

P.S.R. Krishna and ors. Vs. Union of India (Uoi) Rep., by Its Secretary, Ministry of Communication and Information Technology and ors.

P.S.R. Krishna and ors. Vs. Union of India (Uoi) Rep., by Its Secretary, Ministry of Communication and Information Technology and ors.

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Court : Andhra Pradesh

Decided On : Sep-27-2006

Reported in : 2006(6)ALT593

Judge : B. Prakash Rao and ;Ramesh Ranganathan, JJ.

Acts : [Companies Act, 1956](#); [Administrative Tribunals Act, 1985](#) - Sections 1(2), 3, 4, 4(1), 4(2), 5, 5(6), 5(7), 14, 19, 25, 28, 35 and 36; Employees Provident Fund Act; Central Excise Act; Contempt of Courts Act; [Constitution of India](#) - Articles 32, 136, 139A, 226, 226(1), 226(2), 226A, 227, 309, 323A and 323B; [Constitution of India](#) (Fifteenth Amendment) Act, 1963; [Constitution of India](#) (Forty Second Amendment) Act, 1976; [Constitution of India](#) (Forty Fourth Amendment) Act, 1978; [Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act \(SARFAESI\), 2002](#); Code of Civil Procedure (CPC) - Sections 11, 15 to 20, 23, 24, 25 and 141; Telecom Engineering Services Class-I Recruitment Rules, 1965; Indian Telecommunication Services (Group-A) Recruitment Rules, 1992; C

Appeal No. : W.P. No. 25511 of 2005 and C.C. No. 331 of 2006

Appellant : P.S.R. Krishna and ors.

Respondent : Union of India (Uoi) Rep., by Its Secretary, Ministry of Communication and Information Technology an

Advocate for Def. : P.P. Malhotra, Addl Solicitor General for Respondent Nos. 1 to 3

Advocate for Pet/Ap. : Nooty Ram Mohan Rao, ;J. Sudheer and ;V. Hari Haran, Advs.

Judgement :

ORDER

Ramesh Ranganathan, J.

1. Seeking to have the order of the Central Administrative Tribunal, Hyderabad Bench in O. A. No. 358 of 2005, on its being renumbered as O.A. No. 1954 of 2005 dated 31 -10-2005 before the Principal Bench of the Central Administrative Tribunal, New Delhi, quashed, W.P. No. 25511 of 2005 is filed.

2. Sri N. Janardhan Rao and 25 others, (Applicants in O.A. No. 330 of 2005 before the Central Administrative Tribunal, Hyderabad, which was renumbered as O.A. No. 1959 of 2005 before the Central Administrative Tribunal Principal Bench, New Delhi), have filed W.P. No. 26712 of 2005 questioning the order of the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 1959 of 2005 and batch dated 31-10-2005 and the absorption process of ITS Group-A officers, as contemplated in proceedings dated 24-03-2005, as arbitrary and illegal.

3. Sri G. Parameswar Reddy, (General Manager, West, Hyderabad Telecom District, Bharat Sanchar Nigam Limited), has filed W.P. No. 12161 of 2006 before this Court to quash the order of the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 1954 of 2005 and batch and for a consequential direction to declare that the absorption process of ITS Group-A officers, as contemplated in proceedings dated 24-03-2005, is illegal and arbitrary.

4. Sri R.N. Jyothirlingam, Deputy General Manager (Billing) BSNL Telecom Bhavan, Hyderabad, along with 70 others, has filed W.P. No. 25531 of 2005 to quash the order of the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 1959 of 2005 dated 31-10-2005, and the circular letter dated 24-03-

2005, as arbitrary and illegal. The petitioners herein were repatriated, to their parent Department of Telecommunications, vide order dated 18-10-2005. Aggrieved thereby, they approached the Central Administrative Tribunal, Hyderabad Bench and filed O.A. No. 858 of 2005 and the Tribunal, by order dated 24-10-2005, directed that the order dated 18-10-2005 be kept in abeyance and gave liberty to the respondents to approach the Principal Bench seeking transfer of the case. Even before the transfer application came up for hearing, the Principal Bench had passed final orders, in O.A. No. 1963 of 2005 and batch, on 31-10-2005. Consequent thereto, BSNL issued letter dated 11-11-2005 extending the date for submission of options upto 30-11-2005. On the ground that O.A. No. 858 of 2005 could not be disposed of, before the last date for submission of options on 30-11-2005, the petitioners herein have approached this Court by way of the present writ petition.

5. The Division Bench of this Court, in W.P.M.P. No. 32832 of 2005 in W.P. No. 25531 of 2005 dated 30-11-2005, granted interim suspension of the impugned proceedings dated 24-03-2005 read with the consolidated general terms and conditions circulated vide letter dated 04-10-2005 and the order of the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 1959 of 2005 dated 31-10-2005. Contending that the interim order of this Court was an order in rem, and not in personem, and alleging violation of the said orders, the petitioners in W.P. No. 25531 of 2005 have filed C.C. No. 331 of 2006. The petitioners contend that O.A. No. 858 of 2005 filed by them, before the Central Administrative Tribunal, Hyderabad Bench, was transferred to the Principal Bench, New Delhi without even putting them on notice, that it was renumbered as O.A. No. 299 of 2006 and disposed of along with similar transfer applications on 28-02-2006, despite the fact that W.P. No. 25531 of 2005 was pending before this Court and that the Principal Bench at New Delhi had passed orders on 28-02-2006 disposing of all the transfer petitions reiterating their earlier orders in O.A. No. 1963 of 2005 & batch dated 31-10-2005, with the further addition that those, amongst the applicants, who had not exercised their option so far, were allowed a further time of ten days, from 28-02-2006, to exercise their options.

6. Can a writ petition be filed before the Andhra Pradesh High Court, under Article 226 of the [Constitution of India](#), against the order of the Principal Bench of the Central Administrative Tribunal, New Delhi to which bench the O.A, originally instituted before the Hyderabad bench of C.A.T, was transferred to? Are individual members, of an unregistered Association, entitled to file separate writ petitions in different High Courts against the orders passed by the Tribunal in their respective O.As, when the Association has itself filed a writ petition before the Delhi High Court against the order passed in the O.A. instituted by it before the Principal bench of C.A.T, New Delhi? These are some of the questions which we are now called upon to answer on the preliminary objections raised by the respondents herein to the maintainability of these writ petitions.

7. While Sri Nooty Ramamohan Rao, Sri J. Sudheer, and Sri V. Hariharan, learned Counsel for the petitioners, would urge this Court to examine the order of the Tribunal on merits, Sri. P.P. Malhotra, learned Additional Solicitor General, would seek a decision first on these preliminary objections raised by the respondents to the maintainability of the writ petition. We have neither been apprised of the entire gamut of controversy nor the complete facts necessary for adjudication of the order of the Tribunal on merits. We have, therefore, confined our examination only to the objections raised by the respondents to the maintainability of these writ petitions.

8. Facts, necessary to decide the questions relating to the maintainability of these writ petitions, may briefly be taken note of. It would suffice if the facts in W.P. No. 25511 of 2005 are considered. Petitioners were all recruited to the Indian Telecommunications Services (ITS) Group-A. They were subsequently promoted to the next higher Grade in ITS Group-A purely on a temporary and adhoc basis. Recruitment to Telecom Engineering Services (Class-I) was hitherto governed by the Telecom Engineering Services Class-I Recruitment Rules, 1965 and was later replaced by the Indian Telecommunication Services (Group-A) Recruitment Rules, 1992 which came into force on 06-06-1992.

9. The Department of Posts and Telegraphs was bifurcated into two departments in 1985. The Mahanagar Telecom Nigam Limited was established in the year

1986, from out of the Department of Telecommunications, for the Metropolitan Cities of Delhi and Bombay. Two other departments were created under the overall administrative control of the Department of Telecommunications i.e., the Department of Telecom Services (DTS) and the Department of Telecom Operations (DTO). Pursuant to the Telecom Policy 1999, the Government of India decided to transfer the business of providing Telecom Services, hitherto with the Departments of Telecom Services and Telecom operations, to M/s. Bharat Sanchar Nigam Limited, a newly formed company registered under the provisions of the Indian [Companies Act, 1956](#), with effect from 01-10-2000. The procedure, and the manner in which various functions of BSNL and DOT were required be carried out, was spelt out by the government in its office memorandum dated 30-09-2000. The Central Civil Services (Pension) Amendment Rules, 2000 were made and Rule 37-A was inserted in the Central Civil Services (Pension) Rules 1972. The Group-A officers of ITS/TFS were called upon to exercise their option for absorption into MTNL/BSNL pursuant to the impugned office memorandum dated 30-09-2000. The 1st respondent, vide proceedings dated 24-03-2005, called for options for absorption of Group-A officers of Indian Telecom Services (ITS)/Telegraph Traffic Service (TTS)/Telecom Factories Service (TFS) in MTNL/BSNL. By order dated 15-04-2005 it was clarified that the last date of receipt of options was 16-05-2005.

10. Aggrieved by the terms and conditions, of the order dated 24-03-2005, the petitioners herein submitted representations. As there was no response thereto, the petitioners filed O.A. No. 358 of 2005 before the Central Administrative Tribunal Hyderabad Bench on 01 -05-2005 challenging the legality and validity of the order of the 1st respondent dated 24-03-2005. The Union of India instituted transfer applications, before the Principal Bench of the Central Administrative Tribunal, New Delhi, to have the O.As pending before the Hyderabad Bench transferred to the Principal Bench at New Delhi. The Central Administrative Tribunal, Principal Bench, New Delhi, passed a common order on 12-08-2005, in the transfer petitions filed by Union of India and others, holding that, since a large number of petitions had been filed in different benches of the Central Administrative Tribunal pertaining to the options called for, it would be appropriate that all the petitions were transferred and withdrawn to the Principal Bench at New

Delhi to avoid contradictory orders. The Principal Bench allowed the transfer petitions and directed that all the petitions be taken on its Board.

11. Challenging the vires of Section 25 of the Administrative Tribunals Act, and seeking a direction to set aside the order passed by the Central Administrative Tribunal, Principal Bench, New Delhi dated 12-08-2005, Sri N. Ramakrishna, one of the applicants in O.A. No. 330 of 2005 before the Central Administrative Tribunal, Hyderabad Bench, Hyderabad, (which O.A, on its transfer to the Principal Bench New Delhi, was renumbered as O.A. No. 1954 of 2005), filed W.P. No. 17770 of 2005 before this Court. The Division Bench, in its order dated 14-09-2005, observed that, as it was an order arising out of the Central Administrative Tribunal, Principal Bench, New Delhi, the remedy open to the petitioner was to approach the Delhi High Court against the said order, which Court had the power to review the same and also the legality of the order and that, under the circumstances, there was no reason to interfere with the impugned order. The Division Bench observed that Section 25 of the Administrative Tribunals Act was in vogue since 1986 onwards. The writ petition and the miscellaneous petitions were dismissed.

12. The Indian Telecom Services Association filed O.A. No. 1963 of 2005 before the Principal Bench of the Central Administrative Tribunal at New Delhi, long after O.A. Nos. 330 and 358 of 2005 were filed, by the petitioners herein, before the Central Administrative Tribunal, Hyderabad bench. Along with several transferred O.As, O.A. No. 1963 of 2005 was also heard and the Central Administrative Tribunal, Principal Bench, New Delhi, in its order dated 31-10-2005, expressed its anguish about the manner in which the ITS association, and its individual members, had filed series of petitions on the same subject before various benches of the Tribunal and different High Courts in the country. The Tribunal noted the submissions of the learned Additional Solicitor General that the applicants had filed nine cases before different High Courts and 37 cases before various benches of the Tribunal and that the applicants had abused the process of law and had resorted to bench hunting on the same issue. The Tribunal also took note of the submissions that the alleged misdemeanor of the applicants and their conduct disentitled them to the relief claimed in the O.As. The Tribunal, in its order dated

31-10-2005, observed:

In majority of OAs under consideration here the ITS Association or its members have filed series of petitions/applications before various High courts and different Benches of this Tribunal on the same cause of action. This indeed is a flagrant abuse of the process of law and casts a serious doubt on intellectual integrity of the concerned Association or its members. We cannot approve such a tendency on their part. Basically, following the settled law on this aspect, their O.As could have been dismissed outrightly. However, instead of taking a technical view of the matter, we have considered them on merits

13. The O.As were all disposed of directing the Secretary, Department of Telecommunications, New Delhi to extend the date of submissions of options upto 30th November 2005, and that, thereafter, the respondents were at liberty to take an appropriate decision on such options within a reasonable period of three months.

14. Even prior to final orders being passed, in O.A. Nos. 1963 of 2005 & batch, dated 31-10-2005, Transfer Petition (Civil) No(s)1028-1040 of 2005 were filed by the Union of India, and others including BSNL, before the Supreme Court under Article 139A of the [Constitution of India](#) seeking transfer of the writ petitions, then pending before the Delhi, Allahabad, Uttaranchal and Gauhati High Courts, to the Supreme Court. In the aforesaid transfer petitions it was stated that, in addition to the seven writ petitions filed in different High Courts, about 37 Original Applications were filed before various Benches of the Central Administrative Tribunal all over the country, by various individuals and/or Associations of Group A officers, seeking the same and/or substantially the same relief. The Supreme Court, in Transfer Petition (Civil) Nos. 1028 to 1040 of 2005, dated 25-11 -2005, passed the following order:

Issue notice.

We are making it clear that during the pendency of the application for transfer none of the proceedings are stayed

15. A similar challenge to the circular dated 24-03-2005, in W.P. No. 87 of 2005 before the Uttarakhand High Court, was rejected by the Division Bench of the Uttarakhand High Court in its order dated 22-11-2005. The Uttarakhand High Court held that since the issues raised were matters falling within the jurisdiction of the Administrative Tribunal, in view of the decision of the Apex Court in *L. Chandra Kumar v. Union of India* : [1997]228ITR725(SC) , it was not open for the petitioner to directly approach the High Court and that the writ petition filed directly was not maintainable. The Division bench also noted that the petitioners were all members of the Indian Telecom Service Association which had filed O.A. No. 1963 of 1995 (sic. 2005) before the Central Administrative Tribunal, Principal bench, New Delhi. The contention urged on behalf of the petitioners, that the Association was not a Registered Association, was negated and the Division Bench held that the practice of the Association moving one forum and its individual members moving different forums in various parts of the country, raising identical issues and seeking identical reliefs, could not be encouraged. The Division Bench noted that the Tribunal had itself deprecated the conduct of the Association, and its members, in its order in O.A. No. 1963 of 2003 and, in such circumstances, declined to exercise its jurisdiction under Article 226 of the [Constitution of India](#).

16. Aggrieved by the order of the Principal Bench of the Central Administrative Tribunal, New Delhi, dated 31-10-2005, the Indian Telecom Services Association, which had directly instituted O.A. No. 1963 of 2005, before the Principal Bench at New Delhi, filed a writ petition before the Delhi High Court. The petitioners herein, who had instituted separate O.As before the Hyderabad Bench of the Central Administrative Tribunal, and whose O.As had been transferred to the Principal Bench of the Central Administrative Tribunal at New Delhi by order dated 12-08-2005, have, however, invoked the jurisdiction of this Court under Article 226 of the [Constitution of India](#).

17. The maintainability of these writ petitions is under challenge, by the respondents in these writ petitions, on the following grounds:

1. Since the order under challenge is that of the Principal Bench of the Central Administrative Tribunal at New Delhi, it is only the Delhi High Court which has

territorial jurisdiction and not the A.P. High Court.

2. Since the appellants are members of the Indian Telecom Services Association, and as the Association has already filed a writ petition before the Delhi High Court, individual members of the Association are not entitled to file separate writ petitions against the order of the Central Administrative Tribunal. Their act of filing these writ petitions amounts to 'forum shopping'.

3. Even if the individual members are held to be entitled to file separate writ petitions, they could only do so before the Delhi High Court since the Association has already filed a Writ Petition before the Delhi High Court.

4. Since institution of the writ petition before the Delhi High Court, by the Association, was prior to the present writ petitions being filed by its individual members before the A.P. High Court, this Court should refuse to exercise its discretion to entertain the writ petition on the ground of 'Forum Conveniens', as it is convenient, for the Union of India and to Bharat Sanchar Nigam Limited, if all writ petitions were heard together by the Delhi High Court instead of their having to defend their action in different High Courts all over the country.

18. Sri P.P. Malhotra, Learned Additional Solicitor General, appearing on behalf of the respondents in these writ petitions, would submit that all the petitioners herein are members of the Indian Telecom Service Association. He would rely on the judgment of the Uttaranchal High Court and the order of the Principal Bench of CAT, New Delhi to contend that it was not open to individual members to file separate O. As. in different Benches of the Tribunal or Writ Petitions before different High Courts as it amounted to 'Forum Shopping', and since the Association has already filed a Writ Petition in the Delhi High Court, the grievance, if any, of the petitioners, against the order of the Tribunal in the O.As filed by them, can only be agitated before the Delhi High Court. Learned Additional Solicitor General would reiterate that, since the Delhi High Court is seized of the matter, this Court should refuse to exercise its discretion to entertain the writ petition, filed by the individual members, on the doctrine of 'Forum Convenient'. Learned Additional Solicitor General would submit that since the Division Bench of this Court, in W.P. 17770 of 2005, has already held that the only remedy available to

question the order of the Central Administrative Tribunal, Principal Bench at New Delhi, is before the Delhi High Court, the said judgment is binding on a co-ordinate Bench of this Court and the petitioners must therefore be relegated to approach the Delhi High Court and should not be permitted to challenge the order, of the Principal Bench of the Central Administrative Tribunal, New Delhi in O.A. No. 1963 of 2005 & batch dated 31-10-2005, before this Court. Learned Additional Solicitor General, would refer to the judgment of the Apex Court in L. Chandra Kumar (supra), and to Explanation VI of Section 11 of the Civil Procedure Code, to submit that this Court does not have territorial jurisdiction, to entertain the writ petition, filed against the order of the Principal Bench of the Central Administrative Tribunal at New Delhi, since the order of the Tribunal can be challenged only before the High Court within whose territorial jurisdiction the Tribunal concerned falls. According to the Learned Additional Solicitor General, since the Principal Bench of C.A.T. at New Delhi falls within the territorial jurisdiction of the Delhi High Court, it is only the Delhi High Court whose jurisdiction can be invoked by the petitioners herein and not any other High Court in the country. Learned Additional Solicitor General would submit that, since the order of the Principal Bench at New Delhi is the final outcome of the entire cause of action, the cause of action in its entirety must be held to have arisen only at New Delhi and as such it is only the Delhi High Court which has the territorial jurisdiction and not the A.P. High Court. Learned Additional Solicitor General would place reliance on *Kendriya Vidyalaya Sangathan v. Subhas Sharma* : (2002)IILLJ448SC ; *Arun Agarwal v. Nagreeka Exports* : (2002)10SCC101 ; *Union of India v. Adani Exports Ltd.* : 2001(134)ELT596(SC) ; *L. Chandra Kumar* (1 supra); *Kusum Ingots & Alloys Ltd. v. Union of India* : 2004(186)ELT3(SC) and *Shree Subhlaxmi Fabrics (P) Ltd. v. Chand Mal Baradia* : AIR 2005 SC2161 . Learned Additional Solicitor General would place reliance on the interim order passed by the Delhi High Court, in the writ petition filed by the ITS Association, that any option exercised by the petitioners, in terms of the impugned order or any other order passed by the respondents during the pendency of the writ petition, would be subject to the result of the writ petition and, in case the petition is allowed and any adverse order is passed by the respondent against the petitioners, the same would abide by the final orders to be passed in the Writ Petition. Learned Additional Solicitor-General

would contend that, even if the writ petitions filed before this Court were held to be maintainable, uniformity would necessitate a similar interim order being passed by this Court and that the earlier interim order be vacated. Reference is also made to the fact that the Karnataka High Court had also vacated the interim order on 29-11-2005.

19. Sri Nooty Ramamohan Rao, learned Counsel for the petitioners, would submit that there is only one forum constituted as a Tribunal, under the Administrative Tribunals Act, called the 'Central Administrative Tribunal', that it is only for the purpose of convenience that several coordinate benches of the Tribunal are constituted all over the country, that the Principal Bench at New Delhi does not exercise appellate or revisional powers over other benches of the Tribunal and that the power conferred on it, under Section 25 of the Administrative Tribunals Act, is merely to transfer cases from one bench of the Tribunal to another. Learned Counsel would contend that these procedural safeguards, of cases being transferred from one bench of the Tribunal to another, is only for the convenience of litigants, to provide an inexpensive redressal mechanism and that, in the present case, the order of the Principal Bench dated 12-8-2005, transferring the original applications, filed before different benches of the Tribunal, to the Principal Bench at New Delhi, was only to avoid conflicting decisions of coordinate benches which would have caused needless inconvenience. According to the learned Counsel, since the Central Administrative Tribunal functions in benches throughout the country, the mere fact that the OAs were heard by the Principal Bench located at New Delhi, would not denude this Court of territorial jurisdiction. Learned Counsel would submit that all the petitioners are Central Government employees in Group 'A' services and, as a substantial part of the cause of action has arisen within the territorial jurisdiction of this Court, the petitioners, as citizens, are entitled to invoke its jurisdiction under Article 226 of the [Constitution of India](#). Learned Counsel would submit that, since the very amendment to Article 226 of the [Constitution of India](#), was meant to provide inexpensive access to justice, accepting the contention of the learned Additional Solicitor General, would, in effect, frustrate the very object of such an amendment. Learned Counsel would submit that as this Court would have territorial jurisdiction, even if a part of the cause of action has arisen within its territorial limits, ouster of its jurisdiction should

not be readily inferred unless specifically provided for. According to the learned Counsel, it is not as if petitioners herein had, voluntarily, and on their own volition, approached the Principal Bench of the Central Administrative Tribunal, New Delhi questioning the impugned proceedings dated 24-03-2005. They had filed the O.A. before the Hyderabad bench of the Central Administrative Tribunal, since a substantial part of the cause of action had arisen within the State of Andhra Pradesh, and it was only at the behest of the respondents, and by virtue of the powers exercised by the Principal Bench under Section 25 of the Administrative Tribunals Act, were their O. As transferred to the Principal Bench at New Delhi. Learned Counsel would submit that, but for the judicial dicta of the Apex Court in L Chandra Kumar (1 supra) requiring an aggrieved person to invoke the jurisdiction of the Tribunal at the first instance, the petitioners could have directly invoked the jurisdiction of this Court under Article 226 of the [Constitution of India](#) since a part of cause of action had arisen within its territorial limits and, by mere reason of their applications being transferred to New Delhi, the jurisdiction of this Court, under Article 226 of the [Constitution of India](#), was not ousted. Learned Counsel would submit that, as the Principal Bench at New Delhi had merely decided an O.A, originally instituted by the petitioners at Hyderabad, the jurisdiction of the A.P. High Court, is not denuded since a substantial part of cause of action has arisen within its territorial limits. Learned Counsel would place reliance on Kendriya Vidyalaya Sangathan (supra) in this regard. Learned Counsel would submit that, it is only in exceptional circumstances where a very small part of the cause of action has arisen within its territorial jurisdiction, and if it were of the view that it would be convenient for the matter to be heard and decided by another High Court within whose territorial jurisdiction a substantial part of the cause of action has arisen, would this Court be justified in refusing to exercise its discretion to entertain a writ petition on the ground of 'Forum Conveniens'. Learned Counsel would submit that, normally, 'convenience' is that of the citizen or the suitor, and not that of the Union Government or the BSNL. He would place reliance on Kusum Ingots & Alloys Ltd. (supra). Learned Counsel would submit that the contention of 'forum shopping' is without any basis since the petitioners had the right to invoke the jurisdiction of the Central Administrative Tribunal, Hyderabad Bench and had, in fact, done so even prior to O.A. No. 1963 of 2005, being filed by the Indian Telecom Services

Association before the Principal Bench at New Delhi. Learned Counsel would submit that the respondents had not raised this plea of 'forum shopping' when the petitioners herein had filed their Original Applications before the Hyderabad Bench of the Central Administrative Tribunal and had merely sought for its transfer under Section 25 of the Administrative Tribunals Act on the plea that it would be convenient if all the O. As were heard together. According to the Learned Counsel, since the respondents had not objected to the institution of the O. As. by individual members of the Association, when the O.As. were originally filed by them before the Hyderabad bench, it was not open for them to now contend that since the Indian Telecom Services Association had filed a Writ Petition before the Delhi High Court, the petitioners herein, being members of the Association, were not entitled to file writ petitions, against the order of the Principal Bench, New Delhi in the OAs filed by them, before any High Court other than the Delhi High Court. Learned Counsel would submit that merely because the Indian Telecom Services Association had filed a writ petition before the Delhi High Court, the choice of forum of the petitioners herein could not be restricted only to the Delhi High Court, that it was not open to the respondents to dictate before which High Court the order of the Principal Bench of the Central Administrative Tribunal should be challenged, and as the cause of action, in part, may arise in different High Courts, it is for the suitor, more particularly the citizen, to make a choice of the High Court whose jurisdiction he intends to invoke. Learned Counsel would submit that if the respondents were of the view that the writ petitions filed in different High Courts should be heard together it was open for them to seek leave of the Supreme Court under Article 139A of the [Constitution of India](#). Learned Counsel would submit that a similar request, made earlier by the respondents, had been negatived by the Supreme Court and the proceedings before different High Courts were permitted to be proceeded with. Learned Counsel would submit that the mere fact that the Association had approached the Delhi High Court would not disentitle the individual members from agitating the individual issues raised by them in their respective O.As before this Court, and while the Association may agitate issues which the Association, as a body representing Class-A Officers, is concerned with, there could be distinct individual issues which would necessarily have to be agitated by the individuals in their respective O.As. Learned Counsel would point

out that the relief sought for in the writ petition filed by the Indian Telecom Services Association is distinct from the relief sought for by the petitioners and, while the Association had challenged the vires of Rule 37-A of the CCS Pension Rules, the petitioners herein had merely sought for implementation of Rule 37-A(4). Learned Counsel would contend that, since the scope of enquiry in the writ petition filed by the Association is not identical to that of the writ petitions filed by the petitioners herein, the contention that it is convenient to hear these writ petitions together is without basis. Learned Counsel would submit that the relief sought for in prayer (e) of the present writ petition is an individual relief confined to the petitioners and is not among the reliefs sought for by the Association in the writ petitions filed by it before the Delhi High Court. Learned Counsel would submit that the mere fact that the Association had approached the Delhi High Court could not result in fetters being placed on the exercise of judicial review, by this Court, under Article 226 of the [Constitution of India](#).

20. Sri J. Sudheer, learned Counsel for the petitioners, would submit that the power of judicial review under Article 226 of the [Constitution of India](#), a part of the basic structure of the [Constitution of India](#), cannot be taken away by an order passed under Section 25 of the Administrative Tribunals Act. According to the Learned Counsel, requiring the O.A originally instituted before the Hyderabad Bench of the Central Administrative Tribunal, (as a substantial part of cause of action had arisen within the State of A.P.), on its transfer to the Principal Bench at New Delhi under Section 25 of the Administrative Tribunals Act, to be challenged only before the Delhi High Court would, in effect, result in the power of judicial review of the A.P. High Court being taken away by the exercise of the statutory power under Section 25 of the Administrative Tribunals Act. Learned Counsel would submit that, since the basic features of the Constitution cannot be obliterated even by a Constitutional Amendment, the contention that it could be set at naught, by the exercise of a statutory power, must be rejected. Learned Counsel would submit that, as long as a part of the cause of action has arisen within its territorial limits, this Court would not, normally, refuse to exercise jurisdiction merely because another High Court is seized of a similar issue. Learned Counsel would rely on *Y. Abraham Ajith v. Inspector of Police* : 2004 CriLJ4180 , *Swamy Atmananda v. Sri Ramakrishna Tapovanam* : AIR 2005

SC2392 and Omprakash Srivastava v. Union of India : (2006)6SCC207 , to submit that since a substantial part of the cause of action has arisen within the State of A.P., this Court has jurisdiction to entertain the writ petition. Learned Counsel would contend that the judgment of the Apex Court in L. Chandra Kumar (supra) cannot be read out of context or as a statute. Learned Counsel would submit that, since the order of the Principal Bench of the Central Administrative Tribunal dated 31-10-2005, along with several other factors, forms part of the cause of action and is not the sole factor, it neither results in ouster of jurisdiction of the A.P. High Court nor does it deprive the petitioners of their constitutional right to seek judicial review before this Court under Article 226 of the [Constitution of India](#). Learned Counsel would submit that since the High Court, under Article 226 of the [Constitution of India](#), exercises judicial superintendence over Administrative Tribunals, the Tribunal, by an order under Section 25 of the Administrative Tribunals Act, cannot negate exercise of such power. Learned Counsel would rely on Sections 23, 24 and 25 of the Civil Procedure Code to submit that the power of transfer is always exercised by a higher Court to transfer cases from one lower Court to another and while a higher Court could, by an order of transfer, take away the jurisdiction of a lower Court, it was not open to a lower Court to take away the jurisdiction of a higher Court. Learned Counsel would submit that, at best, the High Court could, on its own, part with its jurisdiction and that such a power could not be usurped by the Tribunal on the plea of 'Forum Conveniens'. Learned Counsel would submit that the very purpose of constituting different benches of the Tribunal, all over the country, was the convenience of a citizen, that the convenience of a suitor or a citizen would be the primary consideration in deciding the convenient forum and that the convenience of the respondents located at New Delhi can never be the criteria to decide as to whether the A.P. High Court should exercise or refuse to exercise its jurisdiction on the ground of 'Forum Conveniens'. Learned Counsel would rely on Director General Ordnance Factories Employees' Association v. Union of India and Director General Ordnance Factories : (1970)ILLJ707Cal to submit that it is the writ petition, filed by the ITS Association at New Delhi, which is not maintainable since the ITS Association, being an unregistered body, was not entitled to invoke the jurisdiction of the Delhi High Court under Article 226 of the [Constitution of India](#) and that the individual

members of the association, were entitled to agitate their individual grievances before the appropriate High Court within whose territorial jurisdiction the cause of action, either wholly or in part, has arisen. Learned Counsel would submit that O.A. No. 1954 of 2005, filed by the petitioners in W.P. No. 25511 of 2005, was also transferred along with other O.As and, while the respondents had sought transfer of the O.A. from the Hyderabad Bench to the Principal Bench at New Delhi, it was not contended that since the O.A. filed by the ITS Association was being heard, the O.A. filed by the individual members should not be entertained at all.

21. Sri V. Hariharan, learned Counsel for the petitioners in W.P. Nos. 26712 of 2005 and 12161 of 2006, would submit that the petitioners herein had filed O.A. No. 330 of 2005 before the Central Administrative Tribunal, Hyderabad bench in April 2005, that an interim order was passed in their O.A. by the Hyderabad bench on 03-05-2005, and since the O.A. instituted by the ITS Association before the Principal bench at New Delhi was only in June 2005, long after the petitioners had approached the Central Administrative Tribunal Hyderabad bench, the petitioners, having filed their O.A. earlier, could not be accused of 'Forum Shopping'. Learned Counsel would submit that only one, amongst the several applicants in O.A. No. 330 of 2005, had filed W.P. No. 17770 of 2005, and it is only in so far as that individual is concerned was the judgment in W.P. No. 17770 of 2005, (a judgment inter-parties and which has attained finality), binding, and with regards the other applicants, as they were not parties to W.P. No. 17770 of 2005, it would, at best, constitute a precedent and would not be automatically binding. Learned Counsel would submit that, since the question as to whether the A.P. High Court had territorial jurisdiction to entertain a challenge to the order passed in an O.A, instituted earlier before the Hyderabad bench of the Central Administrative Tribunal and later transferred under Section 25 of the Administrative Tribunals Act to the Principal bench at New Delhi, was not in issue before the Division bench of this Court in W.P. No. 17770 of 2005 and in as much as it was only the vires of Section 25 of the Administrative Tribunals Act which was the subject matter of challenge in the writ petition, the observations made by the Division bench would not constitute a binding precedent. Learned Counsel would submit that the judgment of this Court, in W.P. No. 17770 of 2005, is neither a binding precedent

nor would it amount to res judicata disentitling the other applicants in the said O.A. from invoking the jurisdiction of this Court. Learned Counsel would submit that there are several Tribunals located, under different enactments, in different parts of the country such as the Appellate Authority under the Employees Provident Fund Act, the Tribunals constituted under the Companies Act, the Central Excise Act etc, and, as long as a part of cause of action arises within the State of A.P, the aggrieved party is always entitled to invoke the jurisdiction of this Court, under Article 226 of the [Constitution of India](#), against the order of these Tribunals, wherever they may be located, even if their location is outside the territorial limits of this Court.

22. Before we consider the rival contentions, it is useful to extract the relevant Constitutional and Statutory provisions and the applicable rules. Article 226 of the [Constitution of India](#) confers powers on the High Court to issue writs.

226. Power of High Courts to Issue certain writs:

(1) Notwithstanding anything in Article 32 every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories, directions, orders or writs, including, [writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari or any of them for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred by Clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

[(3) Where any party against whom an interim order whether by way of injunction or stay or in any other manner, is made on. or in any proceedings relating to, a petition under Clause (1). without-

(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order, and

(b) giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or as the case may be, the expiry of the said next day. stand vacated.

(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by Clause (2) of Article 32.

23. The [Administrative Tribunals Act, 1985](#), under Section 1(2)(a) thereof, extends, in so far as it relates to the Central Administrative Tribunal, to the whole of India. Section 3(aa) defines 'Administrative Tribunal' in relation to a State, to mean an Administrative Tribunal for the State or, as the case may be, the Joint Administrative Tribunal for that State and any other State or States. Section 3(d) defines 'appropriate Government' to mean (i) in relation to the Central Administrative Tribunal or a Joint Administrative Tribunal, the Central Government; (ii) in relation to a State Administrative Tribunal, the State Government. Section 3(e) defines 'Bench' to mean a Bench of a Tribunal. Section 3(f) defines 'Central Administrative Tribunal' to mean the Administrative Tribunal established under Sub-section (1) of Section 4. Section 3(q) defines 'service matters and Section 3(t) defines Tribunal' to mean the Central Administrative Tribunal or a State Administrative Tribunal or a Joint Administrative Tribunal.

24. Chapter II of the Administrative Tribunals Act relates to establishment of Tribunals and Benches and under Section 4 thereof, the Central Government shall, by notification, establish an Administrative Tribunal to be known as the Central Administrative Tribunal, to exercise jurisdiction, powers and authority

conferred on the Central Administrative Tribunal by, or under, the Administrative Tribunals Act. Section 4(2) enables the Central Government, on receipt of a request in this behalf from any State Government, to establish, by notification, an Administrative Tribunal for the State to be known as the State Administrative Tribunal to exercise jurisdiction, powers and authority conferred on the Administrative Tribunal for the State by, or under, the Administrative Tribunals Act. Section 5 relates to composition of Tribunals and Benches thereof. Sub-section (7) of Section 5 provides that, subject to the other provisions of the Act, the Benches of the Central Administrative Tribunal shall ordinarily sit at New Delhi, (shall be the Principal Bench), Allahabad, Calcutta, Madras, New Bombay and at such other places as the Central Government may, by notification, specify.

25. Chapter III relates to Jurisdiction, powers and authority of Tribunals and Section 14 thereunder relates to the Jurisdiction, Powers and Authority of the Central Administrative Tribunal. Chapter IV of the Administrative Tribunals Act, prescribes the procedure and Section 19 thereunder relates to applications to Tribunals. Section 25 confers power on the Chairman to transfer cases from one Bench to the other and reads as under:

25. Power of Chairman to transfer cases from one Bench to another

On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to any other Bench.

26. Section 28, as it existed prior to the judgment of the Supreme Court in L. Chandra Kumar (supra), excluded the jurisdiction of Courts except the Supreme Court under Article 136 of the Constitution.

27. In exercise of the powers conferred under Sections 35 and 36 of the Administrative Tribunals Act, the Central Government made the Central Administrative Tribunal (Procedure) Rules, 1987. Rule 2(k) defines the Tribunal' to mean the Central Administrative Tribunal under Sub-section (1) of Section 4 of the Act. Rule 4 prescribes the procedure for filing applications. Rule 5 relates to

presentation and scrutiny of applications. Rule 6 prescribes the place of filing application and reads thus:

Rule 6: Place of filing application

(1) An application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction-

(i) the applicant is posted for the time being, or

(ii) the cause of action, wholly or In part, has arisen:

Provided that with the leave of the Chairman the application may be filed with the Registrar of the Principal Bench and subject to the orders under Section 25, such application shall be heard and disposed of by the Bench which has jurisdiction over the matter.

(2) Notwithstanding any thing contained in Sub-rule (1) persons who have ceased to be in service by reason of retirement, dismissal or termination of service may at his option file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application.

28. Rule 10, which relates to plural remedies, provides that an application shall be based upon a single cause of action and may seek one or more reliefs provided that they are consequential to one another. Rule 13 provides that the Tribunal shall notify to the parties the date and place of hearing of the application in such manner as the Chairman may, by general or special order, direct.

CHALLENGE TO AN

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