

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

SWP No. 1673/2008

CMP Nos.391/2009,2377/2008,1550/2009,390/2010 and
2219/2009

Date of Decision: 20.05.2010

SC/ST Welfare Association

vs. Union of India and ors.

CORAM:

Mr. Justice J.P.Singh, Judge.

Appearing counsel:

For the Petitioner (s) : Mr. Sunil Sethi, Sr. Advocate with
Ms. Veenu Gupta, Advocate.

For the Respondent(s) : Mr. V.K.Magoo, Advocate.

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| i) | Whether approved for reporting
in Press/Journal/Media | : Yes/No |
| ii) | Whether to be reported
in Digest/Journal | : Yes/No |
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The petitioner- SC/ST Welfare Association has filed this Writ Petition seeking directions against the Bharat Sanchar Nigam Limited, *inter alia*, to consider its members for promotion against the posts in Senior-Time-Scale-Cadre strictly in accordance with the Reservation Policy and Rules in-vogue.

Besides contesting the Writ Petition on merits, Bharat Sanchar Nigam Limited has opposed its maintainability on the ground that, with the issuance of Government of India, Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training's) Notification S.O.(E) dated the 31st October, 2008 applying the provisions of the Administrative

Tribunals Act, 1985 to the Bharat Sanchar Nigam Limited, this Court may not have jurisdiction to entertain the Writ Petition because the dispute raised in the Writ Petition was cognizable by the Central Administrative Tribunal.

Petitioner's learned counsel says that the Administrative Tribunals Act, 1985 was not applicable to the employees of the Bharat Sanchar Nigam Limited in view of the exception appearing in Section 14(3)(b) of the Administrative Tribunals Act, 1985 and the Writ Petition was, thus, maintainable in this Court notwithstanding the issuance of Notification S.O.(E) of October 31, 2008 .

Per contra, Bharat Sanchar Nigam Limited's learned counsel submitted that Section 14(1)(b)(iii) referred to in Section 14(3)(b) would have no application to the employees of the Bharat Sanchar Nigam Limited, in that, the word 'and' appearing before the expression *pertaining to the service of such member* in Section 14(1)(b)(iii), relied upon by the petitioner's counsel, would not be read disjunctively, in that, such a course was neither countenanced by the law makers nor was such interpretation of the above referred provision, otherwise permissible and in this view of the matter, the provisions of the Administrative Tribunals Act, according to the learned counsel, would apply to the Bharat Sanchar Nigam Limited.

Learned counsel for the parties were not, however, at variance that in the event of the applicability of the Act to Bharat Sanchar Nigam Limited, the dispute raised in the Writ Petition would be cognizable by the Central Administrative Tribunal.

I have considered the submissions of learned counsel for the parties and gone through the provisions of Section 14(1) and (3) of the Administrative Tribunals Act, 1985.

A plain reading of Section 14(1)(b)(iii), on which the petitioner's learned counsel lays great stress, demonstrates that word 'and' appearing in clause (iii) aforementioned is specifically intended to apply to those Civilians, who were appointed to any defence services or a post connected with defence, be they under the control of the Government of India or any corporation or society owned or controlled by the Government.

This clause, by no stretch of reasoning, can be said to apply to the members of the Corporation for which the Parliament, in its wisdom, has made specific provision under Section 14(3) of the Act vesting the Central Administrative Tribunals with all the jurisdiction, powers and authority exercisable immediately before the notified date by all Courts except the Supreme Court, in relation to recruitment and other matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation or society and all service matters concerning a person appointed to any service or post in connection with the

affairs of such local or other authority or corporation or society and pertaining to the service or such person in connection with such affairs.

I, therefore, do not find any merit in the petitioner's learned counsel's submission that the exception indicated in Section 14(3)(b) of the Administrative Tribunals Act, 1985 was attracted in case of the employees of the Corporation and in this view of the matter, it is held that after coming into force of S.O.(E) dated the 31st October, 2008 the provisions of Section 14(3) of the Administrative Tribunals Act, 1985 would apply to Bharat Sanchar Nigam Limited in relation to the disputes mentioned in Section 14(3)(a) &(b) of the Act.

For all what has been said above, the dispute raised by the petitioner in the Writ Petition being cognizable by the Central Administrative Tribunal constituted under the provisions of The Administrative Tribunals Act, 1985, this Court would have no jurisdiction to entertain the petitioner's Writ Petition.

This Writ Petition is, accordingly, dismissed as non-maintainable, leaving the petitioner free to approach the Central Administrative Tribunal.

(J. P. Singh)
Judge

JAMMU
20.05.2010
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