

Krishna Sahai and Others

Vs

State of U. P. and Others

Civil Appeal No. 6729 of 1983

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

23.03.1990

JUDGMENT

RANGANATH MISRA, J. -

1. This appeal by special leave was heard along with Civil Appeals Nos. 776 of 1984 and 4356 of 1986. Those two appeals were disposed of by a common judgment dated March 1, 1990, by remitting the dispute forming the subject-matter of those appeals to the U.P. Public Services Tribunal for disposal on merit and judgment was reserved in this appeal as we were of the view that certain relevant aspects required notice and we should commend to the U.P. State to bring it Services Tribunal at par with the State Administrative Tribunals set up under the Central Administrative Tribunal Act of 1985.

2. So far as the merits of the case go, we are of the view that it should also be remitted for disposal by the Services Tribunal and we direct that the Tribunal shall dispose of the matter in accordance with its rules by the send of September, 1990.

3. The Administrative Tribunals Act of 1985 is a legislation in terms of Article 323-A of the Constitution. By setting up a Tribunal under that Act for resolution of service disputes, the jurisdiction of the High Court in regard to such matter is intended to be taken away and under the scheme of that Act, the jurisdiction of the High Court in regard to service disputes is intended to be vested in the Tribunal. That is the view expressed by the Constitution Bench of this Court in *S. P. Sampath Kumar v. Union of India* ((1987) 1 SCC 124 : (1987) 2 ATC 82).

4. The Uttar Pradesh Public Services Tribunal which functions under a different State Act does not have power to make any interim order. In fact, exercise of that power is denied to the Tribunal by specific provision. That is why the appellants had taken up the plea before the High Court that filing of a claim in the Tribunal was not an adequate alternate relief. In such sitting it had been canvassed that the High Court under Article 226 of the Constitution was not debarred from entertaining writ petitions. Under the Administrative Tribunals Act, it is open to State to also set up Tribunals for adjudication of service disputes in regard to employees of the State. Several States have already set up their own Tribunals. We commend to the State of Uttar Pradesh to consider the feasibility of setting up of an appropriate Tribunal under the Central Act in place of the Services Tribunal functioning at present so that apart from the fact that there would be uniformity in the matter of adjudication of service disputes, the High Court would not be burdened with service litigations and the Tribunal with plenary powers can function to the satisfaction of everyone.

5. In case the Uttar Pradesh Services Tribunal set up under the U.P. Act No. 17 of 1976 is continued,

it would be appropriate for the State of Uttar Pradesh to change its manning and a sufficient number of people qualified in Law should be on the Tribunal to ensure adequate dispensation of justice and to maintain judicial temper in the functioning of the Tribunal. We find that in Writ Petition No. 373 of 1988 relating to the selfsame question a bench of this Court has issued notice wherein the proposal for additional benches at places like Allahabad, Meerut and Agra apart from the seat at Lucknow have been asked to be considered. We are of the view that if the Services Tribunal is to continue, it is necessary that the State of Uttar Pradesh should plan out immediately diversification of the location of the benches for the Tribunal so that service disputes from all over the State are not required to be filed only at Lucknow and on account of a single Tribunal disputes would not pile up without disposal.

6. There would be no order as to costs.

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