
(1988) 11 MAD CK 0035
In the Madras High Court
Case No : Writ Petition 8673 of 1988

L. Chandrakumar

APPELLANT

Vs

The Union of India, The Registrar, Principal Bench, Central Administrative Tribunal, New Delhi and The Registrar, Additional Bench, Central Administrative Tribunal, Madras

RESPONDENT

Date of Decision : 02-11-1988

Acts Referred:

Administrative Tribunals Act, 1985 — Section 5, 5(6)

Citation : (1988) 11 MAD CK 0035

Hon'ble Judges : Padmini Jesudurai, J; Mohan, J

Bench : Division Bench

Advocate : R. Gandhi for M/s M. Kandaswami, N. Paul Vasanthakumar and T.S. Sivagnanam, for the Appellant; K.P. Sivasubramanian, Addl. Central Govt. Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

Mohan, J.—The writ petition challenges the validity of S. 5(6) of the Administrative Tribunals Act, 1985. The said sub-section reads as follows—Notwithstanding anything contained in the foregoing provisions of this section, it shall be competent for the Chairman or any other Member authorized by the Chairman in this behalf to function as a Bench consisting of a single Member and exercise the jurisdiction, powers and authority of the Tribunal in respect of such classes of cases or such matters pertaining to such classes of cases as the Chairman may by general or special order specify; Provided that, if at any stage of the hearing of any such case or matter it appears to the Chairman or such Member that the case or matter is of such a nature that it ought to be heard by a Bench consisting of two Members, the case or matter may be transferred by the Chairman or, as the case may be, referred to him for transfer to such Bench as the Chairman may deem fit.

According to Mr. Gandhi, learned counsel for the petitioner, the order of the

Chairman of the Administrative Tribunal dated 28th June 1987 to the following effect-

...In exercise of the powers conferred by Sub-S. (6) of S. 5 of the Administrative Tribunals Act, 1985 I.K. Madhava Reddi, Chairman, Central Administrative Tribunal, hereby authorise all members of the Central Administrative Tribunal to function as a Bench consisting of single Member and exercise the jurisdiction, (emphasis supplied by us) Powers and authority of the Tribunal, in repeat of such cases or class of cases as are specified behave with effect from 29-6-1987.

- (a) cases relating to change of date of birth,
- (b) cases relating to posting/transfers.
- (c) cases relating to entry (s) in character rolls made otherwise than as a measure of penalty under Central Civil Services (Classification, Control and Appeal) Rules 1985.
- (d) cases relating to allotment and eviction from Government accommodation.
- (e) cases relating to fixation of pay.
- (f) cases relating to claims of travelling allowed medical reimbursement, leave, joining time, transfer, T.A. L.T.C. and overtime.
- (g) cases relating to crossing of efficiency bar
- (h) cases relating to grant of family pension
- (i) cases relating to grant or refusal to grant of advances/loans.
- (j) cases relating to stagnation of increment (s).
- (k) cases relating to grant of passes to Railway employee.

2. All case specified in para 1 above shall be posted for admission before a single member Bench. If the single member Bench is of the view that any such case is not fit for admission, it shall order such a case to be posted before a Bench of two Members.

3. Notwithstanding anything contained in para-1 above, if at any stage of hearing of any such case or matter, it appears to the Chairman or such single member that the case or matter is of such a nature that it ought to be heard by a Bench consisting of two members it may subject to the proviso to sub-S. (6) of S. 5 of the Administrative Tribunals Act, 1985 be referred by the Chairman or such member, as the case may be, to a Bench consisting of two members.

4. All urgent matters for admission and interim orders which are removed for hearing during vacation shall be heard by a vacation Bench which shall ordinarily consist of a single member. The Chairman may constitute a Bench of two members also as a vacation Bench. However, if the single member sitting as a vacation Bench is of the view that any case is not fit for admission, he shall order

that such a matter to be posted before a Bench of two members, immediately after the vacation.

5. A Bench of a single Member or a Bench of more than one member as the case may be shall be constituted in the case of Principal Bench by the Chairman and in his absence by the Vice-Chairman of the Principal Bench and in case of other Benches by the Vice-Chairman of the respective Benches and in their absence by the Chairman, is against the ratio of the judgment reported in S.P. Sampath Kumar and Others Vs. Union of India (UOI) and Others, .

This stand is opposed by the learned counsel for the Union of India that the Supreme Court had gone into the provisions of the Act in a detailed fashion, and in so far as nothing was said about the said subsection, it must be deemed to have been upheld. We are of the view that the proper remedy of the petitioner will be to move the Supreme Court and not this Court. Accordingly we dismiss the writ petition. There will be no order as to costs.

3. After we pronounced the order, an oral application was made for grant of leave. In view of the importance of the matter which affects the proper functioning of the Tribunal, we grant leave.