

HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

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WRIT PETITION No.38524 OF 2014
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JUDGMENT: (Per Hon'ble Sri Justice Ramesh Ranganathan)

The petitioners herein have sought leave to question the order of the Tribunal in O.A. No.4340 of 2014 dated 17.07.2014. The Tribunal, while ordering notice before admission, passed an interim order. The petitioners, who are not parties to O.A. No.4340 of 2014, have questioned the said order by way of the present writ petition.

Smt. G. Jyothi Kiran, learned counsel for the petitioners, would submit that the interim order passed by the Tribunal amounts to granting the final relief itself; granting the final relief by way of an interlocutory order is impermissible as has been held by the Supreme Court in ***State of U.P. and others Vs. Desh Raj***^[1] and ***State of U.P. and others Vs. Sandeep Kumar Balmiki and others***^[2].

On the other hand Sri P. Suresh Reddy, learned senior counsel appearing on behalf of the respondents, would place reliance on the judgment of the Supreme Court in ***Rajeev Kumar and another Vs. Hemraj Singh Chauhan and others***^[3] in support of his submission that, as the Tribunal is the Court of the first instance, the petitioners remedy is to file an implead application in O.A. No.4340 of 2014; thereafter, seek vacation of the interim order; and, after an order being passed in such an application, to question the same by way of a writ petition before this Court.

In ***Rajeev Kumar***³, the appellants had filed an application before the Delhi High Court requesting that they be impleaded as respondents in a writ petition filed by Sri Hemraj Singh Chauhan and

others. The said writ petition, filed by Sri Hemraj Singh Chauhan and others, was against the order of the Central Administrative Tribunal dismissing their application. The Delhi High Court directed that the applicants be impleaded as respondents in the Writ Petition before it. It is in this context that the Supreme Court held:

“..... In view of such repeated and authoritative pronouncement by the Constitution Bench of this Court, the approach made to the High Court for the first time by these appellants in respect of their service disputes over which C.A.T. has jurisdiction, is not legally sustainable. The Division Bench of the High Court, with great respect, fell into an error by allowing the appellants to treat the High Court as a Court of first instance in respect of their service disputes, for adjudication of which C.A.T. has been constituted.

The grievances of the appellants in this appeal are that they were not made parties in proceedings before the Tribunal. But in the impleadment application filed before the High Court it was not averred by them that they were not aware of the pendency of the proceeding before the Tribunal. Rather from the averments made in the impleadment petition it appears that they were aware of the pendency of the proceedings before the Tribunal. It was therefore, open for them to approach the Tribunal with their grievances. Not having done so, they cannot, in view of the clear law laid down by the Constitution Bench of this Court in Chandra Kumar (supra), approach the High Court and treat it as the Court of first instance in respect of their grievances by `overlooking the jurisdiction of the Tribunal'. The C.A.T. also has the jurisdiction of Review under Rule 17 of CAT (Procedure) Rules, 1987. So, it cannot be said that the appellants were without any remedy.

As the appellants cannot approach the High Court by treating it as a Court of first instance, their Special Leave Petition before this Court is also incompetent and not maintainable.....”

While the submission of Smt. G. Jyothi Kiran, learned counsel for the petitioners, that the Tribunal ought not to have granted an interim relief which could only have been granted as the final relief in the O.A., cannot be said to be without merit, the law declared in ***Rajeev Kumar*³** by the Supreme Court would require the petitioners herein to file an application to implead themselves in the O.A. and,

thereafter, to have the interim order vacated. As the petitioners cannot directly invoke the jurisdiction of this Court under Article 226 of the Constitution of India, we see no reason to entertain this writ petition.

Leaving it open to the petitioners herein to file an application before the Tribunal to implead them as respondents in O.A. No.4340 of 2014, and to seek vacation of the interim order, the writ petition is dismissed. In consequence, miscellaneous petitions, if any, pending in this writ petition, shall stand dismissed. No order as to costs.

RAMESH RANGANATHAN, J

**M. SATYANARAYANA MURTHY,
J**

Date: 09-03-2015.
Dsh

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AND
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WRIT PETITION No.38524 OF 2014

(Order of the Division Bench delivered by
Hon'ble Sri Justice Ramesh Ranganathan)

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Date. 09-03-2015

DSH

[\[1\]](#) (2007) 1 SCC 257

[\[2\]](#) (2009) 17 SCC 555

[\[3\]](#) (2010) 4 SCC 554