

Customs and Central Excise and ors. Vs. Commissioner, Customs (Preventive) and ors.

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Court : Guwahati

Decided On : Sep-11-2007

Judge : T. Vaiphei, J.

Appellant : Customs and Central Excise and ors.

Respondent : Commissioner, Customs (Preventive) and ors.

Disposition : Petition dismissed

Judgement :

T. Vaiphei, J.

1. This Revision petition is directed against the judgment and order dated 4.5.2007 passed by the learned District Judge, Shillong in FAO No. 2(H) 2007 holding that the learned Munsiff, Shillong has no jurisdiction to try the dispute raised by the petitioners questioning the applicability of Central Government Health Scheme among the employees of Customs (Preventive) Headquarter, Shillong, as the same is a service matter, which cannot be tried by a civil court in view of the bar imposed by Section 14 of the Administrative Tribunals Act, 1985 (the 'Act' for short).

2. I have heard Mr. M.F. Qureshi, the learned Counsel for the petitioners and Mr. R. Debnath, the learned CGC appearing for the respondents.
3. The facts material for disposal of this revision petition are that the petitioners are employees of the Central Government in the Central Excise and Custom Office, Department of Revenue, Shillong and that they are aggrieved by the introduction of Central Government Health Scheme (CGHS) to their Department. As per the Scheme, which was extended since October 2006, a fixed amount is being deducted from the salary of the petitioners for contribution to the CGHS dispensary at Shillong. According to the petitioners, the Scheme is tantamount to forcing them to take treatment from the dispensary maintained under the CGHS at Shillong which has no experienced medical doctors, nursing staff, chemists or sufficient medicines, not to speak of, lack of adequate medical infrastructures and facilities. Apprehending that they would be denied of minimum health care by the introduction of the CGHS, they filed a civil suit being TS No. 11(H) 2007 before the learned Munsiff, Shillong for declaration and permanent injunction. Simultaneously, the petitioners also filed an application under Order 39, Rules 1 and 2 of the Code of Civil Procedure for granting temporary injunction against the respondents restraining them from deducting the contribution to be made by them under the Scheme from their salaries. The learned Munsiff, by the order dated 27.3.2007 allowed the prayer and directed the respondents to maintain statusquo as on 28.3.2007 in relation to deduction of the salaries of the petitioners for contribution to the CGHS every month. Aggrieved by this, the respondents filed an appeal being FAO No. 2(H) 2007 before the learned District Judge, Shillong contending, inter alia, that the civil suit instituted by the petitioners itself is not maintainable since the dispute raised therein is a service matter which can be entertained only by the Central Administrative Tribunal constituted under Section 14 of the Act. The appellate court found force with the contention of the respondents and allowed the appeal in the manner indicated earlier. It is this judgment which is under challenge in this revision petition filed by the petitioners.
4. I have carefully gone through the impugned judgment passed by the learned District Judge, Shillong. A perusal of the impugned judgment will show that the appellate court has elaborately discussed the provisions of the Central

Administrative Tribunals Act, 1985 and thereafter came to the conclusion that the learned Munsiff has no jurisdiction to try the service matter or matter related to service. After hearing the learned Counsel for the petitioners and the learned CGC, I am of the view that this revision petition has no merit and must meet the same fate. Section 14 of the Act provides that the Central Administrative Tribunal shall exercise all the jurisdiction, powers and authority exercisable immediately before the appointed day, by all courts except the Supreme Court in relation to, among others, all service matters. Section 3(q) of the Act defines 'service matters', to mean all matters relating to the conditions of service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any corporation or society owned or controlled by the Government as respects, among others, any other matter whatsoever. In my considered view, the term, 'any other matter whatsoever' is comprehensive enough to include all kinds of service matters including conditions of service of the employees governed by the Act.

5. The Central Government Health Scheme was introduced with a view to providing comprehensive medical facilities to the Central Government employees and their family members. In other words, the Scheme has been made to grant medical facilities to the employees of the Central Government governed by the Act. The medical facilities being extended under the Scheme is necessarily a condition of service and comes within the purview of any other matter whatsoever engrafted in Section 3(q)(v) of the Act. If the petitioners have any grievance against the extension of this Scheme to them or are questioning the adequacy or otherwise of the facilities given under the Scheme, their remedy lies in approaching the Central Administrative Tribunal constituted under the Central Administrative Tribunals Act, 1985. The Scheme of the Act does not contemplate a remedy before a civil court. In this view of the matter, there is no infirmity in this findings of the appellate court.

6. For the reasons stated in the foregoing, this revision petition is devoid of merits and is liable to be dismissed, which I hereby do. However, on the facts and circumstances of the case, the parties are directed to bear their own costs

throughout.

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