

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No. 16264 of 2006

ORDER:

This writ petition is filed by the petitioner, who is a Casual Mazdoor, seeking the following relief/ s:

‘..to declare the action of the respondents in not considering the case of the petitioner for conferment of temporary status and consequently in not regularizing his services as regular Mazdoor (D.Category) as illegal, arbitrary, unjust and violative of Art.14, 16 and 21 of the Constitution of India, besides being violative of principles of natural justice; while issuing a consequential direction to the respondents, consider the case of the petitioner for according temporary status initially and thereafter regularize his services as regular Mazdoor (D.Category) with effect from 09.06.2000 the date of which the similarly placed persons were accorded temporary status and also regularize the services of the petitioner in the cadre of Regular Mazdoor (D.Category) with all attendant and consequential benefits in the interest of justice..’

[Reproduced verbatim]

At the hearing, learned counsel for the petitioner submitted that the jurisdiction to adjudicate the issue raised by the writ petitioner in this writ petition vests with the Central Administrative Tribunal and hence, the issue involved in this writ petition is to be resolved by the said Tribunal and therefore prayed for transferring this petition to the Central Administrative Tribunal, Hyderabad Bench, for disposal in accordance with the procedure established by law.

However, the learned Standing Counsel appearing for the respondents stated that the petitioner is a Casual employee/temporary employee and therefore the issue raised in the writ petition can be adjudicated by this Court.

I have perused copy of the letter dated 12.12.2008 addressed by the Assistant General Manager (PERS-III) Corporate Office, Bharat Sanchar Bhawan, New Delhi, to all the Chief General Managers, Bharat Sanchar Nigam Limited, whereby he forwarded a copy of the notification, dated 31.10.2008, duly endorsed by the Ministry of Communications & I.T, Department of Telecom *vide* letter dated 10.11.2008; and also the letter dated 10.11.2008 addressed by Under Secretary, Government of India, Ministry of Communications & IT, Department of Telecom, to the C.M.D., BSNL, New Delhi, forwarding a copy of the notification dated 31.10.2008 and also the notification dated 31.10.2008 issued by the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), regarding applicability of the provision of sub-section (3) of Section 14 of the Administrative Tribunal Acts, 1985 to the BSNL.

On such perusal and consideration, this Court is of the opinion that the issue involved in the writ petition needs to be adjudicated by the Central Administrative Tribunal, Hyderabad Bench.

Further, in the decision in Mr. Mohammad Azmat Vs. Director of Intermediate Education, Andhra Pradesh, Hyderabad and Others [2012 (3) ALT 15] the following issues, framed by a Division Bench were referred to a Full Bench of this Court for consideration and decision: (i) Whether a person appointed by the Government on contract basis under Rule 9(a) of the Andhra Pradesh State and Subordinate Service Rules, 1996 holds a civil post under the State? (ii) Whether service matters concerning such a person fall within the ambit of Section 15(1)(a) and (b) of the Administrative Tribunals Act, 1985,

necessitating his invoking the jurisdiction of the Andhra Pradesh Administrative Tribunal in the first instance? The full Bench answered the issues and held as follows:

“On the above analysis, we hold that the appellant/writ petitioner, a contractual junior lecturer appointed under Rule 9(a) of the Andhra Pradesh State and Subordinate Service Rules, 1996, holds a civil post and would be required to approach the Tribunal constituted under the Act of 1985 in the first instance for redressal of the grievance raised by him in the writ petition. We further hold that the Judgment of the learned Division Bench in P. SULOCHANAMMA to the extent that it held that a contract appointee cannot be said to hold a civil post does not lay down correct law. We answer the reference accordingly. No other issue survives for adjudication in the Writ Appeal, which is accordingly dismissed. Parties shall bear their own costs.”

On the same analogy and for the reasons alike, it can safely be held that the issue involved in the present writ petition requires to be adjudicated first by the Central Administrative Tribunal. Thus, the opinion of the Full Bench supports the opinion of this Court.

Accordingly, the Writ Petition is transferred to the Central Administrative Tribunal, Hyderabad Bench, for disposal in accordance with the procedure established by law.

M. SEETHARAMA MURTI, J

06.03.2017

Note:

** The Registry is directed to transmit the duly indexed record to the Central Administrative Tribunal, Hyderabad.

(B/ o)
Vjl