

**(CWP-PIL No. 154 of 2019)**

Court on its own motion vs. State of Haryana

Present: Mr. B.R.Mahajan, Advocate General, Haryana.

Mr. Satya Pal Jain, Additional Solicitor General of India with  
Mr. Chetan Mittal, Assistant Solicitor General of India.

Mr. DPS Randhawa, Advocate, President of the Bar Association, High Court, Chandigarh with  
Mr. Rohit Sud, Advocate (Secretary).

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Notice of motion.

On our asking Mr. B.R.Mahajan, learned Advocate General, Haryana, Mr. Satya Pal Jain, learned Additional Solicitor General of India with Mr. Chetan Mittal, Assistant Solicitor General of India appeared to assist us in the matter.

The Central Government issued a notification dated 24.07.2019 under section 4(2) of the Administrative Tribunal Act, 1985 constituting Haryana Administrative Tribunal for the service matters pertaining to the State Government employees. This led to an unprecedented situation where the members of the Bar went on strike protesting against the issuance of the aforesaid notification and functioning of this Court stands paralysed for the last one week.

An application has been made by the Bar Association of Punjab and Haryana High Court dated 02.08.2019 on the administrative side pointing out not only various infirmities but also difficulties which would be faced by the litigant public, since the constitution of the Administrative Tribunal is not complete inasmuch as though Chairman/Judicial Member has been notified but administrative members are yet to be appointed and the seat of the Principal Bench has also not been notified as required by Section 5(8) of the Act of 1985.

Taking cognizance on the fact situation as also the letter of the Bar Association dated 02.08.2019, a *suo-motu* Public Interest Litigation was directed to be registered to be placed before the Full Bench by the Chief Justice and that is how the matter is before us.

When we confronted Mr. B.R.Mahajan, learned Advocate General, Haryana, with the fact situation, he has fairly conceded that neither the appointment of the administrative members of the Tribunal has been notified and thus there is no constitution of the Bench as required by Section 5(2) of the Act nor the seat of the Principal Bench of the Tribunal has been notified as required under Section 5(8) of the Act and thus the notified Tribunal cannot function effectively. Under the provisions of the Act it is clear that a single member can neither decide the matter finally nor take up such cases where the vires of any Service Rules are challenged.

In the absence of constitution of the Principal Bench of the Tribunal and the notification with respect to the seat of the Principal Bench of the Tribunal the litigating public would be left without any remedy which would result into total failure of justice delivery system.

This situation is neither disputed by learned Advocate General, Haryana, nor by Mr. Satya Pal Jain, learned Additional Solicitor General of India with Mr. Chetan Mittal, Assistant Solicitor General of India.

Learned Advocate General, Haryana further states that the formalities required for appointment of the administrative members of the Tribunal as well as issuance of a notification for the seat of the Principal Bench of the Tribunal is likely to

(CWP-PIL No. 154 of 2019)

[3]

take some time and in the circumstances it would be in the interest of justice and in the interest of the litigants that the implementation of the notification be deferred for some period so as to enable the State Government to complete the formalities and in the meantime the High Court and District Courts in Haryana may continue to entertain fresh matters and the pending matters may not be transferred in the interregnum period.

Mr. Satya Pal Jain, learned Additional Solicitor General of India with Mr. Chetan Mittal, Assistant Solicitor General of India also do not object to the aforesaid factual matrix.

In view of the statement made by Mr. B.R.Mahajan, learned Advocate General, Haryana not being objected to by Mr. Satya Pal Jain, learned Additional Solicitor General of India with Mr. Chetan Mittal, Assistant Solicitor General of India, the implementation of the notification dated 24.07.2019 is deferred for the time being and the fresh cases as well as pending cases shall continue to be entertained by the High Court as well as District Courts in Haryana till further orders of this Court.

**(KRISHNA MURARI)**  
**CHIEF JUSTICE**

**(RAJIV SHARMA)**  
**JUDGE**

**(RAKESH KUMAR JAIN)**  
**JUDGE**

02.08.2019  
ravinder