

A KRISHNA SAHAI & ORS.

v.

STATE OF U.P. & ORS.

MARCH 23, 1990

B [RANGANATH MISRA, M.M. PUNCHHI AND
K. RAMASWAMY, JJ.]

C *U.P. Public Services Tribunal Act, 1976: Remedy before Services Tribunal not availed—Writ petition before High Court—Whether maintainable—Desirability of setting up Tribunal under the Administrative Tribunals Act, 1985 expressed.*

D The writ petitions preferred by the appellants before the High Court were sought to be resisted by the State on the preliminary objection that they had an alternative remedy available before the Public Services Tribunal set up under the U.P. Act 17 of 1976. The appellants took the plea that filing of a claim in the Tribunal was not an adequate alternate relief inasmuch as it did not have power to make any interim order. The High Court declined to exercise its power under Art. 226 of the Constitution.

E Remitting the case to the Public Services Tribunal for disposal on merits, the Court,

F HELD: 1. The Uttar Pradesh Public Services Tribunal which functions under a State Act does not have power to make any interim order. Under the Administrative Tribunals Act, 1985, which is a legislation in terms of Art. 323-A of the Constitution, the jurisdiction of the High Court in regard to service matter is intended to be taken away and vested in the Tribunal. It is open to the State to also set up Tribunals for adjudication of service disputes in regard to its employees. Several States have already set up their own Tribunals under that Act. [170B, 169H, 170C]

G *S.P. Sampath Kumar v. Union of India & Ors.*, [1987] 1 SCC 124, referred to.

H 2. It is commended to the State to consider the feasibility of setting up of an appropriate tribunal under the Central Act in place of the Services Tribunal so that apart from the fact that there would be uniformity in the matter of adjudication the High Court would not be burdened with service litigations and the Tribunal with plenary powers

can function to the satisfaction of everyone. [170D]

3. In case the existing Services Tribunal is continued the State should change its manning so that a sufficient number of people qualified in Law could be on the Tribunal to ensure adequate dispensation of justice, and plan out diversification of the location of the Benches for the Tribunal. [170E-G]

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 6729 of 1983.

From the Judgment and Order dated 22.3.1983 of the Allahabad High Court in C.M.W.P. No. 7787 of 1979.

Shankar Ghosh, R.K. Jain, R.B. Mehrotra, Ms. Abha Sharma, Ms. Sangita Tripathi Mandal, R.P. Singh, Harish N. Salve, D.K. Garg, Gopal Subramaniam, Mrs. Shobha Dikshit, C.P. Pandey, S.K. Sabharwal, M.P. Sarawala, R.S. Sodhi, D.D. Gupta, Shakil Ahmed Syed, K.R.R. Pillai, M.A. Firoz, R.D. Upadhyay, U.S. Prasad and C.M. Nayar for the appearing parties.

The Judgment of the Court was delivered by

RANGANATH MISRA, J. 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 its Services Tribunal at par with the State Administrative Tribunals set up under the Central Administrative Tribunals Act of 1985.

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 end of September, 1990.

The Administrative Tribunals Act of 1985 is a legislation in terms of Art. 323A 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 matters is intended to be taken away and under

A 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 & Ors.*, [1987] 1 SCC 124.

B 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 setting it had been canvassed that the High Court under Art. 226 of the Constitution was not debarred from entertaining writ petitions. Under the Administrative Tribunals Act, it is open to the 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.

E 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 1989 relating to the self-same 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.

There would be no order as to costs.

P.S.S.

Appeal disposed of.