

(2013) 05 KL CK 0039

High Court Of Kerala

Case No: Writ Petition (C) .13137 of 2013

Binoy Kumar

APPELLANT

Vs

Deputy Director

RESPONDENT

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.