

S.P. SAMPATH KUMAR  
v.  
UNION OF INDIA & ORS.

MAY 5, 1987

[R.S. PATHAK, CJI, RANGANATH MISRA, V. KHALID,  
G.L. OZA AND M.M. DUTT, JJ.]

*Administrative Tribunals Act, 1985—Appointment of Chairman, Vice-Chairman and Member of Tribunal—Recruitment to be made by high-powered Selection Committees—An advocate qualified to be a Judge of the High Court is eligible for appointment as Vice-Chairman, Member.*

In these Review Petitions, the Attorney General sought clarification of certain observations made in the individual judgments delivered on December 9, 1986 disposing of the Writ Petitions filed by the petitioners challenging the *vires* of the Administrative Tribunals Act, 1985.

Disposing of the Review Petitions,

HELD: 1. In the case of recruitment to the Central Administrative Tribunal the appropriate course would be to appoint a High Powered Selection Committee headed by a sitting Judge of the Supreme Court to be nominated by the Chief Justice of India, while in the case of recruitment to the State Administrative Tribunals the High Powered Selection Committee should be headed by a sitting Judge of the High Court to be nominated by the Chief Justice of the High Court concerned. [234G-235A]

2. The contention that an advocate will not have the administrative experience which is required for a Member of the Administrative Tribunal cannot be accepted. An advocate who is qualified to be a Judge of the High Court is an advocate who by implication is qualified to perform not only the judicial duties but the administrative functions which a High Court Judge is expected to discharge. Whether an advocate applying for recruitment to the Administrative Tribunal has sufficient administrative potential can be examined and judged during the process of selection. [235B-D]

(Time fixed for introducing legislation to give effect to the obser-

A **vations made in the Judgment, and, for setting up Additional Benches extended upto July 31, 1987 and December 31, 1987 respectively).**

ORIGINAL JURISDICTION: Review Petition Nos. 520-23 of 1987.

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Writ Petition Nos. 12437-12460 of 1985, 238 of 1986 and Transferred Cases Nos. 9-11, 12-13 of 1986.

C K. Parasaran Attorney General and Ms. A. Subhashini for the Petitioners.

P.H. Parekh, Suhail Dutt, P.D. Sharma and R. Ramachandran for the Respondents.

The following Order of the Court was delivered:

D In these petitions for review the learned Attorney General of India urges that certain observations and conclusions expressed in the individual Judgments of Bhagwati, CJI and one of us (Ranganath Misra, J) appear to conflict with each other, and prays that clarification be made. In the first place, he has drawn our attention to the observations of Bhagwati, CJI where the learned Chief Justice has taken the view that one of the two alternative options was open to the Government while appointing the Chairman, a Vice-Chairman and administrative members of the Administrative Tribunal. The learned Chief Justice said that the appointment of Chairman, Vice-Chairman and members of the Administrative Tribunal should be made by the concerned government only after consultation with the Chief Justice of India. The alternative suggestion is that a High Powered Selection Committee should be appointed headed by the Chief Justice of India or a sitting Judge of the Supreme Court or the concerned High Court to be nominated by the Chief Justice of India. In his Judgment our brother Ranganath Misra, J. has opted for the latter alternative.

F Having considered the matter carefully, we are of opinion that in the case of recruitment to the Central Administrative Tribunal the appropriate course would be to appoint a High Powered Selection Committee headed by a sitting Judge of the Supreme Court to be nominated by the Chief Justice of India, while in the case of recruitment to the State Administrative Tribunals, the High Powered Selection Committee should be headed by a sitting Judge of the High Court

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to be nominated by the Chief Justice of the High Court concerned.

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The second contention of the learned Attorney General is that the observations of Bhagwati, CJI that for the appointment to the post of Vice-Chairman of the Administrative Tribunal, besides a District Judge an Advocate who is qualified to be a Judge of the High Court should also be regarded as eligible, calls for reconsideration because an Advocate will not have the administrative experience which is required for a member of the Administrative Tribunal. We are unable to accept the contention. In the first place, an Advocate who is qualified to be a Judge of the High Court is an Advocate who by implication is qualified to perform not only the judicial duties but the administrative functions which a High Court Judge is expected to discharge. Secondly, whether an Advocate applying for recruitment to the Administrative Tribunal has sufficient administrative potential can be examined and judged during the process of selection. We, therefore, do not propose to interfere with the observations made by Bhagwati, CJI in his Judgment.

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The Learned Attorney General then prays that the time fixed in the Judgment for setting up additional Benches of the Administrative Tribunal should be extended to December 31, 1987. Having regard to the circumstances of the case and the administrative requirements of the situation, we have no hesitation in granting the time prayed for.

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The learned Attorney General also prays that time may be extended upto July 31, 1987 for introducing legislation to give effect to the observations made by the Court in these cases. We grant time accordingly.

The Review Petitions stand disposed of.

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P.S.S.

Petitions disposed of.