

J. B. Chopra and Others

Vs

Union of India and Others

Special Leave Petition No. 7991 f 1986

(A. P. Sen, B. C. Ray JJ)

19.12.1986

ORDER

A. P. SEN. J. :-

In this special leave petition a question was raised regarding the authority and jurisdiction of the Central Administrative Tribunal constituted under the Administrative Tribunals Act, 1985 to strike down as constitutionally invalid a rule framed by the President of India under the proviso to Article 309 of the Constitution as being violative of Arts. 14 and 16(1) of the Constitution. That depends on a construction of Sections 14(1), 28 and 29(1) of the Act, as amended, read in the light of Article 323-A of the Constitution. Since the question raised was of far-reaching importance we issued a notice to the learned Attorney-General to appear and assist the Court. We heard learned counsel for the parties including the Union of India on the question at considerable length and reserved judgment. We were later informed by the learned counsel that the same question had been argued before a Constitution Bench and its judgment was awaited, and they requested us to defer the judgment.

2. In *S. P. Sampath Kumar v. Union of India* ((1987) 1 SCC 124 : (1987) 2 ATC 82) the Constitution Bench has held that the Act is a law made by Parliament under clause (1) of Article 323-A to exclude the jurisdiction of the High Courts under Article 226 and 227 of the Constitution. Section 28 of the Act which bars the jurisdiction of all courts except the Supreme Court is relatable to clause 2(d) of Art. 323-A for adjudication of service matters including questions involving the validity or otherwise of such laws on the ground that they abridge the fundamental rights under Articles 14 and 16(1) of the Constitution, and that the Administrative Tribunal set up under section 4 of the Act is a substitute of, and not supplemental to, the High Court providing an equally efficacious alternative remedy for adjudication of such disputes. It has further held that the establishment of the Administrative Tribunal under the Act therefore takes away the jurisdiction and power of the High Court to interfere in such matters but it is not violative of the doctrine of judicial review which is a fundamental aspect of the basic structure of our Constitution because section 28 of the Act which bars the jurisdiction of the High Court under Articles 226 and 227 of the Constitution preserves the jurisdiction and power of the Supreme Court under Articles 32 and 136 of the Constitution. It accordingly follows that the Administrative Tribunal being a substitute of the High Court had the necessary jurisdiction, power and authority to adjudicate upon all disputes relating to service matters including the power to deal with all questions pertaining to the constitutional validity or otherwise of such laws as offending Articles 14 and 16(1) of the Constitution. That being so, the contention advanced by the petitioners that the Administrative Tribunal had no authority or jurisdiction to strike down the impugned notification dated March 15, 1980 purporting to amend Rule 4 of the Central Hindi Directorate (Class III and Class IV) Posts

Recruitment Rules, 1961 reserving 100 per cent vacancies to the post of Superintendent to be filled by the Head Clerks and thereby debarring Stenographers (Sr.) from being considered for promotion to that post, as being wholly mala fide, arbitrary and irrational and thus offending Articles 14 and 16(1) of the Constitution, must therefore fail.

3. The Special Leave Petition is accordingly dismissed. No order as to costs.

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