

21.11.2022

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ns Ct.25

W.P.A. 7100 of 2006

Bishnu Pada Mondal & Anr.

Vs.

Union of India & Ors.

Mr. Tapas Kr. Majumder ... for the petitioners.

Mr. Anil Kr. Gupta
... for the BSNL authorities.

This is the writ petition of the year 2006 praying for a direction upon the Bharat Sanchar Nigam Limited (for short, “BSNL”) to regularise the service of the writ petitioners and / or absorb them on regular basis.

Mr. Anil Kumar Agarwal, learned Advocate representing the BSNL draws the attention of the Court to a notification dated October, 2008 and submits that the provisions of the Administrative Tribunals Act, 1985 shall be applicable to BSNL and this Court lacks jurisdiction to decide this writ petition.

Learned Advocate appearing for the writ petitioners submits that since this is the writ petition of the year 2006, this Court has jurisdiction to try and entertain this writ petition.

Section 14 of the Administrative Tribunals Act, 1985 provides that the Central Administrative Tribunal shall exercise the jurisdiction, powers and authority

exercisable immediately before the appointed date by all Courts (except Supreme Court) in relation to a recruitment and matters concerning recruitment to any all India service or to any civil service of the Union or of civil post under the Union or to a post connected with defence or in the defence service being in either case a post filled by a civilian.

Section 28 of the said Act provides that on and from the date from which any jurisdiction, powers and authority become exercisable under the said Act by a Tribunal in relation to recruitment and matters concerning to any service or post or service matters concerning members of any service or persons appointed to any serviced or post no Court except the Supreme Court or any Industrial Tribunal, Labour Court or other authority constituted under the Industrial Tribunal Act, 1947 or any other corresponding law for the time being in force shall have or be entitled to exercise any jurisdiction, powers or authority in relation to such recruitment or matters concerning such recruitment or such service matters.

Therefore, the High Court lacks the jurisdiction to decide this writ petition wherein the issue relates to absorption of the petitioners in service under the BSNL.

Section 29 of the said Act provides that every suit or other proceeding pending before any Court or other authority immediately before the date of

establishment of a Tribunal under this Act being a suit or proceeding, the cause of action whereon it is based is such that it would have been, if it had arisen after such establishment, within the jurisdiction of such Tribunal shall stand transferred on that date to such Tribunal. It was, however, provided that nothing therein shall apply to any appeal pending as aforesaid before a High Court. The instant proceeding is an original proceeding and not an appeal which is pending before this Court.

Therefore, in view of the provisions laid down under Section 29 of the said Act, this writ Petition shall stand transferred to the Central Administrative Tribunal, Kolkata Bench.

The registry is directed to transmit the records of this writ petition to the Central Administrative Tribunal, Kolkata Bench as expeditiously as possible. This writ petition shall not be shown to be pending in the docket of this Court in view of the order passed by this Court.

It is, however, made clear that this Court has not entered into the claims and counter-claims of the respective parties in the writ petition.

(Hiranmay Bhattacharyya, J.)