
(2015) 10 DEL CK 0200
In the Delhi High Court
Case No : W.P. (C) 8892/2015

Union of India

APPELLANT

Vs

Santan and Others

RESPONDENT

Date of Decision : 08-10-2015

Acts Referred:

Administrative Tribunals Act, 1985 — Section 22
Constitution of India, 1950 — Article 226, 227

Citation : (2015) 10 DEL CK 0200

Hon'ble Judges : G.S. Sistani and Sangita Dhingra Sehgal, JJ.

Bench : Division Bench

Advocate : V.S.R. Krishna, Advocate, for the Appellant

Final Decision : Disposed Off

Judgement

G.S. Sistani, J.—Present writ petition has been filed by petitioner/Union of India under Article 226/227 of the Constitution of India seeking a direction to quash and set aside the impugned Order dated 1.5.2014 passed by Central Administrative Tribunal (hereinafter referred to as the "Tribunal") in MA No. 1257/2014 filed by petitioner herein (respondent before the Tribunal) in O.A. No.4523/2013.

2. We are informed that the main matter has already been disposed of by the Tribunal. Counsel for the petitioner submits that the necessity for filing this writ petition has arisen since a general order has been passed by the Tribunal which would curtail the right of the petitioner in every case.

3. In this case, an MA was filed by the petitioner (respondent before the Tribunal) for deletion of the name of Secretary, Ministry of Railways, Government of India, Railway Board, Railway Bhawan, New Delhi, from the array of parties. While dismissing the MA, a general direction was issued by the Tribunal that "in future, we direct the respondents not to file such MAs to add to the litigation of this Tribunal", which has led to the filing of the present writ petition. Relevant

portion of the impugned Order dated 1.5.2014 passed in aforesaid MA reads as under:

"MA NO. 1257/2014

.....

2. The contention of the learned counsel for the misc. Applicant is that the Secretary, Railway Board is not concerned with group "C" posts. His further contention is that under the Civil Procedure Code, all the cases relating to Railway Board are sued or being sued only through the General Manager.

3. It is observed that the respondents have been filing such MAs almost in every case, in a routine manner. All those MAs have been rejected by this Tribunal. By filing such MAs again and again they are wasting the time of this Tribunal.

4. The Secretary of the Railways being the head of the organization is the ultimate authority to decide all the matters of that department. He cannot say that he is not concerned with the Group "C" and "D" posts and someone else will be responsible for them. We also make it clear that this Tribunal is not bound by the CPC and it is governed only by the Administrative Tribunals Act, 1985.

5. In view of the above position, this MA is dismissed. In future, we direct the respondents not to file such MAs to add to the litigation of this Tribunal. Let a copy of this order be sent to the Secretary, M/o Railways also for his information."

4. Learned counsel for the petitioner submits that the learned Tribunal has failed to appreciate the correct facts and law. Counsel further submits that while dismissing the aforesaid MA the Tribunal has observed that the Secretary of Railways, being the head of the organisation, is the ultimate authority to decide all the matters of the Department and, thus, it cannot be said that he is not concerned with Group "C" and "D" posts and someone else would be responsible for them. The Tribunal has also held that the Tribunal is not bound by the Code of Civil Procedure and is governed by the Administrative Tribunals Act, 1985.

5. Counsel for the petitioner further submits that while passing the impugned order the learned Tribunal has failed to take into consideration that the Railways is to be sued through the General Manager of the concerned zone, which is even provided as per the Civil Procedure Code. Counsel further submits that the Secretary, Ministry of Railways, would not be a proper and necessary party as neither the Secretary is the disciplinary authority or the appellate authority nor he is concerned with day-to-day working of the Railways, more particularly the matters relating to service of employees of Zonal Railways. Counsel contends that to the contrary, the General Manager is the competent authority and in fact when a notice is issued or an order is passed, it would be in the fitness of things and to ensure quick compliance that the correct body is impleaded which would be the General Manager of the concerned zone. Counsel further submits that in case a proper or a necessary party has not been arrayed as a respondent, it would be open for any Court to take an appropriate view in the matter depending

upon the facts of each case and a general direction cannot be passed depriving or limiting the rights of a party and directing petitioner herein (respondent before the Tribunal) not to file any such application in future as the same would be against the principles of justice.

6. We have heard learned counsel for the petitioner. Since, no relief is being claimed against the respondent herein (petitioner before the Tribunal), we do not think it necessary to issue notice to the respondent.

7. While it is the petitioner, who is the dominus litis and the master of his suit and he alone is the person, who is really and directly the interested person, and who is entitled to implead a party to the litigation, it is always open for a respondent to seek addition or deletion and open for any court to decide such application in accordance with law. No doubt, Section 22 of The Administrative Tribunals Act, 1985, makes it clear that the Tribunal would not be bound by the procedure laid down in Code of Civil Procedure, 1908, but it has also been held that the Tribunal shall be guided by the principles of natural justice.

8. Section 22 of The Administrative Tribunal Act, 1985, reads as under:

"22. Procedure of Tribunals-(1) A Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made by the Central Government, the Tribunal shall have power to regulate its own procedure including the fixing of places and times of its inquiry and deciding whether to sit in public or in private."

9. Even though the Tribunal is not bound by the procedure laid down in the Code of Civil Procedure but even otherwise we are of the view that a general order cannot be passed directing the respondents not to file such MAs.

10. In this case, in view of the categorical stand taken by the petitioner, it is the General Manager of the concerned zone, which is the highest disciplinary/appellate authority and the Secretary would have no role to play and unless a specific role has been ascribed, the Secretary would not be proper and necessary party.

11. Accordingly, the impugned order dated 1.5.2014 is set aside in the light of above discussion. In case, an application is filed seeking deletion of a party, the Tribunal shall consider the same on merits and on the facts of each case.

12. Writ petition stands disposed of.