

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND SIXTEEN
(21.04.2016)

PRESENT
THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.13323 of 2016

Between:

M.Venkateswarlu

..... PETITIONER

AND

The Commandant, 12th Battalion,
APSP, Annaparthi, Nalgonda District and 5 others

.....RESPONDENTS

Counsel for the Petitioner : **Mr.D.RAMAKRISHNA**

Counsel for Respondents Nos.1 to 5 : **G.P.for Services (TS)**

The Court made the following:

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.13323 of 2016

JUDGMENT: (per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This writ petition is filed for certiorari to quash the order, dated
24.03.2016, in MASR No.1938 of 2016 in O.A.No.11072 of 2008, on the file of

the Andhra Pradesh Administrative Tribunal, Hyderabad (for short “the Tribunal”).

We have heard Sri D.Ramakrishna, learned counsel, representing Mr.M.Ratna Reddy, learned counsel for the petitioner, and perused the record.

The petitioner has filed O.A.No.11072 of 2008 to declare the action of the respondent in not extending the pay scale of Rs.4190-8700 to the qualified I.T.I.Electricians, including the petitioner, working in 12th Battalion, A.P.S.P, in terms of G.O.(P)No.508, dated 10.06.2004, as illegal and arbitrary. The petitioner also sought for a consequential declaration that he is entitled for the said pay scale. The said O.A. was disposed with a direction to the State Government of the day to pass appropriate orders on the proposals of respondents Nos.2 and 3, within a period of three months, and thereafter, extend the benefit arising out of G.O.(P)No.508, dated 10.06.2004 and G.O.(P)No.217, dated 02.07.2008 to the petitioner and another person, who was the applicant in O.A.No.523 of 2009.

As the said order was not implemented, the petitioner filed MASR No.1938 of 2016 before the Tribunal. The said application was dismissed by the Tribunal holding that such an application is not maintainable in view of its Full Bench Judgment. The petitioner, however, sought to rely upon the judgment, dated 09.04.2015, in W.P.No.31500 of 2011 of this Court. The Tribunal, considering the said judgment, held that no principle of law was laid down in the said judgment to the effect that an application for implementation of the order of the Tribunal is maintainable.

At the hearing, the learned counsel for the petitioner has not disputed the fact that under the provisions of the Administrative Tribunals Act, 1986 (for short “the Act”), a successful party before the Tribunal can only file a contempt case, following the order, passed in his favour, if it was not implemented, and that there is no provision for maintaining an application for implementation of the order. He has, however, submitted that since limitation for filing the contempt case has expired, his client had no option other than filing MASR No.1938 of 2016.

In our opinion, having not availed the remedy of contempt, envisaged under the Act, within limitation period, the petitioner cannot be permitted to

avail non-existent remedy, and therefore, the Tribunal has rightly declined to entertain the said application. However, it is made clear that the order of the Tribunal does not preclude the petitioner from approaching the respondents with appropriate representation, and in such event, the respondents shall consider the same and pass appropriate orders.

Subject to the above direction, the Writ Petition is dismissed. No order as to costs.

As a sequel to dismissal of the Writ Petition, WPMP No.16660 of 2016, filed by the petitioner for interim relief, is disposed of as infructuous.

C.V.NAGARJUNA REDDY,J

M.S.K.JAISWAL,J

Date: 21.04.2016

Dsr