

Rajendra Singh Yadav and Others

Vs

State of U. P. and Others

Civil Appeal No. 1815 of 1982 etc.

(M. M. Punchhi, K. Ramaswamy, Ranganath Misra JJ)

23.03.1990

JUDGMENT

RANGANATH MISRA, J. -

1. Special leave granted.

2. This bunch of cases either by special leave or under Article 32 of the Constitution is by a set of Lekhpals serving in the State of Uttar Pradesh whose service has been terminated. Their writ petitions to the High Court have not been entertained on the ground that alternate relief is available before the U.P. Public Services Tribunals set up under U.P. Act 17 of 1976. In the civil appeal arising out of Special Leave Petition No. 8826 of 1982 the High Court examined the question at length as to whether the jurisdiction of the High Court has been taken away by the setting up of the Services Tribunal under the U.P. Act. We have heard counsel for the parties at some length as apart from this group cases, some other cases involving the same question have also been heard and those matters have been disposed of excepting this bunch. On merit, we are of the view that the decisions of the High Court should be vacated and in each case the dispute shall stand transferred to the Service Tribunal for disposal in accordance with law. The Tribunal shall dispose of these cases within six months from the date of the receipt of this order.

3. We are of the view, as we have already indicated elsewhere, that the Services Tribunal set up under the U.P. Act 17 of 1976 should be withdrawn and as appropriate tribunal under the Administrative Tribunals Act, 1985 should be set up. Such a Tribunal if constituted would be in accord with the service jurisprudence which is developing. Several States have already constituted such Tribunals under the Central Act.

4. The Tribunal set up under the Central Act is deemed to be in terms of Article 323-A of the Constitution. When such a Tribunal is set up the High Court's jurisdiction in regard to service disputes is taken away and the Tribunal functions as a substitute of the High Court. More or less this service jurisprudence has almost gained ground and there is no justification as to why the Service Tribunal of a different pattern should operate in the State of Uttar Pradesh with inadequate powers to deal with every situation arising before it. A Tribunal set up under the Administrative Tribunals Act would have been in accord with the current thinking on this subject matter at different levels. We are, therefore, of the view that the U.P. Services Tribunal should be substituted by a tribunal under the Administrative Tribunals Act as early as possible in order there may be uniformity of functioning and the High Court may be relieved of the burden of dealing with the services disputes as is the situation at present.

5. In course of the hearing, a statement showing yearwise institution, disposal and pendency before the Public Service Tribunals has been placed before us and we extract the same convenience :

Statement showing the yearwise disposal, filing and pending cases before the Public Service Tribunals

Year	No. of Opening	Cases	Total Disposal	Closing	Tribunals									
Balance filed during	Balance during	year	the year	1	2	3	4	5	6	7	1977	Two	2568	2156
4724	1744	2980	1978	Three	3700	6834	10534	4761	5773	1979	Four	5773	2710	8483
2826	5657	1980	Five	5657	2690	8347	2689	5658	1981	Five	5658	3193	8851	2290
6561	1982	Five	6561	3072	9633	1718	7915	1983	Five	7915	2206	10121	1988	
8133	1984	Five	8133	2461	10594	1178	9416	##						

A cursory analysis would show that while in 1977 two Tribunals only were functioning, in 1984 as many as five Tribunals came to be set up. The chart indicates that while institutions have sizeably fallen or remained more or less constant, there has been rapid fall in the disposal of cases. For instance, while in 1978, 4761 cases have been disposed of, in the years 1982 and 1984 the numbers have been 1718 and 1178 respectively. Even five Tribunals in place of two have obviously not been meeting the mounting challenge of institutions. Learned counsel for the State of Uttar Pradesh was not able to indicate any specific reason as to why while the strength of Tribunals went up there was a proportionate fall in the disposals. Again we find that 50 to 60 percent of the institutions are being attended to which certainly would lead accumulation to mount up. These aspects require to be noticed seriously and the State Government should have applied its mind if any system of review was in force. Apparently, the performance was not being reviewed either by the Tribunal itself or by any other agency.

6. We have been told that the Services Tribunal mostly consists of Administrative officers and the judicial element in the manning part of the Tribunal is very small. As was pointed out by us in *S. P. Sampath Kumar v. Union of India* ((1987) 1 SCC 124 : (1987) 2 ATC 82), the disputes require judicial handling and the adjudication being essentially judicial in character it is necessary that an adequate number of judges of the appropriate level should man the Services Tribunals. This would create appropriate temper and generate the atmosphere suitable in an adjudicatory Tribunal and the institution as well would command the requisite confidence of the disputants. We have indicated in the connected matter that steps should be taken to replace the Service Tribunals by Tribunals under the Administrative Tribunals Act, 1985. That would give the Tribunal the necessary colour in terms of Article 323-A of the Constitution. As a consequence of setting up of such Tribunals, the jurisdiction of the High Court would be taken away and the Tribunals can with plenary powers function appropriately. The disputes which have arisen on account of the Services Tribunals not having complete jurisdiction to deal with every situation arising before it would then not arise.

7. We have pointed out that notice has been issued in a later case for the State's response to the question of Tribunals to be located at different parts of the State. State of Uttar Pradesh territorially is the second largest State in India but considering the population it comes first. Almost every part of the State is well advanced and service litigation in such setting is likely to arise everywhere. To locate the seat of the Tribunals at the State capital in such a situation is not appropriate. The accepted philosophy relevant to the question today is that justice should be taken to everyone's doors. This, of course, is not a statement which should be taken literally but undoubtedly the redressal forum should be available near about so that litigation may be cheap and the forum of ventilating grievance may not be difficult to approach. Keeping that in view which is a legitimate consideration it would be appropriate for the State Government to consider, firstly, increase in the number of benches of the Tribunal and secondly, to locate them not at the same station but at

various sectors or depending upon the number of institution of disputes and pendency at the level of independent Commissionerate or by clubbing two or three of them together. This, of course, is a matter which would require further examination at the administrative level and, therefore, we express no opinion regarding location of such Tribunals although we are of the definite view that there should be Tribunals available in different parts of the State and all the benches of the Tribunal should be located at one place.

8. The writ petitions and the civil appeal are disposed of with these directions.

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