

Tribunal Application

Present: The Hon'ble Justice Pranab Kumar Chattopadhyay And The

Hon'ble Justice Md. Abdul Ghani

Judgment On: 24.08.2010.

W.P.C.T.186 of 2010.

Archana Biswas & Ano

-Vs-

Union of India & Ors.

Points:

Jurisdiction -Whether Single Administrative Member Bench of the Central Administrative Tribunal can decide the application on merits- Central Administrative Tribunal (Procedure) Rules.

Facts:

Petitioners have challenged the order passed by the learned Central Administrative Tribunal, Calcutta Bench on various ground that the Single Member Bench of the learned Tribunal consists of Administrative Member only should not have decided the application filed by the petitioners herein on merits.

Held:

Since the learned Tribunal was required to interpret the relevant provisions of the Limitation Act, CAT (Procedure) Rules and provisions relating to compassionate appointment for the purpose of deciding the application filed by the petitioners herein, Court are of the opinion that in view of the decisions of the Hon'ble Supreme Court in the case of **L. Chandra Kumar (Supra)** and **State of M.P. vs. B. R. Thakare & Ors. (Supra)**, the application filed by the petitioners before the learned Tribunal should have

been heard by a Division Bench consisting of a judicial member or atleast by a judicial member of the said learned Tribunal in the case of Single Bench. Single Member Bench of the learned Tribunal consisting of Administrative Member has no jurisdiction or authority to decide the aforesaid application filed by the petitioners herein. Para 5 and 6

Cases cited:

L. Chandra Kumar Vs. Union of India & Ors., reported in (1997) 3 SCC 261; State of M. P. Vs. B. R. Thakare & Ors., (2002) 10 SCC 338

Mr. Phatick Ch. Das ...For the Petitioners.

Mr. J. Chakraborty ...For the Respondents.

The Court: Petitioners herein have challenged the order dated 26th May, 2010 passed by the learned Central Administrative Tribunal, Calcutta Bench in case number O.A.615 of 2009 on various grounds specifically mentioned in the instant writ petition.

2. The learned Advocate representing the petitioners submits that the Single Member Bench of the learned Tribunal consists of Administrative Member only should not have decided the application filed by the petitioners herein on merits.

3. On examination of the impugned order passed by the learned Single Member Bench of the learned Tribunal, we find that the provisions of Limitation Act, CAT (Procedure) Rules and also the provisions relating to compassionate appointments were considered and interpreted by the learned Administrative Tribunal while deciding the issues raised in the application filed before the said learned Tribunal by the petitioners herein.

4. In view of the decisions of the Hon'ble Supreme Court in the case of **L. Chandra Kumar Vs. Union of India & Ors.**, reported in (1997) 3 SCC 261 and the **State of M. P. Vs. B. R. Thakare & Ors.**, reported in (2002) 10 SCC 338, we are of the opinion that the powers of the learned Tribunal should not have been exercised in the instant case by the Single Member Bench of the learned Tribunal consisting of Administrative Member only.

5. Since the learned Tribunal was required to interpret the relevant provisions of the Limitation Act, CAT (Procedure) Rules and provisions relating to compassionate appointment for the purpose of deciding the application filed by the petitioners herein, we are of the opinion that in view of the aforesaid decisions of the Hon'ble Supreme Court in the case of **L. Chandra Kumar (Supra)** and **State of M.P. vs. B. R. Thakare & Ors. (Supra)**, the said application filed by the petitioners herein before the learned Tribunal should have been heard by a Division Bench consisting of a judicial member or atleast by a judicial member of the said learned Tribunal in the case of Single Bench.

6. For the aforementioned reasons, we also hold that in the present case, Single Member Bench of the learned Tribunal consisting of Administrative Member has no jurisdiction or authority to decide the aforesaid application filed by the petitioners herein.

7. Therefore, only on the aforesaid ground we set aside the impugned judgment and order dated 26th May, 2010 passed by the learned Central Administrative Tribunal, Calcutta Bench in case number O.A.615 of 2009 and remit the matter to the learned Tribunal for the purpose of de novo consideration on merits by a Division Bench of which one should be a Judicial member.

8. Let it also be on record that we have not decided any other issue raised in this petition on merits and the learned Tribunal will be at liberty to decide all the issues de novo on merits without being influenced by the earlier order dated 26th May, 2010 passed by the learned Administrative Member of the Central Administrative Tribunal.

9. Since a considerable time has already lapsed, we request the learned Tribunal to decide the application of the petitioners herein afresh in terms of this order at an early date but positively within a period of two months from the date of communication of this order.

10. This writ petition thus stands disposed of.

11. There will be no order as to costs.

12. Xerox plain copy of this order countersigned by the Assistant Registrar (Court) be given to the appearing parties on usual undertaking.