

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE N. BALAYOGI

WRIT PETITION Nos.11094, 11172 and 11186 of 2017

COMMON ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

These three writ petitions were filed challenging the common order dated 16.03.2017 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in so far as it pertains to O.A.Nos.605, 606 and 607 of 2017 filed by the petitioners. By the said order, the Tribunal dismissed the O.As. The prayer of the petitioners before the Tribunal was to set aside the Memos dated 17.02.2017 and 22.02.2017 issued by the Secretary, Andhra Pradesh Public Service Commission, Hyderabad, and to consequently declare that they were entitled to exercise fresh options (re-options) for all the posts which arose up to 31.08.2000 in different spells in various categories of executive posts under the notification dated 28.12.1999 in terms of the judgment dated 08.02.2015 of the Supreme Court in Civil Appeal No.5099 of 2009 and batch. The petitioners wanted to be considered for selection and appointment to the posts of Deputy Tahsildars in their respective zones.

Perusal of the common order under challenge reflects that the Tribunal did not adjudicate the matter on merits being of the opinion that the issue raised was squarely covered by its earlier order dated 15.06.2015 passed in O.A.No.1952 of 2015 and batch. The Tribunal also extracted in its common order the relevant portion of the said order, being paragraphs 7, 8 and 9 thereof. However, perusal of paragraph 7 reflects that the applicants in O.A.Nos.1930, 2167 and 2128 of 2015 did not fall within the zone of consideration for selection and appointment as Deputy Tahsildars and Excise Sub-Inspectors in terms of their merit as per the Supreme Court order.

Similarly, a reading of the extracted paragraph 8 demonstrates that the decision in O.A.No.1993 of 2015 was rendered on the ground that the applicant had approached the Tribunal on a mere apprehension that the Commission would disturb the candidates in the zonal allotments already made. The Tribunal therefore opined that as nobody had made an attempt to disturb candidates in the zonal allotments, the applicant therein had no cause of action and could not maintain an O.A. on a mere apprehension. It was on this basis that the said batch of cases was dismissed.

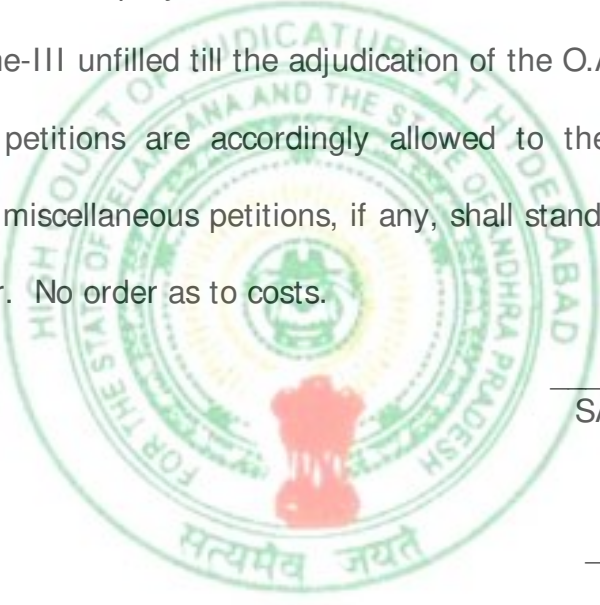
The issue raised by the petitioners before the Tribunal was altogether different as it was their case that they secured higher marks than those who were now sought to be considered for appointment to the posts of Deputy Tahsildars but they were not being afforded the opportunity of exercising fresh options/re-options in terms of the order passed by the Supreme Court. The contentions urged by them were therefore altogether different from those considered by the Tribunal in O.A.No.1952 of 2015 and batch, in terms of the paragraphs extracted from the order passed therein and set out in the order under challenge. The Tribunal therefore ought to have adjudicated the O.As. filed by the petitioners herein on merits independently without blindly applying a wholly irrelevant order passed by it earlier in another batch of cases.

The law laid down by the Supreme Court in *L. Chandra Kumar v. Union of India*¹ requires the Tribunal, being the Court of the first instance, to address the grievance of the Government employee in right earnest so as to redress the same, if found to be genuine. The manner in which the subject O.As. have been disposed of manifests that the Tribunal did not strive to live up to this expectation.

¹ (1997) 3 SCC 261

The common order under challenge in so far as it pertains to O.A.Nos.605, 606 and 607 of 2017 filed by the petitioners herein is accordingly set aside and the matters are remitted to the Tribunal for consideration afresh on facts and in accordance with law. As the petitioners were unnecessarily driven to this Court owing to the casual manner in which the Tribunal disposed of their O.As., the Tribunal shall endeavour to dispose of the O.As. afresh expeditiously and preferably within two months from the date of receipt of a copy of this order. Pending this exercise, as the interest of the petitioners would be at risk, there shall be a direction to the authorities to keep one post of Deputy Tahsildar in Zone-I and two posts of Deputy Tahsildars in Zone-III unfilled till the adjudication of the O.As. afresh.

The writ petitions are accordingly allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

N. BALAYOGI, J

6th April, 2017
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