
(1990) 04 MP CK 0011
In the Madhya Pradesh High Court
Case No : C. Revision No. 459 of 1989

M.L. Beohar

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 02-04-1990

Acts Referred:

Administrative Tribunals Act, 1985 — Section 20, 27, 28, 29

Citation : (1990) J LJ 701

Hon'ble Judges : Sachchidanand Awasthy, J

Bench : Single Bench

Advocate : A.K. Khaskalam, for the Appellant; L.S. Singh, for the Respondent

Final Decision : Allowed

Judgement

S. Awasthy, J.—This revision arises out of the order dated 13-9-89 passed by 5th Additional Judge to Court of District and Sessions Judge, Jabalpur in Execution Case No. 60-A/81.

2. The applicant (herein) had filed Civil Suit No. 60-A/81 challenging the order compulsorily retiring him. The suit was dismissed on 31-8-82 by 6th Addl. Judge to the Court of District Judge, Jabalpur. Against the said judgment and decree, the applicant preferred First Appeal No. 167 of 82 in the High Court which was allowed by the judgment and decree dated 29-8-86 with the following directions:

The appeal consequently succeeds and is allowed. The impugned judgment and decree are set aside. It is declared that the compulsory retirement of the appellant by order dated 31-10-1975 (Ex. P-9) is illegal and void and that he continued working as Assistant Foreman with the respondents till the date of superannuation i.e. 31-7-1980 and entitled to all benefits including salary, allowances etc. Since the appellant had retired, it is also decreed that the amount of benefit shall be calculated and paid to the appellant within a period of three months from the date of this Order failing which it will be paid with interest at the rate of 12 per cent per annum calculated from the date of the suit i.e. 18

11-1978. Appellant shall also be entitled to costs in both the Courts. Counsel's fee as per Schedule, if certified.

3. It is very unfortunate that in spite of the clear judgment and decree against the respondents they did not comply with it. Applicant (herein) had to file an application for execution of the decree passed by the High Court. The non-applicants submitted an objection before the Executing Court that, that Court had no jurisdiction to execute the decree as the jurisdiction has been conferred on the State Administrative Tribunal u/s 28 of the Administrative Tribunals Act, 1985 (hereinafter referred to as "the Act"). This objection found favour with the executing Court, hence this revision-petition.

4. Section 28 of the Act makes it clear that the jurisdiction of the civil Court has been ousted for entertaining civil matters concerning members of any service or persons appointed to any service or post. No doubt, the suit was one over which the civil Court had no jurisdiction. Under proviso to section 29 of the Act, the appeal which was pending in the High Court was saved and therefore, the High Court had the jurisdiction to decide the appeal. In section 29 of the Act suits or other proceedings pending before any Court stood transferred to the Tribunal. Therefore, all the proceedings in execution pending in any civil Court pertaining to the matters over which the Administrative Tribunal had jurisdiction stood transferred to the Tribunal as the civil Court had no jurisdiction to proceed with the execution after the appointed day except the proceedings pending in the High Court.

5. u/s 27 of the Act, the order of a Tribunal finally disposing of an application is to be executed in the same manner in which any final order of the nature referred to in clause (a) of sub-section (7) of section 20 in respect of the grievance to which the application relates would have been exhausted, but this is subject to the other provisions of this Act and the Rules. It is, therefore, clear that this provision is to be read with section 29 of the Act. Since under the proviso to section 29 of the Act, the appeal pending in the High Court has been saved from the jurisdiction of the Administrative Tribunal necessarily the proceedings arising therefrom will also be deemed to have been saved.

6. Thus, in my view, the execution proceedings arising out of the judgment and decree passed by the High Court shall also be saved and excluded from the jurisdiction of the State Administrative Tribunal. The decree shall, therefore, be executable by the civil Court only.

7. This revision is, therefore, allowed and the learned Vth Additional Judge to the Court of District Judge, Jabalpur is directed to proceed expeditiously with the execution in Execution Case No. 60-A/81. The non-applicants (herein) shall bear their cost and shall pay the cost of this revision-petition to the applicant. Hearing fee Rs. 100/-, if certified.