

Before M.M.Kumar & Gurdev Singh, JJ.

UNION TERRITORY, CHANDIGARH,—Petitioner

versus

HEMANT KUMAR MITTAL AND OTHERS,—Respondents

C.W.P. No. 18982-CAT of 2010

26th May, 2011

Constitution of India - Art. 226/227 - Chandigarh Employees Rules, 1966 - Whether employees of Union Territory of Chandigarh are Central Government employees and entitled to all other facilities and concessions as are available to Central Government employees - CAT held in affirmative - On being challenged, writ Court found the reasoning to be without any rationale and that the Tribunal failed to appreciate the fundamentals of service jurisprudence - Impugned order set aside - Tribunal directed to reconsider whole issue in the light of the position of employees of the Union Territory of Chandigarh vis-à-vis employees of the Central Government - Matter remanded for decision afresh.

Held, that the employees working in the Union Territory Administration are to be governed by the rules applicable to the employees of the Central Government then how such employees would ipso facto become employees of the Central Government. A full chapter of the Constitution has been devoted to the Union Territories and it cannot by any stretch of imagination be concluded that all employees of the Union Territory Administration would be employees of the Central Government by application of same terms and conditions. As the Tribunal has failed to appreciate the rudiments of service jurisprudence, we set aside the impugned order passed by it and direct the Tribunal to reconsider the whole issue in the light of the position of employees of the Union Territory of Chandigarh vis-a-vis employees of the Central Government. We make it clear that the parties would be entitled to urge all the pleas in support of their respective claims and the Tribunal shall not be influenced by any observation made in this judgment. Writ petition allowed and the matter remanded to the Tribunal of decision afresh.

(Paras 6 to 9)

Daman Dhir, Advocate, for R. N. Raina, Advocate, *Advocate for the petitioner.*

R. K. Sharma, Advocate, *for respondent No. 1.*

S. S. Sandhu, Advocate, *for respondent No. 2.*

Kailash Sharma, Advocate, for D. R. Sharma, Advocate, *for respondent No. 3 and 4.*

M. M. KUMAR, J.

(1) The Union Territory, Chandigarh has challenged order dated 9th February, 2010 (P-21), passed by the Chandigarh Bench of the Central Administrative Tribunal (for brevity, 'the Tribunal') holding that the original applicant-respondent No. 1 is to be regarded as a Central Government employee and accordingly has been given the benefit of age relaxation as admissible to similarly situated employees in the Central Government. Consequential directions have also been issued to the petitioner to release the relevant certificate in that regard to the original applicant-respondent No. 1.

(2) The object of obtaining the aforesaid relief was to enable the original applicant-respondent No. 1 to participate in the Combined Graduate Level (Preliminary) Examination-2006 for filling up various categories of posts in the Central Government offices.

(3) Few facts are necessary to put the controversy in its proper perspective. The Staff Selection Commission, New Delhi, issued an advertisement, dated 14th October, 2006 for holding Combined Graduate Level (Preliminary) Examination-2006 for filling up various categories of posts in the Central Government offices. The original application-respondent No. 1 applied for the posts in question and appeared in the preliminary examination held in the year 2007. He was successful and thereafter permitted to appear in the Combined Graduate Level (Main) Examination in the year 2007. The result was declared on 24th April, 2008 and he was asked to appear for viva on 30th May, 2008. According to the result declared on 27th February, 2009, the original application-respondent No. 1 was provisionally selected out of 183 candidates who were declared successful. He was asked to submit a certificate to the effect that he has been a Central Government employee and, therefore, he is entitled to the relaxation in age to the extent of three years. The original application-respondent No. 1

claimed that he has been working as a J.B.T. Teacher, which is a Group-C post and that in the past also the employees working in the Union Territory, Chandigarh, have been given age relaxation by treating them as Central Government employee.

(4) The claim made by the original application-respondent No. 1 was opposed and it has been pointed that he was found to be overage on 1st August, 2007. It was asserted that being an employee of the Union Territory Administration, he cannot be treated at par with the General Government employees for the purposes of age relaxation for the examination conducted by the staff Selection Commission, New Delhi. Thus, he was not eligible for age relaxation.

(5) The Tribunal took the view that the respondent-Union of India had sought clarification from the petitioner through its Department of Personnel, which was given on 12th January, 2010. The Clarification given was as under :—

“AD is informed that conditions of service of U.T. employees are at par with their counterparts in the Punjab Government. So far as giving the benefit of Government servant is concerned, it is for the recruiting department to decide as to whether who is/is not be given such benefit.”

(6) The Tribunal further placed reliance on Gazette of India (Extraordinary) Notification, dated 1st November, 1996, issued by the Ministry of Home Affairs, concerning conditions of service of persons appointed to the Central Civil Services and posts under the administrators. It proceeds to notice that conditions of service of persons appointed to the Central Civil Services and posts under the control of Administrator of Union Territory, Chandigarh, are to be the same as the conditions of service of persons appointed to the corresponding Central Civil Services and posts, which are to be governed by the same rules as are for the time being applicable to the latter category of posts. On the basis of the aforesaid facts, the Tribunal proceeded to hold as under :—

“6.Admittedly, Union Territory is a Centrally Administered Territory under the Ministry of Home Affairs and their budget etc. is passed by the parliament through the Ministry of Home

Affairs. The employees of the U. T. Chandigarh as per Conditions of Service of Union Territory of Chandigarh Employees Rules, 1996, are appointed to the Central Civil Services and posts in Group A, B, C and D under the Administrator of U.T. of Chandigarh shall subject to any other provision made by the President, are the same as the conditions of service of persons appointed to other corresponding Central Civil Services and Posts and be governed by the same rules and order as are for the time being, applicable to the letter category of persons. This statement is part of explanatory memorandum submitted while extending the grant of Punjab Pay Scales to the employees of the Chandigarh Administration w.e.f. 1st January, 1986. Therefore, for all practical purposes, except pay scale which has been granted at par with pay scales applicable to the employees of Punjab Government by special Notification, the employees of U.T. Administration are Central Government employees and are entitled to all other facilities and concessions as are available to any other civil employee of the Central Government. We hold accordingly.”

(7) We have heard learned counsel for the parties at a considerable length. The reasoning adopted by the Tribunal is unfortunately without any rationale. If the management of a private college or school adopts the rules applicable to the employees working in government colleges/schools then could it be said that the employees working in a purely private college/school would become employees of the State Government. The answer is obviously no. Likewise, if the employees working in the Union Territory Administration are to be governed by the rules applicable to the employees of the Central Government then how such employees would *ipso facto* become employees of the Central Government. A full chapter of the Constitution has been devoted to the Union Territories and it cannot by any stretch of imagination be concluded that all employees of the Union Territory Administration would be employees of the Central Government by application of same terms and conditions.

(8) As the Tribunal has failed to appreciate the rudiments of service jurisprudence, we set aside the impugned order dated 9th February, 2010 (P-21) passed by it and direct the Tribunal to reconsider the whole issue

in the light of the position of employees of the Union Territory of Chandigarh *vid-a-vis* employees of the Central Government. We make it clear that the parties would be entitled to urge all the pleas in support of their respective claims and the Tribunal shall not be influenced by any observation made in this judgment.

(9) In view of the above, the writ petition is allowed and the matter is remanded back to the Tribunal for decision afresh. The parties through their counsel are directed to appear before the Tribunal on 11th July, 2011.

V. Suri

Before M.M.Kumar & Ajay Kumar Mittal, JJ.

M/S INDUSTRIAL ORGANICS LIMITED,—Petitioner

versus

STATE OF PUNJAB AND OTHERS,—Respondents

C.W.P. No. 15464 of 2004

25th March, 2011

Constitution of India - Art. 47, 226/227, 245 277 & 304(b)- Companies Act, 1956 - Punjab Excise Act, 1914 - S.3, 31, 32 - Code of Civil Procedure, 1908 - O.XXIII Rl. 1 - Punjab Liquor Permit and Pass Rules, 1932 -Rl. 22 - Whether respondent State has competence to levy permit fees in respect of denatured spirit, especially when same is neither fit nor used for human consumption - Amendment in Rules - Enhancing permit fee for issuance of permit for denatured spirit from 30 paise per bulk litre to 60 paise per bulk litre - Constitutional validity - Held, not valid - Industrial alcohol or spirit having regard to Entry 52 of List I of Seventh Schedule of Constitution - Cannot be subject matter of any regulation or control by State, it being not alcoholic liquor for human consumption - (1990) 1 SCC 109 and (2009) 3 SCC 157 followed.

Held, that after reading Entries 42, 52, 84 and 97 of List I, Entries 8, 51 and 66 of List II of the Seventh Schedule of the Constitution and various provisions of the Excise Act and the rules known as "The Punjab