
(2014) 03 P&H CK 0119
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5932 of 2014

The Director-Cum-Appointing Authority	APPELLANT
Vs	
Central Administrative Tribunal	RESPONDENT

Date of Decision : 31-03-2014

Acts Referred:

Administrative Tribunals Act, 1985 — Section 3(q)

Citation : (2014) 175 PLR 368

Hon'ble Judges : Hemant Gupta, J; Fateh Deep Singh, J

Bench : Division Bench

Advocate : Deepak Sibal, Senior Advocate and Amit Jhanji, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Hemant Gupta, J.—The challenge in the present writ petition is to an order passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for short "the Tribunal") on 10.07.2013 whereby Civil Writ Petition No. 4128 of 1994 titled as Dr. S.K. Marwaha v. Union of India and others", transferred from this Court to the Tribunal was disposed of. In the aforesaid writ petition, this Court has framed following 4 issues as said to be arising for consideration on 02.12.1998. The issues read as under:-

(1) Why benefit under the Scheme which was introduced on 12/12.3.1987 be not extended to those employees who were recruited between 1.1.1977 and 31.12.1984?

(2) Why a direction be not given to frame suitable Scheme providing for promotional avenues for the employees falling in group B, C and D on continuous basis on the basis of recommendations of the Dhar Committee?

(3) Why the decisions which were arrived at between the Joint Action Committee and the P.G.I. with the intervention of High Powered Committee have not been implemented on date and why a direction to implement the same so far?

(4) Why a High Powered Committee be not constituted on permanent basis to look into the grievances of the employees of the P.G.I. from time to time as Grievances Redressal Agency?

2. This Court in the aforesaid writ petition passed an order on 14.01.2010 subsequent to the issuance of a notification by the Central Government notifying the Post-graduate Institute of Medical Education and Research, Chandigarh (for short "PGI") as one of the authority notified to be governed by the Administrative Tribunals Act, 1985. After the aforesaid notification, an argument was raised before this Court that the issues raised in the writ petition relate to service conditions and benefits claimed by the employees of PGI which would now fall within the ambit of Central Administrative Tribunal. It is argued that other matter which needs redressal as a Public Interest Litigation would still survive such as the continuation of a permanent machinery for redressal of grievance of the staff of the PGI. In response to such an argument, learned counsel for the PGI agreed that the Tribunal has jurisdiction to adjudicate upon issues relating to service condition of employees. In pursuance of the said statement, issues No. 1 and 2 were transferred for decision to the Tribunal whereas in respect of issue No. 3 and 4 it was observed that the aforesaid writ petition may continue as a Public Interest Litigation or concerned parties may file fresh writ petition.

3. Thereafter, on 24.02.2010 a statement was made that those two issues (Question No. 3 & 4) are subject matter of CWP No. 3431 of 2010 CWP No. 5932 of 2014 titled as "PGI Medical Technologists Association v. Union of India and others". As a consequence said CWP No. 4128 of 1994 was disposed of along with other miscellaneous applications.

4. The grievance of the petitioner against the order of the Tribunal is on the procedural aspects such as that the writ petition was filed by Dr. S.K. Marwaha and the Joint Action Committee and not by PGI Medical Technologists Association (for short "Association") and Transfer Petition has been allowed on behalf of such Association which has not even sought impleadment as a party in such proceedings.

5. It is contended that the Tribunal could adjudicate only 2 issues which have been referred for its opinion and not the other 27 issues on which Tribunal has given its findings. It is also contended that the Association has not amended the transferred petition but sought to raise additional issues by way of miscellaneous application which could not be entertained by the Tribunal being in the nature of Public Interest Litigation. The reliance is placed upon on judgment of Supreme Court in " Dr. Duryodhan Sahu and Others Etc. Etc. Vs. Jitendra Kumar Mishra and Others Etc. Etc.,

6. We have heard learned counsel for the petitioner and find no merit in the present writ petition. It was not disputed before this Court in a Writ petition on behalf of Joint Action Committee as well that issues relating to service conditions

of the employees are required to be adjudicated upon by the Tribunal. It is in view of the said fact, the petition raising issues No. 1 and 2 were referred for decision of the Tribunal. When the service conditions are subject matter of adjudication before the Tribunal, all other issues relating to service conditions could also be raised and decided by the Tribunal. The issues framed by this Court will not bar the Tribunal to examine other issues relating to service conditions of the employees of the CWP No. 5932 of 2014 PGI. After the enactment of the Administrative Tribunal Act, 1985, all disputes in respect of service conditions of the notified authority would fall within the scope of Section 3(q) of the Act.

7. The argument that the Association has not sought impleadment and without amending the petition could not claim adjudication of other issues which are not individual specific in character but applicable to large number of employees is again not tenable. The contention of the learned counsel for the petitioner is that the Tribunal has a jurisdiction to entertain a petition on behalf of an individual employee and not by an Association which is more in the Public Interest Litigation.

8. Once the matter pertains to service conditions, an Association who has espoused the case of number of employees is competent to invoke jurisdiction of the Tribunal. It is a group action initiated for redressal of the grievance of the employees of the PGI. The Association is representing the interest of numerous employees of the PGI, the grievance of them is common to many. In Dr. Duryodhan Sahu's case (supra) it was a Public Interest Litigation which was found to be not falling within the jurisdiction of the Tribunal. Though, such judgment was available when this court transferred the petition to the Tribunal but it was conceded before this Court by learned counsel for the PGI that the petition raises the issues of service conditions. Whether the issues as are raised by Joint Action Committee of which Association claims to be member or it is the Association which espouses the case of the employees of the PGI, the fact remains that all issues decided by the Tribunal are pertaining to the service conditions of the employees. They may not pertain to individual employee but they pertain to a class. Therefore, the Association will have a right to represent the class of employees before the Tribunal. It is not a Public Interest Litigation but a CWP No. 5932 of 2014 class action which is not prohibited in terms of Dr. Duryodhan Sahu's case (supra) as well.

9. Though this Court has transferred petition in which two issues were framed but once the Tribunal has the exclusive jurisdiction to entertain and decide upon the service conditions of the employees of PGI then all issues which pertain to service conditions of an Authority can be decided by the Tribunal alone. The issues framed does not oust the jurisdiction of the Tribunal to decide the issues pertaining to the service conditions of the employees of the PGI.

10. In respect of an argument that the transferred petition was not amended but other reliefs were claimed by miscellaneous application could not have entertained. We again do not find any merit in the said argument. The CPC in

respect of pleadings is not applicable before the Tribunal. Once the issues were brought to the notice of the Tribunal may be through the miscellaneous application and liberty given to the petitioner to controvert the facts pleaded, the Tribunal was competent to adjudicate upon claimed so raised.

11. The argument that the certain claims decided by the Tribunal could not have been raised after long lapse of time but the Tribunal has not decided such objection though such objection was taken in the reply to the miscellaneous application. The issues arising in such petition and raised through a miscellaneous application fall within exclusive jurisdiction of the Tribunal. The Tribunal could decide the issues raised in the petition originally filed and/or the ancillaries' issues which may arise in respect of service conditions. The claim said to suffering from delay, in fact, relates to the recurring cause of action affecting the pay and allowances payable to the employees of the PGI. In respect of such claims, the bar of limitation cannot be raised so as to defeat the rights of the employees.

12. Therefore, we do not find that petitioner can be permitted to raise the plea that claims raised by the Association are barred by limitation. We may record that no other argument was raised in respect of the claims allowed by the Tribunal. In view thereof, we do not find any illegality in the order passed by the Tribunal, which may warrant interference of this court in the writ jurisdiction of this Court.

Dismissed