

Rajendra Prasad Vs. Union of India Through G.M., N.R. and Others

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Court : Allahabad

Decided On : Dec-21-2000

Reported in : 2001(1)AWC756; [2001(88)FLR791]; (2001)IILLJ302All; (2001)1UPLBEC570

Judge : S.R. Singh and ;D.R. Chaudhary, JJ.

Acts : Central Administrative Tribunal Act, 1985 - Sections 2, 19 and 28; Central Administrative Tribunal (Amended) Act, 1986; [Industrial Disputes Act, 1947](#) - Sections 2(3)

Appeal No. : C.M.W.P. No. 54599 of 2000

Appellant : Rajendra Prasad

Respondent : Union of India Through G.M., N.R. and Others

Advocate for Pet/Ap. : Shri. M. D. Mishra

Disposition : Petition allowed

Judgement :

S. R. Singh and D. R. Chaudhary, JJ.

1. Heard Shri M. D. Mishra, learned counsel for the petitioner and Shri A. K. Rai, learned counsel representing respondents and perused the order passed by the

Central Administrative Tribunal, Allahabad Bench, Allahabad, thereby holding that the application under Section 19 of the Administrative Tribunals Act, 1985 (in short the 'Act') filed by the petitioner is not maintainable.

2. Admittedly, the petitioner comes within the purview of 'workman' within the meaning of the term as defined in Section 2(z) of the [Industrial Disputes Act, 1947](#). The question is whether an application under Section 19 of the Act is maintainable before the Central Administrative Tribunal and it has jurisdiction to entertain the application concerning service matters of the workman. Section 2 of the Administrative Tribunals Act, 1985, enumerates the matter in respect of which the provisions of the Administrative Tribunals Act, 1985, will have no application. Clause (b) of Section 2, as it stood before its omission by Act No. 19 of 1986 with effect from 1.11.1985, reads thus ; 'any person governed by the provisions of the [Industrial Disputes Act, 1947](#) (14 of 1947) in regard to such matters in respect of which he is so governed.' After omission of clause (b) from Section 2 of the Act with effect from 1.11.1985 the provision of the Act became applicable in relation to any matter in respect of which a workman is governed by the provisions of the [Industrial Disputes Act, 1947](#). The Section 28 of the Act was also amended by the self-same Act 19 of 1986 whereby jurisdiction of all Courts 'except the Supreme Court ; or any Industrial Tribunal, Labour Court or ether authority constituted under the [Industrial Disputes Act, 1947](#) (14 of 1947) or any other corresponding law for the time being in force.' has been ousted. As a result of the amendment in Section 28, it has now become possible 'for any Industrial Tribunal, Labour Court or other authority constituted under the [Industrial Disputes Act, 1947](#)' to exercise any jurisdiction, power, authority in regard to recruitment or matters concerning such recruitment and such service matters as may be otherwise falling within the jurisdiction of the Central Administrative Tribunal. A conjoint reading of Section 2 and Section 28 of the Administration Tribunals Act, 1985, as they stand amended by Act 19 of 1986, leads to the conclusion that though the workman can approach the Industrial Tribunal, Labour Court or the authority constituted under the provision of the Industrial Tribunal Act, 1947, it cannot be said that a petition under Section 19 of the Act is not maintainable before the Central Administrative Tribunal. The amended provision gives a choice to the litigant-workman either to approach the Central Administrative Tribunal or the Labour Court and in case the

litigant has chosen the forum of the Central Administrative Tribunal, it cannot be said, that the application is not maintainable. The view taken by the Central Administrative Tribunal that the application under Section 19 of the Administrative Tribunals Act, 1985, filed by the petitioner was not maintainable before it, cannot be sustained. The writ petition, in the circumstances, succeeds and is allowed. The impugned order of Tribunal is set aside. The matter is remitted to the Central Administrative Tribunal, Allahabad Branch, Allahabad, for taking decision on merit.

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