
(2018) 09 P&H CK 0285

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 19108 Of 2011

Principal, Kendriya Vidyalaya, Nahra.

APPELLANT

Vs

Sheela Devi And Another.

RESPONDENT

Date of Decision : 21-09-2018

Acts Referred:

Administrative Tribunal Act, 1985 — Section 14(2), 21

Citation : (2019) 1 SCT 77

Hon'ble Judges : Shekher Dhawan, J

Bench : Single Bench

Advocate : Aman Chaudhary, R.S. Dadwal, H.P.S. Ghuman

Final Decision : Allowed

Judgement

Shekher Dhawan, J

1. The matter in controversy pertains to reference having been made on the basis of demand raised by respondent/work-lady, who was allegedly working as Sweeper with Kendriya Vidyalaya, (petitioner herein) and the learned Industrial Tribunal-cum-Labour Court, Panipat (for short, "learned Industrial Tribunal") passed the award dated 20.12.2010 (Annexure P/1) deciding the reference in favour of work-lady and she was held entitled to re-instatement with continuity of service with 50% back wages from the date of demand notice, i.e., 11.5.2004. The said award is under challenge in this writ petition.

2. Learned counsel for the petitioner-School contended that Central Government issued a notification on 17.12.1998 while exercising powers under Section 14(2) of the Administrative Tribunal Act, 1985 (for short, "the Act") and as per item No. 34, Kendriya Vidyalaya Sangathan is a registered society and the disputes regarding recruitment or service are fully under the Administrative Tribunals and as such, the learned Industrial Tribunal had no jurisdiction to decide the controversy. Reliance has been placed on the judgment of this Court in Ranvir Singh and others Vs. Union of India and others, CWP-18996-2014, decided on

02.05.2018, wherein similar controversy was involved and the Hon`ble Co-ordinate Bench of this Court dismissed the writ petition with liberty to the petitioners (therein) to approach the Central Administrative Tribunal.

3. Learned counsel representing respondent no.1 submitted that the at this stage, the petitioner cannot take this plea and learned Industrial Tribunal has already decided the controversy vide award dated 20.12.2010. More so, there are other points for determination including jurisdiction and for that purpose, the present writ petition before this Court is the only appropriate remedy. On this point, reliance was placed upon the judgment of Hon`ble Full Bench of Patna High Court in Paritosh Kumar Pal Vs. State of Bihar and Ors, 1984 LIC 1254 and Hon`ble Bombay High Court in Century Rayon (A Division of Centruy Textiles And Industries Ltd.) Vs. Anand Dadau Ubale, 2005(2) CLR 701.

4. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court has already gone through the judgments referred to and relied upon by learned counsel for the parties and is of the considered view that after issuance of notification by Central Government under Section 14(2) of the Act and the petitioner- Society having been included at Sr. No. 34, the jurisdiction to decide the controversy is of Central Administrative Tribunal only. After issuance of notification in the year 1998 and w.e.f. 1.1.1999 onwards any service conditions of employees including recruitment in relation to the present society would lie before Central Administrative Tribunal (concerned branch) and all the contentions raised by the parties can be considered by the concerned Central Administrative Tribunal.

5. The present writ petition is covered as per judgment of this Court in Ranvir Singh and others Vs. Union of India and others, CWP-18996-2014, decided on 02.05.2018. Accordingly, the present writ petition stands allowed and the impugned award, Annexure P/1, stands set-aside. However, this would not come in the way of the work-lady to approach Central Administrative Tribunal. If there is any delay in approaching the Central Administrative Tribunal, the work-lady can file an application for condonation of delay under Section 21 of the Act and the Central Administrative Tribunal is requested to consider the delay application sympathetically and entertain the Original Application (OA) and the question of res-judicata may not arise in view of the later development.

6. The writ petition stands allowed in the above terms.