

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WRIT PETITION NOs.9043, 17559 of 2012, 10973, 12592,

12805, 13111, 13540, 15779, 16161, 21110, 26765,
28237 of 2013, 2218, 3328, 4836, 5899, 5997, 6080,
6100,

6323, 6338, 6502, 6719, 6827, 13058, 16224, 16771,
27780, 31108, 31414,

32642, 32682, 34856, 35133 of 2014, 18114, 18936,
20363 and 22013 of 2015

W.P.No.9043 of 2012

Between:

K.Madhava Reddy, s/o late K.Laxmikantha Reddy,
Occu: Assistant Engineer, APHB, R/o H.No.16-1-483/14,
Kranthinagar, Saidabad Colony, Hyderabad.

.....Petitioner

And

The Vice Chairman & Housing Commissioner,
Andhra Pradesh Housing Board, Gruhakalpa,
Mukarramjai Road, Hyderabad and another.

.....Respondents

DATE OF JUDGMENT PRONOUNCED : 08.12.2015

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THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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1. Whether Reporters of Local Newspapers : No
may be allowed to see the Judgments ?

2. Whether the copies of judgment may be : **Yes**
marked to Law Reporters/Journals

3. Whether Their Lordship wish to : No
see the fair copy of the Judgment ?

***THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

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Occu: Assistant Engineer, APHB, R/o H.No.16-1-483/14,
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... Petitioner

Vs.

\$ The Vice Chairman & Housing Commissioner,
Andhra Pradesh Housing Board, Gruhakalpa,
Mukarramjai Road, Hyderabad and another.

.... Respondents

!Counsel for the petitioners : Smt Jyothi Kiran

Ms Kranthi K.Vaka

Sri C.Ramesh Sagar

Sri M.Pitchaiah,

Smt K.Udyasri

Sri Ch.Sudhakar babu

Sri N.Krishnamurthy

Smt K.V.Jayasree

Sri M.Ratna Reddy

Sri Srinivas Emani

Sri S.Chakrapani

Sri P.Raghavendra Reddy

Counsel for the Respondents: Sri A.K.Jayaprakash Rao,

standing counsel for

respondents.

<Gist :

>Head Note:

? Cases referred:

1. 2000 (4) ALT 262
2. (1981) 2 SCC 308
3. (1996) 1 SCC 95
4. 2001 (3) ALD 289 (DB)
5. 1985 (2) SLR 417
6. 1978 ALT Reports (II) 175
7. 1971 (3) SCC 815
8. AIR 1997 SC 1125

HONOURABLE SRI JUSTICE P.NAVEEN RAO

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COMMON ORDER:

In all these writ petitions, petitioners are employees working in Andhra Pradesh Housing Board (hereinafter referred to as the Board). The writ petitions are filed aggrieved by the individual service grievances on various issues concerning the conditions of service of the petitioners in the employment of the respondent housing board.

2. Placing reliance on the decision of the Division Bench of this Court rendered in W.P.No.27530 of 2008 and batch dated 06.11.2014 learned standing counsel for the Andhra Pradesh Housing Board raised objection on maintainability of the writ petitions. Learned standing counsel contended that petitioners in all the writ petitions are employees of the Board and the grievance raised concerns their conditions of service. Jurisdiction to adjudicate service disputes vests in the Andhra Pradesh Administrative Tribunal (APAT), whereas without exhausting the remedy provided under the Administrative Tribunals Act, 1985 (for short, Act, 1985'), these writ petitions are directly instituted before this Court and, therefore, the writ petitions are not maintainable. On the same issue Division Bench has held that the APAT is vested with jurisdiction to adjudicate service disputes of employees of the Board.

3. Some of the employees of the A.P.Housing Board invoked jurisdiction of Andhra Pradesh Administrative Tribunal under Section 19 of the Act, 1985 aggrieved by their service grievances. In some cases the Administrative Tribunal held that the Housing Board cannot be treated as 'local authority' and, therefore, the Administrative Tribunal has no jurisdiction to decide the service grievances of the employees of the Housing Board. Some cases were decided on merits. Challenging the said decisions of the APAT, W.P.No.27530 of 2008 and batch are filed.

4. One of the contentions urged was on jurisdiction of APAT to adjudicate service disputes of employees of Housing Board. On elaborate consideration of the contentions on behalf of the parties on the question of jurisdiction vested in the Administrative Tribunal concerning service grievances of the employees of the housing board, the Division Bench of this Court held that the Board is the 'local Authority'. The notification issued by the Government in exercise of power vested in Section 15 (2) of the Act, 1985 conferring jurisdiction on the Administrative Tribunal to deal with the service disputes of 'local authorities' of the State applies to the Board also.

5. The judgment also took note of the earlier decision of the Full Bench of the Administrative Tribunal in R.P.Nos.1005 of 1983 and 1419 of 1983, wherein the Tribunal held that Board is the local authority and it has jurisdiction to adjudicate the

service disputes of employees of the Board.

6. Though the issue concerning the jurisdiction of the Administrative Tribunal to adjudicate service disputes of employees working in the Housing Board is answered by the Division Bench, learned counsels for petitioners persisted that this court has jurisdiction and contended that the Division Bench has not considered the crucial aspects regarding the parameters to decide an authority as the 'local authority' as defined in Section 3(31) of the General Clauses Act and the respondent housing board cannot be classified as 'local authority' and, therefore, notification issued by the State Government conferring jurisdiction to the Administrative Tribunal is not applicable to the Board and, therefore, the aggrieved employees can directly institute the writ petitions in this Court. Learned counsels lead by Sri M.Pitchaiah made elaborate submissions on this aspect to persuade this Court to refer to larger bench.

7. I have given my anxious consideration to the contentions of learned counsels for petitioners.

8. One of the points for consideration before the Division Bench of this Court was "(1) whether the Andhra Pradesh Housing Board is a local authority within the meaning of Section 15 (2) of the Administrative Tribunals Act, 1985". On detailed consideration of the rival contentions and consideration of the relevant provisions, Division Bench held that "as the notification was issued under Section 15 (2) of the Administrative Tribunals Act, 1985 applying the provisions of sub-section (3) of Section 15 of the said Act to the local authorities under the control of the State Government and that the Board is under exclusive control of the State Government, the Tribunal has got jurisdiction to decide the issue pertaining to the matters covered under Section 15(3) of the Act" (para-19).

9. The issue of vesting of jurisdiction in the Administrative Tribunal concerning service disputes of employees working in various organizations established by the State Government which are called as 'local authorities' has come up for

consideration before this court on more than one occasion.

10. In **M.Sridhar Reddy and others vs. Hyderabad Metropolitan Water Supply and Sewerage Board, Hyderabad and others** the issue for consideration was whether APAT has jurisdiction to adjudicate service disputes concerning employees of the Hyderabad Metropolitan Water Supply and Sewerage Board. Learned single Judge of this Court considered in detail the provisions of the Act, 15 of 1989, General Clauses Act and the provisions of the Administrative Tribunals Act, 1985. This Court considered the decisions of the Supreme Court in the case of **Union of India vs. R.C.Jain and others** and **Housing Board of Haryana vs. Haryana Housing Board Employees' Union and others**. This Court held as under:

“22. It can be seen from Union of India's case (supra), that in order to be a "local authority" within the meaning of Section 3 sub-section (31) of the General Clauses Act, that all attributes and characteristics of a Municipal committee, District Board or Body of Ports Commissioner need not exist in such bodies. One essential feature that is required to be satisfied is that such an authority is legally entitled to or is entrusted by the Government with the control and management of a municipal or local fund. Applying the said test to the facts and circumstances of the present case, the Hyderabad Metropolitan Water Supply and Sewerage Board is entrusted with a local fund. Section 8 of the Act, as we have already noticed, enables the first respondent-Board to levy various kinds of rates, fees, tariffs, rentals, deposits, contributions and other charges etc., therefore, I have no doubt that the first respondent-Board is a local authority within the meaning of Section 3 sub-section (31) of the General Clauses Act.”

11. The Division Bench of this Court in **R.Bhaskara Rao and another vs. Hyderabad Metropolitan Water Supply and Sewerage Board, Hyderabad and others** upheld the above decision of the learned single Judge.

12. The Division Bench presided by Hon'ble Sri Justice J.Chelameswar, as he then was, in WP No.11430 and 2004 and batch dated 08.12.2005, considered the very same circular with reference to the application of the jurisdiction of the Andhra Pradesh Administrative Tribunal to the employees of Agricultural Market Committees. The Agricultural Market Committees are established in accordance with the Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966. The O.As., were instituted before the Andhra Pradesh Administrative Tribunal raising service grievance of the employees working in Agricultural Market

Committees. The Andhra Pradesh Administrative Tribunal granted the relief in favour of the employees. Challenging the decision of Andhra Pradesh Administrative Tribunal, writ petitions are filed before this Court. One of the contentions urged before the Division Bench was that the Tribunal did not have jurisdiction to adjudicate the service disputes concerning the employees of Agricultural Market Committees. The employer is a statutory body and, therefore, not amenable to the jurisdiction of the Tribunal. The Division Bench laid down the indicia to identify local authority which is covered by the notification issued by the Government in G.O.Ms.No.652 dated 11.11.1989. They read as under:

1. A body to be called a 'local authority' must have a separate entity, and independent legal existence;
2. It must function within the defined area;
3. Such a body shall ordinarily consist of either wholly or partly elected representatives of the inhabitants of the area;
4. The body must enjoy certain degree of autonomy;
5. The body must be entrusted with the task and performance of civic duties and functions; and
6. The body must have the power to raise funds for the furtherance of their objectives for which it is established and must have control over the management of such funds;

13. The issue of jurisdiction of the Administrative Tribunal to the employees of the City Grandhalaya Samstha, Hyderabad has come up for consideration before the Division Bench of this Court in **Smt. C.Rama Devi and others vs. Government of Andhra Pradesh and others**. The question for consideration was whether the City Grandhalaya Samstha is a local authority with reference to the jurisdiction of the Administrative Tribunal constituted under Article 371-D of the Constitution of India. Similar notification was issued by the State Government conferring jurisdiction to the

then Administrative Tribunal to adjudicate the service disputes concerning the employees of local authorities. The Division Bench held as under:

“10. Now we shall make a reference to ‘Local Authority’ as postulated under Explanation to sub-para 2: to which reference has already been made above by way of negative exclusion it is stated that a “Local Authority” which is not subject to the control of the State Government does not include under the definition of a “Local Authority” and thus escapes the jurisdiction of the Administrative Tribunal. In other words, such of those local authorities which are under the control of the State Government alone come within the ambit of ‘Local Authority’ to which the jurisdiction of the Tribunal is extended. Viewed from this angle, and read in continuation of the provisions of the Andhra Pradesh Public Libraries Act, 1960 which have been extracted above it becomes clear that the State Government has got enormous powers not only in the matter of appointing its employees such as Director of Public Libraries who will supervise the State Central Library and also its branches but also in exercising control over different agencies like Zilla Grandhalaya Samstha. It has also the powers in regard to appointment of personnel in different Zilla Grandhalaya Samsthas apart from the fact that 50% of the funds will have to be contributed by the Government. Therefore, we have no hesitation in holding that over the Grandhalaya, of which these petitioners are employees, the State Government has got complete control and therefore, it falls within the ambit of Cl. (c) of the explanation to sub-para 4 of para 6, constituting the Grandhalaya and ‘Local Authority’ coming within the purview of the Presidential Order. Consequently, the Administrative Tribunal alone has jurisdiction to exercise in respect of the personnel who are working in this Grandhalaya. So it follows that this Court has no jurisdiction to exercise its powers under Art.226 of the Constitution in this matter. The Writ Petition therefore fails and is accordingly dismissed. ”

14. In **Budha Veerinaidu vs. The State of Andhra Pradesh rep. by its Secretary Food and Agricultural Department, Hyderabad and another**, the extension of the jurisdiction to the earlier Andhra Pradesh Administrative Tribunal the service grievances of employees of Market Committee also came up before the Division Bench. The Division Bench held that “it is clear that if the management and control of the local fund is entrusted by the Government to a particular body or authority, that body or authority would become local authority within the meaning of clause 31 of Section 3 of the General clauses Act, 1897. Applying all the tests necessary and in the light of the judgment of the Supreme Court in **Patel Premji Jiva vs. State of Gujarat and others**, it is clear that the market committee in this case is a local authority” (para 6).

15. In W.P.No.26072 of 2005 and batch dated 28.06.2006, Division Bench of this Court once again considered the scope of the application of service conditions of the employees working in Hyderabad Metropolitan Water Supply and Sewerage Board. Division Bench presided by Hon'ble Sri Justice J.Chelameswar, as he then was, held, " the crux of the matter is that an authority, which is entitled to or entrusted with the management of a municipal or local fund, is a local authority. It is held that Board is a local authority. Board is subject to the control of the State Government and, therefore a local authority."

16. Thus, principle of law on recognizing an Authority as the 'local authority' in so far as vesting of jurisdiction in the Administrative Tribunal for adjudication of service disputes has been considered and settled by long line of cases and needs no reiteration.

17. The decision rendered by the Division Bench on the same subject is complete answer to the issue raised by learned counsels for the petitioners in these writ petitions and there is no merit in the contention urged on behalf of the petitioners that the relevant facts were not placed before the Division Bench.

18. As held by the Supreme Court in **L.Chandra Kumar Vs Union of India**, the Administrative Tribunal is the Court of first instance and an aggrieved employee on his service grievance has to invoke the jurisdiction of the Tribunal before coming to this Court under Article 226 of the Constitution of India. The decision of the Division Bench relied on by the learned Standing Counsel binds the issue in these writ petitions and in view of the said decision the petitioners have to avail the remedy as provided under the Administrative Tribunals Act, 1985 to seek to redress their service disputes. The Writ Petitions are liable to be dismissed and are accordingly dismissed, leaving it open to petitioners to avail the remedies available under the Administrative Tribunals Act, 1985.

Miscellaneous petitions, if any, pending in these writ petitions shall stand closed. There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

Date: 08.12.2015

Note:

L.R. copy to be marked.

B/o.

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