending that entertaining the said Transfer Petition by the Principal Bench of CAT is contrary to the very spirit and object of the Administrative Tribunals Act, 1985.

4. We have heard Sri J. Sudheer, the learned counsel representing Smt. G. Jhansi, the learned counsel for the writ petitioners and Sri Ponnamm Ashok Goud, the learned Assistant Solicitor General of India appearing for the respondents 1 to 3.

5. Section 25 of the Administrative Tribunals Act, 1985 (for short, "the Act") empowers the Chairman of the Central Administrative Tribunal either on an application made by any of the parties or on his own motion to transfer any case pending before one Bench of the Tribunal to any other Bench for disposal.

6. In the light of the power so conferred u/s 25 of the Act, the entertainment of the Transfer Petition by the Principal Bench cannot be held to be without jurisdiction and the same has not been disputed even by the learned counsel for the petitioners.

7. However, it is contended that the Principal Bench has exceeded the jurisdiction conferred under the Act since convenience of the parties can never be a ground for transfer u/s 25 of the Act. It is further contended that the other ground pleaded in the Transfer Petition i.e., to avoid conflict of orders by different Benches of CAT is equally untenable and therefore the Transfer Petition cannot be entertained on such imaginary and illusory grounds. The further contention of the learned counsel for the petitioner is that the action of the 3rd respondent in seeking transfer of the O.As. to the Principal Bench is violative of Article 14 of the Constitution of India since the Central Administrative Tribunal is constituted with Benches across the Country with the sole object of providing speedy and inexpensive relief to the Government Servants and that the petitioners are entitled to choose the appropriate forum which is more suitable and convenient for them to pursue the litigation. According to the learned counsel, such right conferred under the Act is sought to be taken away under the guise of the Transfer Petition on the ground of administrative convenience. In support of his submissions, the learned counsel for the petitioners relied upon *Nupur Talwar Vs. Central Bureau of Investigation and Another*, *Dr. Manju Varma Vs. State of U.P. and Others*, and *Capt. Amarinder Singh Vs. Prakash Singh Badal and Others*,

8. We have also heard Sri Ponnamm Ashok Goud, the learned Assistant Solicitor General of India appearing for the respondents 1 to 6 and perused the counter-affidavit filed on their behalf.

9. The law is well-settled that a Writ of Prohibition can only be issued when the inferior court or tribunal (a) proceeds to act without or in excess of jurisdiction, (b) proceeds to act in violation of rules of natural justice, (c) proceeds to act under law which is ultra vires or unconstitutional, or (d) proceeds to act in contravention of fundamental rights [vide *U.P. Sales Tax Services Association Vs. Taxation Bar Association, Agra and others*,

10. Reiterating the above principles it is further observed in *Thirumala Tirupati Devasthanams v. Thallappaka Anantha Charyulu* AIR 2003 SC 3290 that a Writ of Prohibition must be issued only in rarest of rare cases and judicial discipline of the highest order has to be exercised whilst issuing such writs.

11. As already noticed, it is not the case of the petitioners that the Principal Bench, CAT lacks jurisdiction to entertain the application for transfer. Admittedly no order as such is passed as of today on the Transfer Petition and the writ petitioners were only called upon to file their counter. It is always open to the writ petitioners to oppose the Transfer Petition raising all the objections available under law including that the convenience of the Government or the administrative convenience cannot be a factor to exercise the power u/s 25 of the Act and that in the event of directing transfer to the Principal Bench, the right conferred under the Act to choose the appropriate forum itself would be defeated. It is not as if the Principal Bench, CAT has no power to decide such objections with regard to the very maintainability of the petition u/s 25 of the Act. Therefore, in our considered opinion the Principal Bench, CAT cannot be

prevented from hearing and deciding the Transfer Petition.

12. None of the decisions cited by the learned counsel for the petitioner substantiated his contention that the very entertainment of Transfer Petition amounts to exceeding the jurisdiction conferred on the Tribunal u/s 25 of the Act. According to us, neither the right of the petitioners to choose the forum under the Act nor any of the fundamental rights guaranteed under the Constitution of India are violated by allowing the Principal Bench, CAT to hear and decide the Transfer Petition.

13. We do not find any substance even in the contention of the learned counsel for the petitioners that the Principal Bench, CAT has already recorded its satisfaction in its order dated 30.05.2012 that it is necessary to hear all identical matters by one Bench.

14. The very purpose of issuing notice to the respondents/petitioners herein is to enable them to file their counter raising objections, if any, for transfer of O.A. No. 465 of 2012 from Hyderabad Bench to the Principal Bench. We have no doubt that the Principal Bench will consider all the objections against the proposed transfer and appropriate orders would be passed after giving an opportunity of hearing to both the parties. Accordingly, the Writ Petition is dismissed leaving it open to the writ petitioners to contest the Transfer Petition pending before the Central Administrative Tribunal, Principal Bench, New Delhi. No costs.