

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.891 OF 2017

DISTRICT : RAIGAD

1. Shri Pandurang S. Patil.)
Occu. : Centre Incharge, Walke,)
Tal. Murud, Dist. : Raigad.)
2. Smt. Premla B. Kharsamble.)
Occ.: Centre Incharge, Shighre,)
Tal. : Murud, District : Raigad.)
3. Smt. Bilkis S. Firfire.)
Occu.: Centre Incharge, Majgaon Urdu,)
Tal.: Murud, District : Raigad.)
4. Shri Bharat K. Mane.)
Occu.: Centre Incharge, Nandgaon,)
Tal.: Murud, District Raigad.)
(at Present working at Alibaug,)
District : Raigad).)...Applicants

Versus

1. The Chief Executive Officer.)
Zilla Parishad, Raigad, having office at)
Alibaug, District : Raigad.)
2. The Addl. Commissioner, Konkan Division))
Having office at Konkan Bhawan,)
1st Floor, Navi Mumbai – 400 614.)
3. The State of Maharashtra.)
Through Principal Secretary,)
Rural Development Department,)
Mantralaya, Mumbai – 400 032.)...Respondents

Mr. A.V. Bandiwadekar, Advocate for Applicants.

Mr. S.S. Deokar, Advocate for Respondent No.1.

Ms. S.P. Manchekar, Chief Presenting Officer for Respondents 2 & 3.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 06.06.2019

JUDGMENT

1. In the present Original Application, the question posed for consideration is whether the impugned order dated 17.04.2006 passed by Respondent No.1 – Chief Executive Officer, Zilla Parishad, Raigad) imposing punishment under Maharashtra Zilla Parishad District Service (Discipline & Appeal) Rules, 1964 (hereinafter referred to as 'Rules of 1964') which has been maintained by Appellate Authority by order dated 31.03.2017 is maintainable before this Tribunal in absence of Notification contemplated under Section 15(2) of Administrative Tribunals Act, 1985.

2. Shortly stated facts giving rise to this application are as follows :-

The Applicants were appointed by Zilla Parishad, Raigad as Primary Teachers and in the year 2005, they were Centre Incharge, Panchayat Samiti, Murud, Zilla Parishad, Raigad. By order dated 17.04.2006, the punishment of imposition of withholding one increment with cumulative effect was imposed by Respondent No.1 under Rule 4(2) of 'Rules of 1964'. The said order has been confirmed by Appellate Authority viz. Additional Commissioner, Konkan Division by order dated 31.03.2017. The Applicants have challenged these orders by invoking jurisdiction of this Tribunal under Section 19 of Administrative Tribunals Act, 1985.

3. The Respondent No.1 raised the preliminary objection by filing Affidavit-in-reply challenging the jurisdiction of this Tribunal to entertain the application. The Respondent No.1 contends that the Applicants are the employees of Z.P. and are governed by Maharashtra Zilla Parishad & Panchayat Samitis Act, 1961 (hereinafter referred to as 'Act of 1961') and 'Rules of 1964', and therefore, in absence of Notification under Section 15(2) of Administrative Tribunals Act, 1985, the Tribunal has no jurisdiction to entertain the applications.

4. In view of the objection raised on the point of jurisdiction, it was proposed to take-up the issue of jurisdiction first, as it goes to the root of the matter and accordingly, submissions were advanced.

5. As such, the preliminary issue posed for consideration is whether in absence of Notification under Section 15(2) of Administrative Tribunals Act, 1985, the present O.A. is maintainable.

6. Shri A.V. Bandiwadekar, learned Advocate for the Applicants sought to contend that the Z.Ps are instrumentality of State controlled by State, and therefore, even in absence of Notification under Section 15(2) of Administrative Tribunals Act, 1985, the Tribunal has jurisdiction to entertain the applications and to decide the legality of the order of punishment imposed upon the Applicants. According to him, the Applicants will have to be treated as Government servants holding civil post, and therefore, the Tribunal has jurisdiction in the matter. He referred to various decisions to bolster-up his submissions, which will be dealt with during the course of discussion.

7. Per contra, Shri S.S. Deokar, learned Advocate for Respondent No.1 urged that the Applicants are admittedly the employees of Zilla Parishad, which is local authority contemplated under Section 15(2) of Administrative Tribunals Act, 1985, and therefore, in absence of Notification mandated in law, the applications

are not maintainable in the Tribunal. He too referred certain decisions in support of his contention, which will be dealt with a little later.

8. At this juncture, it would be apposite to reproduce Section 15 of Administrative Tribunals Act, 1985, which deals with jurisdiction, powers and authority of the Tribunal.

“15. Jurisdiction, powers and authority of State Administrative Tribunals –

(1) Save as otherwise expressly provide in this Act the Administrative Tribunal for a State shall exercise on and from the appointed day all the jurisdiction powers and authority exercisable immediately before that day by all Courts-except the Supreme Court in relation to –

(a) recruitment and matters concerning recruitment to any civil service of the State or to any civil post under the State;

(b) all service matters concerning a person (not being a person referred to in clause (c) of this sub-section or a member person or civilian referred to in clause (b) of sub-section(1) of Section 14 appointed to any civil service of the State or any civil post under the State and pertaining to the service of such person in connection with the affairs of the State or of any local or other authority under the control of the State Government or of any corporation [or society] owned or controlled by the State Government;

(c) all service matters pertaining to service in connection with the affairs of the State concerning a person appointed to any service or post referred to in clause (b) being a person whose services have been placed by any such local or other authority or corporation [or society] or other body as is controlled or owned by the State Government at the disposal of the State Government for such appointment.

(2) The State Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities and corporations [or societies] controlled or owned by the State Government.

Provided that if the State Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of local or other authorities or corporations [or societies].

(3) Save as otherwise expressly provided in this Act the Administrative Tribunal for a State shall also exercise on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation [or society] all the jurisdiction powers and authority exercisably immediately before that date by all Courts except the Supreme Court in relation to –

(a) recruitment and matters concerning recruitment to any service or post in connection with the affairs of such local or other authority or corporation [or society] and

(b) all service matters concerning a person (other than a person referred to in clause (b) of sub-section (1) of this section or a member person or civilian referred to in clause (b) of sub-section (1) of Section 14) 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 of such person in connection with such affairs.

(4) For the removal of doubts it is hereby declared that the jurisdiction powers and authority of the Administrative Tribunal for a State shall not extend to or be exercisable in relation to any matter in relation to which the jurisdiction powers and authority of the Central Administrative Tribunal extends or is exercisable.”

9. Admittedly, the Applicants were appointed by Chief Executive Officer, Zilla Parishad, Raigad on the post of Primary Teacher and there are the employees of Zilla Parishad, which is governed by the provisions of ‘Act of 1961’. Besides, admittedly, the Applicants are governed by ‘Rules of 1967 and ‘Rules of 1964’ and not by Maharashtra Civil Services (Conduct) Rules, 1979 (hereinafter referred to as ‘Rules of 1979’) and Maharashtra Civil Services (Discipline & Appeal) Rules, 1982 (hereinafter referred to as ‘Rules of 1982’, which are applicable to the State Government employees.

10. Rule 2(b) of ‘Rules of 1979’ defines ‘Government servant’ as follows :

“2(b) *“Government servant” means any person appointed to any civil service or post in connection with the affairs of the State of Maharashtra, and includes a Government servant whose services are placed at the disposal of a company; corporation, organization, local authority or any other Government, notwithstanding that his salary is drawn from sources other than from the Consolidated Fund of the State.”*

Whereas, Rule 2(g) of 'Rules of 1979' defines 'Government servant' as follows :

"2(g) *"Government servant" means a person who –*

(i) is appointed to any Civil Service or post in connection with the affairs of the State, and includes such Government servant whose services are temporarily placed at the disposal of any other Government in India, or a company, or corporation owned or controlled by Government, or a local authority or other authority, notwithstanding that his salary is drawn from sources other than Consolidated Fund of the State."

11. As such, in view of aforesaid definitions, a Government servant has to be a person appointed to any civil service or post in connection with the affairs of the State. In the present case, admittedly, the Applicants are neither appointed by State Government nor they are placed under the disposal of Zilla Parishad by State Government. They have appointed by Z.P. itself. This being the position, they cannot fall in the category of Government servant within the meaning of definition in Maharashtra Civil Services (Conduct) Rule, 1979 or Maharashtra Civil Services (Discipline & Appeal) Rules, 1979.

12. The learned Advocate for the Applicant made a feeble attempt to show that the Applicants are amenable to the jurisdiction of this Tribunal even without Notification under Section 15(2) of Administrative Tribunals Act, 1985 and to bolster-up this contention, referred to various decisions which are as follows :-

(i) 1995 SCC (L & S) 907 (R.N.A. Britto Vs. Executive Chief Officer & Ors.)

The point in issue was whether Secretaries of Panchayat Established under the Karnataka Village and Local Boards Act, 1959 (hereinafter referred to as 'Act 1959' for brevity) of Government servants. Having regard to the 'Act 1959' and the provisions of Karnataka Panchayat (Secretaries) (Cadre and Recruitment) Rules, 1970 (hereinafter referred to as 'Rules 1970' for brevity), the Hon'ble

Supreme Court held that the Secretaries of Panchayats are Government servants holding civil post and entitled to invoke the jurisdiction of Administrative Tribunals under Section 15 of the Act. In Para No.12 of the Judgment, the Hon'ble Supreme Court compared the provisions of 'Act 1959' and 'Rules 1970' and found that the Secretaries are required to be appointed by Revenue Commissioner. It further found that the provisions of 'Act 1970' are applicable to the Panchayat Secretary. The Hon'ble Supreme Court also found that, as per Rule 9 except in respect of matters for which provision is made in 'Rules 1970', the provisions of 'Rule 1957' are applicable for the purpose of 'Rules 1970' and further found that Rule 10 provides that the Karnataka Civil Services Rules, Karnataka Civil Services (Conduct) Rules, 1966 and other Rules for the time in force regulating the conditions of service of Government servant made under the proviso to Article 309 of Constitution of India in so far as they are not in consistent with the provisions of 'Rules 1970' shall be applicable to persons to whom the Rules shall be applicable. It further noted that another significant provision contained in Section 80(2) of 'Act 1959' provides that the subject to the provisions of Rules made under the proviso to Article 309 of Constitution of India, the qualification, powers, duties, etc. including disciplinary matters of such Secretaries as may be prescribed. It is in this context, the Panchayat Secretaries were held State Government servants within the meaning of Clause (b) of Sub-section 1 of Section 15 of Administrative Tribunals Act, 1985.

Whereas in so far as the present facts are concerned, there is no such provision in Maharashtra Zilla Parishad and Panchayat Samitis Act, 1961' (hereinafter referred to as 'Act 1961 for brevity)

as well as the Rules framed thereunder to show that the recruitment conditions, conduct, disciplinary enquiry, etc. will be governed by Maharashtra Civil Services Rule. In the present case, admittedly, the Z.P. employees are being governed by Zilla Parishad Conduct and Disciplinary Rules which are framed under Section 274 of 'Act 1961'. Furthermore, there is no reference of Section 15(2) of Administrative Tribunals Act, 1985 in the Judgment, which requires Notification for exercising jurisdiction over service matters of Z.P. employees. This being the position, with great respect, in my opinion, this authority is clearly distinguishable and of little assistance to the Applicants.

(ii) AIR 1967 SC 884 (State of Assam Vs. Kanak Chandra Dutta)

The issue before the Hon'ble Supreme Court was whether a Mauzadar is a person holding civil post under the State within Article 311 of the Constitution of India. The Hon'ble Apex Court held that the Mauzadar is the holder of civil post under the State and the State has power and right to select and appoint a Mauzadar and also have power to suspend and dismiss him. As such, there was relationship of Master and Servant between the State and Mauzadar. It was held that the Mauzadar was a person holding a civil post under the State within the meaning and was entitled to the protection under Article 311(2) of Constitution. In that case, the dismissal of Mauzadar was challenged before the Hon'ble High Court.

This authority is also clearly distinguishable and have no application to the present situation, as in the present case,

admittedly, the Applicants are employees of Z.P. and relationship of Master and Servant is between Z.P. and Applicant and not with State Government. Therefore, this authority does not advance the case of the Applicant a little bit.

(iii) 1983 SCC (L & S) 231 (State of Gujarat & Anr. Raman Lal Keshav Lal Sony & Ors.)

This authority is for the proposition that the Panchayat service constituted under Section 203 of Gujarat Panchayat Act is a civil service of the State and the members of service of Government servants. In this matter, the Appellants therein were denied recommendation of Pay Commission, and therefore, employees of Panchayats have filed Writ Petition before Hon'ble High Court of Gujarat which came to be allowed. As such, in that matter, the jurisdiction of Hon'ble High Court was directly invoked and there is no reference of Section 15(2) of Administrative Tribunals Act, 1985. (hereinafter referred to as 'Act 1985' for brevity). Therefore, this authority is of no assistance to the Applicant in the present situation.

Indeed, in the said authority, the Hon'ble Supreme Court in Para No.27 made it clear that whether the members of particular class hold civil post under the Government is question of fact and several factors needs to be considered and it is not possible to lay down any definitive test to determine where person may be said to hold a civil post under the Government. The Hon'ble Supreme Court further observed that several factors may indicate the relationship of Master and Servant but none may be conclusive and no single factor can be considered absolutely essential. The Hon'ble Supreme Court further held that the presence of all or

some of the factors, such as right to select for appointment, right to appointment, right to terminate the employee, right to take other disciplinary action, right to prescribe the conditions of service, nature of duties performed by the employees, right to control the employees, manner and method of work, right to issue direction and right to determine and the source from which wages are paid and host of such circumstances are required to be considered to determine the existence of relationship of Master and Servant. Even applying the test laid down by the Hon'ble Supreme Court to the present case, it cannot be said that there exists relationship of Master and Servant between the Applicant and State Government. As such, the ratio laid down in this authority run counter to the Applicant's case.

(iv) (2017) 1 SCC (L & S) 445 (Harijan P. Dudabhai Vs. State of Gujarat & Ors.)

The perusal of Judgment reveals that the Appellants therein received certain monetary benefits after the demise of her husband who was the employee of Panchayat appointed under Gujarat Panchayat Service Rules, 1967, but here claim for family pension and gratuity was not accepted, and therefore, Appellant therein filed Petition before Hon'ble High Court. The Hon'ble Supreme Court held that, as the appointment of deceased husband of the Appellant in Panchayat was full time safai kamgar, She was entitled to family pension and gratuity. As such, this authority is of no assistance to the Applicant in the present controversy.

(v) AIR 1996 SC 615 (Himachal Pradesh State Electricity Board, Shimla & Ors. Vs. Tirath Raj and Ors.)

This authority is pressed into service for the proposition that, in case of daily wages employees appointed by State Electricity Board, the jurisdiction is vested in Administrative Tribunals. In so far as this authority is concerned, the perusal of Judgment reveals that the issue was settled between the parties and the Hon'ble Supreme Court declined to interfere in the matter. There is no reference of Section 15(2) of Administrative Tribunals Act, 1985, and therefore, this authority is of no assistance to the Applicant to hold that the Tribunal got jurisdiction in absence of Notification under Section 14(2) of 'Act 1985'

- (vi) The decision rendered by this Tribunal in ***O.A.971/2015 (Ravindra S. Sonawane Vs. State of Maharashtra & Ors.)*** decided on 01.12.2016, wherein it was held that the employees of Electricity Commission are not the employees of Government, as their service conditions are governed by the regulations framed by the Commission and not under the Rules framed under Article 309 of Constitution. The O.A. was accordingly dismissed.

I fail to understand how this authority is relevant in the present context.

- (vii) ***AIR 1977 SC 1677 (The Superintendent of Post Offices Vs. P.K. Rajamma)***

This authority is for the proposition that the extra departmental agents connected with the Postal Department whose conditions of service are governed by Post and Telegraph Extra Departmental Agents (Conduct and Service) Rules, 1964 hold civil post under the Union of India as contemplated by Article 311 of Constitution of

India and their dismissal or removal from service would be invalid for non-compliance of Article 300 (2) of the Constitution of India.

(viii) AIR 2001 SC 1298 (State of U.P. Vs. Chandra P. Pandey)

The issue involved before the Hon'ble Supreme Court whether Kurk Amin appointed on commission basis by District Magistrates within the State of U.P. for regularization of outstanding dues of various Cooperative Societies can be treated as employees of the State Government holding civil post under the State of U.P. within the meaning of Article 311 of Constitution of India. It is in this context, the Hon'ble Supreme Court held that they are Government servants holding civil post and cannot be terminated otherwise than in accordance with the procedure prescribed under the law.

(ix) Order of Hon'ble Bombay High Court in *Writ Petition No.1980/2016, dated 06.01.2017 (Chakradhar D. Panem Vs. Union of India & Ors.)*.

The Petitioners therein had filed Writ Petition contending that they were appointed under a programme sponsored by Union of India for eradication of Tuberculosis. They are appointed on the post of Drivers and filed Writ Petition for absorption in service. The Hon'ble High Court held that, prima-facie, we are of the view that the remedy under Section 15 of Administrative Tribunals Act, 1985 which is alternate and equal efficacious can be availed of in the facts and circumstances of the case, and therefore, disposed of the Writ Petition giving liberty to the Petitioner therein to approach the Tribunal established under Administrative Tribunals Act, 1985. As such, the petition was disposed of with liberty to the applicant to approach to the Tribunal. There is no reference of Section 15(2) of Administrative Tribunals Act, 1985, which requires Notification to confer the jurisdiction of this Tribunal to entertain services disputes

of Z.P. employees. In fact, the perusal of synopsis of O.A.136/2017 filed by the Petitioner in this Tribunal reveals that the Applicants therein contend that, all the expenses of the programme of eradication of T.B. are funded by Central Government and State Government and claimed absorption in service. It is not their case that they are the employees of Z.P. or local authority, and therefore, the order dated 06.01.2017 of Hon'ble High Court is of little assistance to the Applicant in the present controversy.

(x) 1991 Mh.L.J. 1204 (Gangaram P. Hupade vs. Digamber S. Kanwale & Anr.)

The issue before the Hon'ble High Court was whether Police Patil was the holder of a civil post under the State for performance of State functions. The Hon'ble High Court held that, all the attributes of the Government servant exist between the Police Patil and the Government and Police Patil is the Government servant holding a civil post. Accordingly, it was held that the jurisdiction vests in the Administrative Tribunals and petition directly under Sections 226 and 227 of Constitution cannot be entertained by Hon'ble High Court. As such, this Judgment is clearly distinguishable and have no assistance to the Applicant in the present situation.

(xi) 1963 Mh.L.J. 340 (Chandrabhan Nagoji Vs. Amritrao Narbaji & Ors.)

The Petitioner was Mukadam Patel filed nomination for election to the Zilla Parishad. The objection was raised to his nomination. It is in that context, it was held that he is Government servant and disqualified for election. Apparently, this authority is not relevant in the present situation.

(xii) The decision passed by this Tribunal in O.A. 554/1994 (Ashok V. Lagvankar Vs. State of Maharashtra & Ors.) wherein it has been

held that the Ministerial Staff of M.P.S.C. can maintain O.A. before the Tribunal established under Administrative Tribunals Act, 1985.

(xiii) Order of Hon'ble High Court in ***Writ Petition No.7086/2009 in Ramchandra P. Gore Vs. State of Maharashtra & Ors., dated 12th January, 2010*** by which liberty was granted to the Petitioner to approach the Tribunal constituted under Administrative Tribunals Act, 1985 to redress the grievance. The Petitioner claiming to be a Government employee and on the statement made by the Petitioner, the order was passed rejecting the Writ Petition on the ground that the remedy is available before the Tribunal. This order cannot be construed as a proposition of law that the employees of Z.P. are the Government servants and can approach the Tribunal to redress the grievances arising out of service matters.

(xiv) Order passed in ***O.A.1361/2009, decided on 02.02.2010 (Rajesh Katkar Vs. State of Maharashtra)***.

In that case, admittedly, the Applicant was State Government servant being appointed as Additional Chief Land Survey Officer (ACLSO), SIDCO, Navi Mumbai. The dispute was pertaining to the order issued by CIDCO relieving the Applicant therein and repatriated to the post of ACLSO. It is in this context, the Tribunal held that it got jurisdiction to entertain the O.A.

(xv) Judgment of Hon'ble Bombay High Court in Writ Petition No.1428/2007, decided on 23.08.2007 (***V.B. Gadekar Vs. MHADA***)

The matter was pertaining to transfer of the employees of MHADA who approached Hon'ble High Court challenging the transfer order. The Hon'ble High Court did not find any illegality in the transfer order and dismissed the Writ Petition.

(xvi) ***2001 MH.L.J. 519 (Sudhir R. Bhatankar Vs. State of Maharashtra & Ors.)***

The Petitioner therein was Deputy Municipal Commissioner and was suspended. He challenged the suspension order by filing Writ Petition. The Hon'ble High Court held that the suspension during pendency of enquiry is in exercise of Rule 4 of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 and the provisions of Section 56(1) of Bombay Provincial Municipal Corporations Act are not applicable. As such, this authority being on totally different facts is of little assistance to the Applicant in the present case.

(xvii) Lastly, a reference was made to **1999(2) BOM CR 209 (Marathwada Sarvashramic Sanghatan Vs. State of Maharashtra)**

In that case, the daily wages workers appointed in Social Forestry Department of Government of Maharashtra claimed regularization and filed Writ Petition. It is in that context the Hon'ble High Court held that the remedy lies before Administrative Tribunal under the provisions of Administrative Tribunals Act, 1985 and directions were issued to transfer the petition to the Tribunal. As such, the employee therein were appointed by Social Forestry Department of Government of Maharashtra and not by Zilla Parishad or Local Authority. This being the position, this Judgment cannot be construed to hold that the Z.P. employees can maintain petition before the Tribunal.

13. Whereas, on the other hand, the learned Advocate for the Zilla Parishad placed reliance on the Judgment of Andhra Pradesh High Court in 1997 (6) ALT 733 (Khader Sheriff Vs. State of A.P.) which is in fact directly on the point involved in the present matter. The issue was whether the employees of Panchayat Samiti created under 'Act of 1959' are the employees of body corporate of a particular Panchayat Samiti or the employees of the State. The Hon'ble High Court held as follows :

“Therefore it is clear from the scheme of the Panchayat Samithis Act that the employees of the Panchayat Samithis are the employees of the body corporate of a particular Panchayat Samithi and not employees of the State. Assuming for the sake of arguments that the contention of the appellants that the issue regarding the recovery of amounts alleged to have been misappropriated by the employees is a dispute relating to the service conditions, the fact remains that the jurisdiction over such disputes of the employees of bodies corporate is not given to the Administrative Tribunals under the Administrative Tribunals Act, 1985. No doubt, Section 15(2) of the Administrative Tribunals Act contemplates that the jurisdiction with reference to the employees of the local bodies can be exercised by the Administrative Tribunal constituted under the Act. But such jurisdiction vests with the Administrative Tribunal only on the existence of a decision of the State Government to entrust such jurisdiction to the Tribunal by a notification. It is neither pleaded nor proved in this case that the jurisdiction with reference to the employees of the Panchayat Samithis was entrusted to the Administrative Tribunal.”

14. He further referred to the Judgment of Hon’ble High Court in ***Writ Petition No.4005/2010 (Ravindra Kapre Vs. State of Maharashtra)***, decided on **13th September, 2010**. In that case, the issue was relating to relaxation of upper age limit to the employees of Z.P. The Hon’ble High Court dismissed the Writ Petition. The Hon’ble High Court held in Paras 3 and 4 held as follows :

“3. *Mr. R.N. Dhorde, learned Counsel appearing for the petitioner, submits that the employees of the State Government and Zilla Parishad are same for all the purposes and the artificial discrimination, which is sought to be invoked by the rules, is violative of Article 14 of the Constitution of India.*

4. *It is a settled law, that the employees of the State Government, and the employees of the local self-government, form part of separate classes. Differential treatment for different classes is permissible under Article 14 of the Constitution of India. In that view of the matter, no case is made out for interference.*

15. As discussed above, the learned Advocate for the Applicant referred to various decisions, but none of the Judgment laid down the proposition that the Tribunal established under the Administrative Tribunals Act, 1985 can entertain the petition filed by Z.P. employees or local body in absence of Notification contemplated under Section 15(2) of Administrative Tribunals Act, 1985.

Whereas, Section 15(2) of Administrative Tribunals Act, 1985 mandates issuance of Notification to confer the jurisdiction for the applicability of the provisions of Sub-section 3 to local or other authorities or corporations controlled or owned by the State Government. In other words, the issuance of Notification under Section 15(2) of Administrative Tribunals Act, 1985 is *sine-qua-non* for the applicability of provisions of Sub-section 3 of Section 15 in the matter of service disputes of the employees of local authorities and corporations controlled or owned by State Government. In the present case, admittedly, the Applicants were appointed by Z.P. and were the employees of Z.P. and not State Government. Even assuming for the sake of argument, though not admitting that the Applicants are on par with Government servant, in that event also, the issuance of Notification contemplated under Section 15(2) is the condition precedent for the maintainability of the service disputes of Z.P. employees. Admittedly, no such Notification under Section 15(2) has been issued by the State Government.

16. In view of above, I have no hesitation to sum-up that this Tribunal has no jurisdiction for want of Notification under Section 15(2) of Administrative Tribunals Act, 1985 and the O.A. deserves to be dismissed. Hence, the following order.

ORDER

The Original Application is dismissed with no order as to costs.

Sd/-
(A.P. KURHEKAR)
Member-J

Mumbai
Date : 06.06.2019
Dictation taken by :
S.K. Wamanse.