

(2013) 11 AHC CK 0008
In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 29883 of 2006

Yashwant Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 08-11-2013

Acts Referred:

Citation : (2014) 102 ALR 204 : (2014) 140 FLR 144

Hon'ble Judges : Rakesh Tiwari, J;B. Amit Sthalekar, J

Bench : Division Bench

Advocate : Sudhakar Pandey, for the Appellant; Govind Saran, for the Respondent

Judgement

B. Amit Sthalekar, J.—This writ petition has been filed by the petitioner challenging the order of the Central Administrative Tribunal dated 28.3.2006 rejecting his Original Application for want of jurisdiction. Briefly stated the case of the petitioner is that he has worked from 8.6.1978 to 4.8.1991 as a casual labour in Class IV under the supervision of CYM Panki Kanpur. He raised his claim for regularization with the respondents and when the same was not considered he approached the Assistant Labour Commissioner (Central), Kanpur through a claim petition filed on 11.7.2000. The conciliation proceedings however ended in failure. Therefore, a reference was made to the Secretary, Government of India, Ministry of Labour, New Delhi but the same was refused by order dated 6.3.2002. Thereafter the petitioner approached the Central Administrative Tribunal, Allahabad by filing Original Application No. 1136 of 20902 (Yaswant Singh v. Union of India and others) challenging the order dated 6.3.2002. The Tribunal however, by the impugned order dated 28.3.2006 has rejected the application for want of jurisdiction.

2. We have heard Shri Sudhakar Pandey, learned Counsel for the petitioner and Shri Govind Saran as well as the learned standing Counsel for the respondents.

3. It has been submitted by Shri Sudhakar Pandey that the Central

Administrative Tribunal was fully competent and possessed the jurisdiction to entertain the claim of the petitioner. He further submitted that the petitioner had worked from 1978 upto 1991 and, therefore, his case for regularization ought to have been considered by the respondents.

4. Shri Govind Saran in rebuttal submitted that the petitioner having already approached the Assistant Labour Commissioner and the conciliation proceeding having failed and further reference to the Government of India having also been refused by order dated 6.3.2002 the Original Application was not maintainable before the Central Administrative Tribunal and the petitioner having already availed his option to approach the appropriate forum under the Industrial Disputes Act, his Original Application before the Central Administrative Tribunal was not maintainable.

5. We have considered the respective submissions of learned Counsel for the parties and perused the documents on record. From a perusal of the order of the Central Administrative Tribunal impugned in the present writ petition it appears that the Original Application was filed by the petitioner challenging the order of the Central Government dated 6.3.2002 rejecting his Reference. The Tribunal, therefore, has rightly held that it did not have jurisdiction in the matter. Reference has been made to the judgment of the Supreme Court in Council of Scientific and Industrial Research and Another v. Padma Ravinder Nath (Smt) and Others, (2001) 9 SCC 526 wherein the Supreme Court referring to its earlier decision in the case of Rajasthan State Road Transport Corporation and Another Vs. Krishna Kant and Others, has approved the view taken by the Central Administrative Tribunal, Hyderabad Bench in A. Padmavalley v. C.P.W. D., (1990) 14 ATC 914 (Hyd) wherein a Full Bench of the Central Administrative Tribunal Hyderabad Bench has held that Administrative Tribunals constituted under the Administrative Tribunals Act, 1985 are not substitutes for the authorities constituted under the Industrial Disputes Act.

6. Paragraphs 3 and 4 of the judgment in the case of Padma Ravindra Nath (supra) read as under:

3. A Full Bench of the Tribunal rendered its opinion on the question but when the matter stood referred to a Division Bench for decision, the latter took the view that it is unnecessary to rest its decision on the question decided by the Full Bench but on certain other aspects it gave certain directions giving relief in part to the employees of CSIR and its constituent unit. Therefore, the view rendered by the Full Bench of the Tribunal thus becomes ineffective so far as the parties are concerned. Further, it is brought to our notice that in a subsequent decision in A. Padmavalley v. C.P.W. D. The Central Administrative Tribunal, Hyderabad Bench consisting of five Members took the view as follows:

(1) The Administrative Tribunals constituted under the Administrative Tribunals Act are not substitutes for the authorities constituted under the Industrial Disputes Act and hence the Administrative Tribunal does not exercise concurrent

jurisdiction with those authorities in regard to matters covered by that Act. Hence all matters over which the Labour Court or the Industrial Tribunal or other authorities had jurisdiction under the Industrial Disputes Act do not automatically become vested in the Administrative Tribunal for adjudication. The decision in the case of *Sisodia*, which lays down a contrary interpretation is, in our opinion, not correct.

(2) An applicant seeking relief under the provisions of the Industrial Disputes Act must ordinarily exhaust the remedies available under that Act.

4. This view appears to be consistent with the view expressed by this Court in *Rajasthan SRTC v. Krishna Kant*.

The legal position having been settled by the Supreme Court in the case of *Padma Ravindra Nath (supra)*, we find absolutely no illegality or infirmity in the order of the Tribunal rejecting the Original Application of the petitioner on the ground of jurisdiction.

The writ petition accordingly fails and is dismissed.