

Bihar Census Employees Welfare Association and Others

Vs

Union of India and Others

Civil Appeal No. 1992 of 1990

(M. N. Venkatachaliah, M. M. Punchhi JJ)

16.08.1990

ORDER

1. "The Bihar Census Employees Welfare Association" moved an application before the Central Administrative Tribunal, Allahabad under Section 19 of the Administrative Tribunals Act (Act 13 of 1985) and appears to have sought leave to sue in a representative capacity. Applicant 1 before the Tribunal was the said Association and applicants 2 and 3 were stated to be its Secretary and Vice President respectively.
2. The Tribunal did not examine the merits of the dispute raised in the application but proceeded to dismiss the application in limine on the view it held that, having regard to the provisions of the Act, a representative action was not maintainable.
3. It is not necessary to go into the questions that stem from the proposition which the Tribunal stated. The issue has some ramifications and runs into certain theoretical thickets requiring an examination of the Constitution, the scope of its jurisdiction and related questions. It is not necessary to go into these aspects.
4. Sri Jaya Narayan, learned senior counsel appearing for the appellants, submitted that the Tribunal did not consider whether the application even as constituted did not conform to and satisfy the requirements of sub-rule (5)(b) of Rule 4 of the Central Administrative Tribunal Rules, 1987. Learned counsel stated that sub-rule (5)(b) of Rule 4 would indicate that, apart altogether from the question whether the principle and discipline of Order 1 Rule 8 of the Civil Procedure Code was attracted or not, the applications as brought and the array of applicants therein clearly satisfied the requirements of the statute. Learned Additional Solicitor General appearing for the Union of India fairly stated that this aspect requires to be examined or re-examined by the Tribunal. As both learned counsel commend a remit of the matter, we set aside the order dated May 7, 1986 made by the Tribunal dismissing appellants' application and remit the matter to the Tribunal for a fresh consideration of the question whether the application, as constituted, conformed to sub-rule (5)(b) of Rule 4 and was accordingly maintainable or not.
5. The appeal is disposed of accordingly. No costs.

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