

(2011) 08 DEL CK 0215

In the Delhi High Court

Case No : Writ Petition (C) No. 7509 of 2008

T.M. Sampath

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 23-08-2011

Acts Referred:

Administrative Tribunals Act, 1985 — Section 14

Citation : (2011) 08 DEL CK 0215

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Party in Person, for the Appellant; Raman Oberoi, for R 1, R.V. Sinha and A.S. Singh, Advs for R 2., for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The Petitioner seeks a writ of quo warranto quashing the appointment of the Respondent No. 3 Shri M.P. Gupta to the post of Director (Finance) in the Respondent No. 2 National Water Development Agency (hereinafter referred to as NWDA), an autonomous body functioning under the Respondent No. 1 Ministry of Water Resources.

2. The writ petition was accompanied with an application for interim relief to restrain the Respondent No. 3 from functioning at the said post. Notice of the Writ Petition was issued but the interim relief declined. Counter affidavit was filed by the Respondents. Pleadings were completed. However finding that the NWDA had been notified u/s 14 of the Administrative Tribunals Act, 1985, vide order dated 11th December, 2009, the matter was transferred to Central Administrative Tribunal. The said Tribunal vide order dated 26th March, 2010 finding that the challenge by the Petitioner to the appointment of the Respondent No. 3 was in the nature of a Public Interest Litigation (PIL) and on the basis of State of Uttaranchal Vs. Balwant Singh Chauhal and Others, holding that the Tribunal is not empowered to entertain a PIL, sent the matter back to this Court. The Petitioner appearing in person and the counsels for the Respondents have

been heard.

3. The counsel for the Respondent No. 2 NWDA has, at the outset challenged the locus of the Petitioner to maintain the challenge. The Petitioner herein is not claiming himself to be entitled to the post appointment whereto is under challenge. His argument simplicitor is that NWDA had in the year 2001 invited applications for filling up the said post on deputation; that the Respondent No. 3 had joined the same on deputation for a period of four years but NWDA thereafter regularized the appointment without inviting any fresh applications. The counsel for the Respondent No. 2 NWDA relying on *Dr. Duryodhan Sahu and Others Etc. Etc. Vs. Jitendra Kumar Mishra and Others Etc. Etc.*, has contended that a stranger to the service concerned cannot be a person aggrieved so as to have the locus to challenge the appointment. Attention in this regard is also invited to *B. Srinivasa Reddy Vs. Karnataka Urban Water Supply and Drainage Board Employees' Association and Others*, laying down that in service jurisprudence it is for the aggrieved person i.e. the non appointee to assail the legality or correctness of the action and that third party has No. locus standi to canvass the legality or correctness of the action. It was further held that public law declaration of legality of appointment would be made only at the behest of a public spirited person coming before the Court. The counsel for the Respondent has further contended that the Petitioner herein cannot be said to be such a public spirited person inasmuch as the Petitioner has been filing various complaints and litigation against the Respondent No. 3, considering himself aggrieved from the Respondent No. 3 having made an adverse Annual Appraisal Report of the Petitioner. Reliance is further placed on *Dr. Devinder Gupta Vs. Union of India (UOI) and Others*, where also it was held that though the rule of locus standi is relaxed in case of writ of quo warranto but that does not mean that anybody can file a petition for a writ of quo warranto challenging any appointment to any post in the country even though he may not have any direct connection or grievance or interest in the matter.

4. The Petitioner in the present case is also an employee of the NWDA and admits that at one time the Respondent No. 3 was the immediate superior of the Petitioner and had made an adverse Annual Appraisal Report of the Petitioner.

5. The Respondents in their counter affidavit have disclosed as many as 13 writ petitions before this Court and 10 original applications before the Tribunal, filed by the Petitioner and which were not disclosed by the Petitioner in the petition. The Central Administrative Tribunal in one of the said proceedings instituted by the Petitioner observed that the Petitioner is suffering from paranoia without any convincing proof.

6. The Petitioner during the hearing has drawn attention to the following:

a) The The University of Mysore and Another Vs. C.D. Govinda Rao and Another, I however fail to see as to how the said judgment is apposite. The Apex Court in the said judgment held that before a writ of quo warranto can be claimed, the

Petitioner has to satisfy the Court that the office in question is a public office and is held by a usurper without legal authority. It was held that if the appointment was shown to be inconsistent with the qualification as they were advertised, that itself would justify the issue of a writ of quo warranto.

b) Shri Kumar Padma Prasad Vs. Union of India and others, . However this judgment again is found to be not apposite.

c) Mocherla Venkataraya Sarma Vs. Y. Sivarama Prasad and Others, laying down that a writ of quo warranto would lie even at the instance of the Petitioner who has No. personal interest in the matter. However, in view of the judgment of the Division Bench of this Court aforesaid and in view of the Petitioner having a personal animosity with the Respondent No. 3, the said judgment also is not found apposite.

7. The Petitioner in his rejoinder has also referred to Dr. Kashinath G. Jalmi and another Vs. The Speaker and others, but that is on the aspect of laches.

8. I may also notice that the Respondent No. 3 originally appointed on deputation has been absorbed in accordance with para 10 of the DOPT OM No. AB-14017/71/89-Estt(RR) dated 3rd October, 1989.

9. I am, in the entirety of the facts and circumstances, of the opinion that the petition purportedly filed in public interest is in fact motivated and even otherwise No. case of usurpation of any public office without authority is made out. The petition is therefore dismissed. I refrain from imposing any costs on the Petitioner.