

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.587 of 2018

In
Civil Writ Jurisdiction Case No.14911 of 2009

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Kamlesh Kumar Mishra, S/o Late Hira Ram Mishra, R/o Vill. & P.O.
Bhikhari Rampur, Distt. Snat Ravidas Nagar (Bhadohi) Uttar Pradesh

... .. Appellant/s

Versus

1. The Union of India, Through its Secretary, Health and Family Welfare Department, Government of India, Nirman Bhawan, New Delhi.
2. The Executive Director/Director (Marketing), Hindustan Latex Limited, Latex Bhawan, Poofappura and Thiruvananthapuram-695012, Kerla General Manager (P & IR), Hindustan Latex Bhawan, Poofappura and Thiruvananthapuram-695012. Kerla

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Harsh Singh, Advocate

For the Respondent/s : Mr. S.D Sanjay (Addl. Soc. Gen.)
Mr. Ravinder Kumar Sharma, CGC

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-07-2018

Delay of 18 days in filing of the appeal is condoned and

I.A. No.3268 of 2018 is allowed and disposed of.

Seeking exception to an order dated 5.3.2018 passed by the learned Writ Court in C.W.J.C. No.14911 of 2009, this appeal has been filed under Clause 10 of the Letters Patent.

Petitioner was working in M/s. Hindustan Latex Limited and a service dispute arose in the matter of his employment with



the said organization. C.W.J.C. No.14911 of 2009 was filed for the same. When the case came up for hearing before a Bench of this Court on 5.3.2018, it was brought to the notice of the Court that a notification under Section 14(2) of the Central Administrative Tribunals Act, 1985 (hereinafter referred to as the C.A.T. Act) has been issued and the organization namely M/s. Hindustan Latex Limited is now notified as an establishment to which the provisions of the C.A.T. Act would apply. As a consequence thereof, the jurisdiction to deal with the service dispute of the employees of the said organization stands vested with the Central Administrative Tribunal constituted under the C.A.T. Act.

Taking note of the aforesaid, the learned Writ Court has disposed of the writ petition with liberty to the petitioner to approach the Tribunal and a direction has been issued to the Tribunal to consider condonation of delay on pendency of the matter before this Court.

It is an admitted position that the notification under Section 14(2) of the C.A.T. Act, 1985 was issued much after 2009 i.e. during pendency of the writ petition before this Court and, therefore, the provisions of Section under Section 29(2) of the said Act would apply in the present case.



Having heard learned counsel for the parties, and on consideration of the statutory provisions as are contained in the Act of 1985, we have no hesitation in upholding the findings of the learned Writ Court to the effect that after issuance of the notification under Section 14(2) of the C.A.T. Act, 1985, the jurisdiction of this Court to deal with the service dispute under Article 226 of the Constitution is taken away. However, it is an admitted position that the notification under Section 14(2) of the C.A.T. Act, 1985 was issued much after 2009 i.e. during pendency of the writ petition before this Court and, therefore, the provisions of Section under Section 29(2) of the said Act would apply in the present case. If the jurisdiction of this Court was taken away in a writ petition that was pending and the notification was issued much after filing of the writ petition, then the learned Writ Court should have taken note of the provisions of Section 29 of the Act of 1985 and transferred the proceeding to the Central Administrative Tribunal. Section 29(2) of the C.A.T. Act, 1985 contemplates a provision that every suit or other proceeding pending before a Court or authority immediately before the date from which jurisdiction is conferred on the Tribunal in relation to legal or other authority or corporation, the matter shall stand transferred to the Tribunal. That being the position, the writ



petition itself should have been transferred and it could not have been disposed of in the manner done.

Keeping in view the aforesaid, we allow this appeal in part, quash the order dated 5.3.2018, passed by the learned Writ Court, so far as it pertains to disposal of the writ petition, restore C.W.J.C. No.14911 of 2009 to its original file and direct the Registrar General to transfer the entire file and the proceedings to the Central Administrative Tribunal, Patna by virtue of the provisions of Section 29(2) of the C.A.T. Act, 1985.

The records be transferred to the Tribunal within a period of one week from today. We request the Tribunal to proceed in the matter and decide the controversy at an early date.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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