

## Binoy Kumar Vs Deputy Director

**Court:** High Court Of Kerala

**Date of Decision:** May 24, 2013

**Acts Referred:** Administrative Tribunals Act, 1985 " Section 15, 15(1), 15(1)(b), 4  
Constitution of India, 1950 " Article 226

**Citation:** (2013) 2 KLT 857

**Hon'ble Judges:** Thomas P. Joseph, J

**Bench:** Single Bench

**Advocate:** P.V. Kunhikrishnan, for the Appellant; A. Lowsy ), for the Respondent

### Judgement

Thomas P. Joseph, J.

Question raised is whether this Writ Petition is maintainable in this Court or challenge to the impugned order has to

be made before the Kerala Administrative Tribunal (for short the "KAT")? Petitioner is now working as H.S.A. at Government Vocational

Government School, Mananthavady and is placed under suspension by the District Educational Officer as per Ext. P1, pursuant to Ext. P3, audit

report and Ext. P2, letter of the 2nd respondent. Thus Ext. P1 order is under challenge. Registry has raised an objection that this matter ought to

go before the K.A.T. The learned counsel for the petitioner submits that since Ext. P1 order is passed by the District Educational Officer, challenge

must be in this Court under Article 226 of the Constitution of India.

2. The learned Government Pleader submits that since the dispute is between a Government servant and the Government, as per S. 15(1)(b) of the

Administrative Tribunals Act, 1985 (for short "the Act") this Court has no jurisdiction.

3. Section 15(1) of the Act states that save as otherwise expressly provided in the said Act, Administrative Tribunal for a State shall exercise, on

and from the appointed day of the jurisdiction, powers and authority exercisable immediately before that date by all Courts (except Supreme

Court) in relation to -

(a)...

(b) all service matters concerning a person (not being a person referred to in clause (c) of sub-section (1) of Section (4) appointed to any Civil

Courts of the State or any Civil post under the State and pertaining to the service of said person in connection with the affairs of the State or of any

local or other authority under the control of the State Government.

4. Petitioner is a Government servant and challenge is to Ext. P1, order passed by another Government servant concerning service of the

petitioner.

5. Therefore it is idle to contend that since the order is passed by the D.E.O., the Writ Petition is maintainable. I must bear in mind that by S. 15 of

the Act, power is conferred on the K.A.T. to deal with any matter which any Court other than the Supreme Court could entertain. Therefore,

challenge has to be made before the K.A.T. Leaving the petitioner to the remedy as provided under law, this Writ Petition is dismissed. The

documents produced along with the Writ Petition shall be returned to the counsel for the petitioner on request.