

Pradip Kumar Das & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Rama Prasad Sarkar.
... for the petitioners.
Mr. Tapan Kumar Mukherjee,
Mr. Pinaki Dhole,
Mr. Abhishek Prasad.
... for the State.

The application seeking addition as co-applicant is dismissed on the premise that the Administrative Tribunal Act, 1985 lays down specific provisions for filing an original application and since the said miscellaneous application was filed without seeking leave to move jointly, no order could be passed.

Our attention is drawn to the definition of “application” enshrined in Section 3(b) of the said Act to mean an application made under Section 19. Section 19 contains the provision relating to the right of a party to approach the Tribunal by making an application for redressal of his grievance. Sub-section (2) thereof postulates that the application shall be in such form and be accompanied by such documents or other evidence and by deposit of the fees leviable for filing of the said application should have been adhered to.

Our attention is drawn to Sub-rule 5(a) of Rule 4 of the Central Administrative Tribunal (Procedure) Rules, 1987, wherein it is indicated that the Tribunal may permit more than one person to join together and file a single application provided it is satisfied that there is a common interest in relation to the cause of action and the nature of reliefs prayed for. The said

provision in effect is akin to the provisions contained in the Code of Civil Procedure relating to joinder of parties for the same reliefs so that it would minimise the litigation and the decision may be taken by one exercise and not entertaining several applications inviting the said decision to be taken thereupon. It is more a matter of convenience than of rigidity.

We do not find any embargo in the Act or the Rules creating any hurdle in filing a miscellaneous application in the original application. The writ petitioners filed a miscellaneous application seeking their addition as applicants and do not intend to file independent original application.

The concept of 'addition of party' is well known in the legal parlance. If the Court is satisfied that a person is a necessary and proper party in relation to the subject matter, it can implead such party either on an application or on its own. In the instant case MA 80 of 2021 was filed by the writ petitioners seeking their addition as applicants in the original application and, therefore, it cannot be said that a leave to file such application being miscellaneous in nature is required under Sub-rule 5(a) of Rule 4 of the said Rules.

The moment the Tribunal is of the considered opinion that the applicants, who seek their impleadment as original applicants, have satisfied the conditions of addition of parties, the question of leave arise thereafter and not at the nebulous stage of considering the entitlement of persons seeking addition in the original proceeding. There is no fetter on the part of the Tribunal to add the parties in the category of respondents, provided the Court is satisfied that their presence is necessary for proper and effective adjudication of the said matter and

without whom the same cannot be decided.

It appears that the Tribunal has proceeded in a cryptic manner and applied the provisions; the applicability whereof can only be done after recording satisfaction as to the entitlement of the applicants seeking addition as party in the proceeding.

The order impugned is thus set aside.

The application being MA 80 of 2021 is restored to its original file and number.

The Tribunal is directed to decide the application after affording an opportunity of hearing to the respective parties and by recording proper reasons on the merit in accordance with law.

The entire exercise shall be completed within four weeks from the date of the communication of this order.

Accordingly the writ petition is disposed of.

There will be no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

