

(2016) 3 JKJ 23

Jammu & Kashmir High Court

Case No: WPPIL No. 26 of 2015

Jagdev Singh

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision: Nov. 16, 2015

Acts Referred:

- Administrative Tribunals Act, 1985 - Section 1(2)(b)
- Constitution of India, 1950 - Article 14, Article 370

Citation: (2016) 3 JKJ 23

Hon'ble Judges: Mr. N. Paul Vasanthakumar, C.J. and Mr. Bansi Lal Bhat, J.

Bench: Division Bench

Advocate: Present in person, for the Petitioner; Mr. Jahangir Iqbal Ganai, AG with Mr. A.H. Bhat, Advocate, for the Respondent

Final Decision: Dismissed

Judgement

N. Paul Vasanthakumar, C.J. - This writ petition is filed for expunging the words ""except the State of Jammu & Kashmir"" from Clause (b) of

Sub Section (2) of Section 1 of the Administrative Tribunals Act, 1985, which, according to the petitioner, is offending Article 14 of the

Constitution of India to the persons residing in the State of Jammu and Kashmir, who are appointed to the public services and posts connected

with the affairs of the State and for adjudication of their dispute which will ultimately reduce the burden of the High Court.

2. The State of Jammu and Kashmir is enjoying special status which is conferred under Article 370 of the Constitution of India and bearing the said

issue in mind, the Parliament while enacting the Administrative Tribunal Act, 1985 in exercise of powers vested under Article 323 A of the

Constitution of India in Section 1(2)(b) has provided that the Act empowering to create the Administrative Tribunal for States is applicable, except

the State of Jammu and Kashmir. The said special status conferred under Article 370 of the Constitution of India to the State of Jammu and

Kashmir is not in dispute. In such circumstances, the wisdom of the Parliament in excluding the constitution of State Administrative Tribunal in the

State of Jammu and Kashmir under the Administrative Tribunal's Act, 1985 cannot be declared as illegal as contended by the petitioner in this writ

petition.

3. The Central Government staff serving in the State of Jammu and Kashmir is entitled to approach the Central Administrative Tribunal in terms of

Section 1(2)(a) of the Act as held by Hon'ble the Supreme Court in the decision reported in (2002) 4 SCC 145 (Kendriya Vidyalaya

Sangathan and another v. Subhas Sharma).

4. The contention of the petitioner that all other States have constituted the State Administrative Tribunals is also not correct as in some of the

States the State Administrative Tribunals have not been constituted to resolve the dispute of the State Government employees. In some other

States, particularly in the State Tamil Nadu, even though the State Administrative Tribunal was created in the year 1988, due to the defective

functioning the said Tribunal was windup and all the cases which were earlier transferred from the High Court to the Tribunal or filed before the

Tribunal were re-transferred or transferred to the High Court. Thus, the contention raised by the petitioner that the State Government employees of

Jammu and Kashmir are discriminated has no basis.

5. In (1997) 3 SCC 261 (L. Chandra Kumar v. Union of India), Hon'ble the Supreme Court held that even if the State Administrative Tribunal

is created the orders passed by the said Tribunal can be challenged before the High Court at the first instance i.e., before the Division Bench and

thereafter only the parties can approach Hon'ble the Supreme Court. Hence the reduction of pendency as pleaded by the petitioner cannot also be achieved.

6. Taking all these aspects into consideration, we are unable to find any reason to issue any writ as prayed for. The writ petition is dismissed. No costs.