
(1992) 01 AP CK 0017
In the Andhra Pradesh High Court
Case No : Writ Petition No. 17265/91

Rana Ratna Rao

APPELLANT

Vs

State of A.P.

RESPONDENT

Date of Decision : 23-01-1992

Acts Referred:

Administrative Tribunals Act, 1985 — Section 15, 3
Constitution of India, 1950 — Article 371D

Citation : (1992) 1 ALT 420

Hon'ble Judges : Mohammed Sardar Ali Khan, J;B. Subhashan Reddy, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Mohammed Sardar Ali Khan , J.—This batch of writ petitions has been filed for issue of appropriate writs relating to appointment to posts of Village Administrative Officers under the Andhra Pradesh Village Administrative Officers Service Rules, 1990.

2. When the matter came up before the learned single judge, a preliminary objection was raised with regard to jurisdiction of the High Court to entertain the writ petitions on the ground that it is the Andhra Pradesh Administrative Tribunal which has jurisdiction to deal with the matter and not the High Court. The learned single Judge has thus made an order of reference of the cases to Division Bench stating that the Rules referred to above have been framed under Article 309 of the Constitution of India, and the contention raised on behalf of the State Government that the Andhra Pradesh Administrative Tribunal alone has got jurisdiction u/s 15 of the Administrative Tribunals Act, 1985 to deal with the matter becomes an important question of law which requires to be decided by a Division Bench of this Court.

3. We have heard the matter in considerable detail mainly with regard to the question of jurisdiction. It may be noticed that the Andhra Pradesh Village Administrative Officers Service Rules, 1990 have been framed under Article 309

of the Constitution of India for regulating recruitment and conditions of service of Village Administrative Officers. It is also to be noted that these Rules have been framed for appointment of Village Administrative Officer which is undoubtedly a "civil post". The contention of the writ petitioners is that, this matter can be decided by the High Court in exercise of its powers under Article 226 of the Constitution of India inasmuch as the writ petitioners in all these cases are erstwhile Village Officers who are to be absorbed as Village Administrative Officers under the said Rules. We do not find any force in this contention because, under Rule 3 of the said Rules what is visualised is appointment of Village Administrative Officer for every village or for a group of villages as the Government or Commissioner of Land Revenue or the District Collector may, from time to time, consider necessary. The appointing authority for these posts shall be the Revenue Divisional Officer. Therefore, it will be a misnomer to say that it is a question of absorption of erstwhile Village Officers as Village Administrative Officers and not appointment as such.

4. The other ground of attack of the writ petitioners in this case is with regard to certain qualifications prescribed for appointment as Village Administrative Officers. For example, it is provided under Rule 8(1) (i) of the Rules that a person who applies for appointment as Village Administrative Officer should have passed 7th Class or its equivalent examination.

5. These are all matters which could be considered if we come to the conclusion that the High Court has jurisdiction to deal with such matters. More over, this is a question of appointment to a "civil post" by an authority which is known as "civil authority". In matters of this nature, Section 15 of the Administrative Tribunals Act, 1985 deserves consideration. To the extent relevant. Section 15 of the said Act provides: "15. Jurisdiction. Powers and Authority of State Administrative Tribunals:-

(1) Save as otherwise expressly provided in this Act, the Administrative Tribunattor a State 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) recruitment, and matters concerning recruitment, to any civil service of the State or to any civil post under the State;

(b) all service matters concerning a person not being a person referred to in Clause (c) of this Sub-section or a member, person or civilian referred to in Clause (b) of Sub-section (1) of Section 14 appointed to any civil service of the State or any civil post under the State and pertaining to the service of such person in connection with the affairs of the State or of any local or other authority under the control of the State Government or of any corporation or society owned or controlled by the State Government;

(c) all service matters pertaining to service in connection with the affairs of the State concerning a person appointed to any service or post referred to in Clause

(b), being a person whose services have been placed by any such local or other authority or corporation or society or other body as is controlled or owned by the State Government, at the disposal of the State Government for such appointment.

....."

It will be relevant to state that matters concerning recruitment to any "civil service" of the State, or to any "civil post" under the State are vested in the Tribunal u/s 15 of the Administrative Tribunals Act, 1985. Thus, jurisdiction of this Court to entertain disputes of this nature including question of recruitment of appointment is specifically excluded u/s 15 of the Administrative Tribunals Act, 1985.

6. It is also to be noted that, under the Presidential Order promulgated under Article 371D of the Constitution of India, question of appointment to post of Village Officer was specifically excluded from the jurisdiction of this Court. However, there is no such exclusion of the post of Village Administrative Officer in the present set of Rules. In this connection, it may be noted that u/s 2 of the Administrative Tribunals Act, 1985, it is specifically provided that the Act will not apply to certain persons who have been mentioned therein and, as stated earlier, the post of Village Administrative Officer does not figure in the list given u/s 2 of the Administrative Tribunals Act, 1985. A glance at Section 3(q) which defines "service matters" further clarifies the issue that all matters relating to the conditions of service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or, as the case may be, of any Corporation owned or controlled by the Government in respect of which remuneration including allowances, pension and other retirement benefits, tenure including confirmation, seniority, promotion, etc., leave of any kind, disciplinary matters or any other matter whatsoever, are matters which fall within the concept of "service matters" and are, therefore, to be decided by the Administrative Tribunal alone. The general nature of the definition itself is crystal clear that the matters of recruitment and of conditions of service pertaining thereto fall within the domain of the Administrative Tribunal, and the High Court has no jurisdiction to hear and decide the same. We are fortified in our view by a Full Bench decision of this Court in *Sivamma v. D.W. and C.W. Officer*, in which a positive view has been expressed that the expression "with respect to appointment" in Clause (3) of Article 371D of the Constitution of India takes in its sweep not only actual appointment as such or stage posterior to such appointment, but also every stage leading to the appointment. In simple language, it therefore means that the question of appointment or recruitment, and all matters arising in relation thereto are matters which can be decided by the Administrative Tribunal.

7. There has been some debate as to whether the post of "Village Administrative Officer" comes within the definition of "civil post". In this regard it may be noted that the expression "civil post" means appointment or office on the civil side of

the administration as distinguished from a post under the defence forces. This view has been taken by the Supreme Court in *State of Assam and Others Vs. Shri Kanak Chandra Dutta, , and Ajwani v. Union of India* 1967 S.C.C. 1185. It will be, therefore, futile to suggest that the post of Village Administrative Officer which has been created under the Andhra Pradesh Village Officers Service Rules, 1990 does not come within the category of "civil post".

8. A study of the Rules revealed the point beyond any doubt that the process of selection and appointment to the post of Village Administrative Officer and the duties to be discharged by any person who is so appointed have all the trappings of "civil post". The conditions of service relating to remuneration, leave, gratuity, disciplinary action etc., are also matters which clearly point to the fact that the same have all the concomitants of "civil post". The fact that a Village Administrative Officer is due to retire at the age of 62 years and not at the age of 60 years is of no consequence because, these are all matters of minor details which do not detract from the basic concept of "civil post".

9. It may also be stated that u/s 28 of the Administrative Tribunals Act, 1985, exclusion of jurisdiction of Courts excepting the Supreme Court under Article 136 of the Constitution has been provided which, in effect, means that the High Court cannot exercise jurisdiction which has been vested in the Administrative Tribunal as regards matters which have been set out above in detail. The above principle has been upheld in the celebrated decision *Sampath Kumar v. Union of India* AIR 1967 S.C. 386.

10. For the reasons stated above, we dismiss these writ petitions as not maintainable on the question of jurisdiction. No order as to costs.

Advocate's fee Rs. 250/- in each case.