



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3236 OF 2024

Chetansing Kalyansing Rajput
Age : 43 years, Occu.: Service,
R/o. Village Varangaon, Tq. Bhusawal
Dist. Jalgaon

... PETITIONER
(Ori. Applicant)

Versus

1. The State of Maharashtra
Through It's Additional Chief Secretary
Department of Finance,
Mantralaya, Mumbai-32.
2. The Commissioner of State Tax,
GST Bhawan, Mazgaon,
Mumbai – 10.
3. Pravin Ashok Bhadak
State Tax Officer,
GST Bhavan, Kalayan, Dist. Thane.

... RESPONDENTS
(Ori. Respondents)

Ms. S. A. Kale, Advocate h/f Mr. A. B. Kale, Advocate for the Petitioner
Mr. A. B. Girase, Government Pleader for Respondent Nos.1 and 2/State
Mr. S. N. Suryawanshi, Advocate for Respondent No.3.

CORAM : RAVINDRA V. GHUGE AND
R. M. JOSHI, JJ.

RESERVED ON: 26th MARCH, 2024

PRONOUNCED ON : 03rd APRIL, 2024

ORDER (PER – R. M. JOSHI, J.) :-

1. Issue involved in this Petition is as to whether the Petitioner is "aggrieved person" in order to invoke provisions of the Administrative Tribunals Act, 1985 (for short 'the Act').

2. Though there is a challenge to the order dated 11th March, 2024 passed in Original Application No. 730 of 2023 by Maharashtra Administrative Tribunal Mumbai, Bench at Aurangabad, the challenge is restricted to the extent of the finding recorded by the Tribunal that the Petitioner is not an aggrieved person as contemplated by Section 19 of the Act to challenge the order of transfer of Respondent No.3. We, therefore, do not wish to go in to the other factual details considered by the learned Tribunal.

3. The learned Advocate for the Petitioner submits that the Petitioner has raised issues regarding corruption and had lodged complaint with Anti Corruption Bureau against Respondent No.3 for offering him bribe. According to her, the Petitioner becomes an aggrieved person by transfer of Respondent No.3 to Dhule, as said transfer would result into the causing of interference in the criminal proceeding as well as the departmental enquiry being conducted against him. The learned Advocate for Respondent No.3 supported the impugned order passed by the Tribunal to the extent of dismissal of OA No. 730 of 2023.

4. In order to appreciate the rival contentions it would be necessary to take into consideration the relevant provisions of the Act.

Section 19 of the Act reads thus:

"19. Applications to Tribunals-(1) Subject to the other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the

redressal of his grievance.

Explanation.-For the purposes of this sub-section, "order" means an order made-

(a) by the Government or a local or other authority within the territory of India or under the control of the Government of India or by any corporation [or society] owned or controlled by the Government; or

(b) by an officer, committee or other body or agency of the Government or a local or other authority or corporation [or society] referred to in clause (a).

(2) Every application under sub-section (1) shall be in such form and be accompanied by such documents or other evidence and by such fee (if any, not exceeding one hundred rupees) [in respect of the filing of such application and by such other fees for the service or execution of processes, as may be prescribed by the Central Government.]

(3) On receipt of an application under sub-section (1), the Tribunal shall, if satisfied after such inquiry as it may deem necessary, that the application is a fit case for adjudication or trial by it, admit such application; but where the Tribunal is not so satisfied, it may summarily reject the application after recording its reasons.]

(4) Where an application has been admitted by a Tribunal under sub-section (3), every proceeding under the relevant service rules as to redressal of grievances in relation to the subject-matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules."

5. A bare perusal of aforestated provision clearly shows that a person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal is permitted to make an application for

redressal of his grievance.

6. Section 3 of the Act provides for the matters in which the Tribunal would have jurisdiction. Section 3(q) defines "service matters" as under:

"(q) "service matters", in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any corporation (or society) owned or controlled by the Government, as respects -

- i) remuneration (including allowances), pension and other retirement benefits;*
- ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;*
- iii) leave of any kind;*
- iv) disciplinary matters; or*
- v) any other matter whatsoever; "*

7. This definition shows that the aspects such as remuneration, pension, retiral benefits, confirmation, seniority, promotion, leave, disciplinary matters or any other matter whatsoever included. This would mean, these matters related to the applicant, i.e. he is directly and substantially affected by the order under challenge. A question arises as to whether term "any other matter whatsoever" would be sufficient to cover the dispute between two employees which is not the service matter. The term any other matter whatsoever necessarily would mean any matter connected with the service condition of the employee vis-a-vis employer, not specifically spelt out in clauses (i) to (iv).

8. At this stage, it would be relevant to take into consideration the provisions of the Industrial Disputes Act, 1947. The said Act defines Industrial dispute under Section 2 (k) as under; which could be subject matter of consideration/ jurisdiction before Industrial Tribunal.

"(k) "industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;"

9. It is thus clear that as per the said provision, a dispute not only between employer and employee but also inter se between employees can become a industrial dispute and the Industrial Tribunal would get jurisdiction to entertain such dispute and adjudicate upon the same. In spite of such provisions already existing on the statute book, the legislature in its wisdom has thought it fit not to include the inter se disputes between employees to become subject matter of adjudication before the Administrative Tribunal. The conspicuous absence of such provision clearly demonstrates the intention of the legislature not to include a dispute or grievance, which has the semblance or trappings of personal enmity/antipathy between two officers of a department, except on account of a cause by which the service conditions of an individual are seriously impinged or are directly affected by any adverse decision of the department.

10. In such circumstances it would not be possible to expand the definition of the term aggrieved person. So also, doing so would defeat the purpose of the legislature and it will open the Pandora box which will enable any disgruntled person who has personal enmity with a co-employee, to challenge any action of the department to settle his personal scores. We, therefore, do not agree with the proposition sought to be made by the learned Advocate for the Petitioner that since the Petitioner has lodged complaint under the Prevention of Corruption Act against Respondent No.3, he would be aggrieved person by the transfer of the Petitioner, when in fact, his service conditions are not affected in any manner. The learned Tribunal while passing impugned order has dealt with this issue at length and has also recorded the findings that a person aggrieved would be a person who is wrongly deprived of his entitlement which he is legally entitled to receive.

11. In view of the above factors, we do not find that the impugned judgment of the learned Tribunal could be termed as being perverse or unsustainable, considering the law laid down in ***Syed Yakoob Vs. K. S. Radhakrishnan, AIR 1964 SC 477*** and ***Surya Dev Rai v/s Ram Chander Rai, AIR 2003 SC 3044***.

12. The Petitioner also seeks direction to the Enforcement Directorate to initiate action against Respondent No.3. Apart from the fact that a *Writ of Mandamus* cannot be used for seeking such direction,

even perusal of the petition lacks essential material which even otherwise would attract any action under The Prevention of Money-Laundering Act, against Respondent No.3. There is absolutely no material pleaded or placed on record in that regard. Hence, we do not find any substance in the Petition.

13. **This Petition stands dismissed.**

(R. M. JOSHI, J.)

(RAVINDRA V. GHUGE, J.)

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Later on

1. This order is pronounced in the morning session. At 2.30 p.m., learned Advocate Mr. Kale for the Petitioner has prayed for continuation of the interim relief granted by the Tribunal.

2. Since this Court has concurred with the findings recoded by the Tribunal about the Petitioner not having *locus standi* to file the application, we do not see any reason to continue interim relief further.

3. **Hence, the request stands rejected.**

(R. M. JOSHI, J.)

(RAVINDRA V. GHUGE, J.)

ssp