

SUPREME COURT OF INDIA

Navodaya Vidyalaya Samiti

Vs.

T.C.S. Naidu

C.A.No.2041 of 2000

(V. N. Khare and N. Santosh Hegde, JJ.)

10.03.2000

ORDER

1. Leave granted.

2. On 5th November, 1999 while issuing notice this Court indicated why the case may not be remanded to the High Court for deciding the same on merits. Despite service of notice the respondent has not chosen to put in appearance. We, therefore, proceed with the case ex-parte.

3. The respondent herein filed a petition under Article 226 of the Constitution before the High Court of Judicature at Andhra Pradesh for issue of writ of mandamus to the appellant for giving him appointment w.e.f. 6th June, 1991 to the post of Assistant Director and consequential relief. The said writ petition was allowed on 17th November, 1998. The appellant thereafter filed an appeal against the aforesaid decision before the Division Bench of High Court. While the aforesaid appeal was pending, the Central Government by notification dated 17th December, 1998 issued under sub-section (2) of Section 14 of the Administrative Tribunals Act (hereinafter referred to as the Act) applied the provisions of the Act to the Society and statutory organisation owned or controlled by

the Central Government and the appellant is one of such organisation which is owned and controlled by the Central Government. The Appellate Bench, in view of the aforesaid notification, transferred the appeal to be decided by the Central Administrative Tribunal. It is against this decision the appellant is in appeal before us.

4. The short question that arises in this case is whether pending appeals were liable to be transferred to the Central Administrative Tribunal on issue of notification under sub-section (2) of Section 14 of the Act. Section 29(2) of the Act reads as thus :

"29. Transfer of pending cases

1.

2. Every suit or other proceeding pending before a Court or other authority immediately before the date with effect from which the jurisdiction is conferred on a Tribunal in relation to any local or other authority or Corporation or society being a suit or proceeding, because of action where on it is based, is such that it would have been if it had arisen after the said date, within the jurisdiction, shall stand transferred on that date to such Tribunal ;

Provided that nothing in this sub-section shall apply to any appeal pending as aforesaid before the High Court."

5. We are of the opinion that in view of proviso to sub-section (2) of Section 29 of the Act, the appeal was required to be decided on merits by the High Court. Under such circumstances, we set aside the order under challenge and send the case back to the High Court to be decided on merits.

6. Since record of this case was returned to the appellant we permit the appellant to re-file the record of the case in the High Court and the same shall be restored to its original number on the file of the High Court. The appeal is allowed. There shall be no order as to costs.

Order accordingly.

