

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

WRIT PETITION NO.5770 OF 2017

O R D E R

(Per Hon'ble Sri Justice Sanjay Kumar)

The petitioners were granted leave to file this writ petition against the order dated 27.07.2016 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.4445 of 2013, though they were not parties to the said O.A. This O.A. was filed by respondents 5 to 11 herein with the following prayer:

“In view of the facts mentioned in the above said paras the applicant/s prayed that this Hon'ble Tribunal may be pleased to hold the action on the part of the respondents in including the Inspectors of Police who belongs to the unit of appointment of City of Hyderabad in the list pertaining to Zone-IV as illegal, arbitrary and contrary to the orders of this Hon'ble Tribunal in O.A.No.2925/2004 and further hold the reasoning given by the 3rd respondent vide Proceedings in C.No.C1/40/2011, dated 12.09.2011 as contrary to the orders passed by the Hon'ble Tribunal in OA.No.2925/2004 and beyond the scope of the orders of this Hon'ble Tribunal in the above said O.A., and consequently direct the respondents to delete the names of Inspectors of Police whose unit of appointment is City of Hyderabad from the list of Zone-IV pertaining to Inspectors of Police and include their names in the City of Hyderabad and consequently alter the placements of the applicants and other Inspectors of Zone-IV by placing their names at the appropriate place in the year-wise panels and assign revised date of B-List and pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.”

By interim order dated 17.06.2013 passed in the O.A., the Tribunal directed the respondent authorities to consider the claims of

the applicants in the O.A. for placing their names at the appropriate places in the seniority list and also to include their names in the respective panel years by passing appropriate orders on their representation dated 06.04.2013.

It appears that the Government thereupon issued G.O.Ms.No.9, Home (Ser.I) Department, dated 29.01.2015, basing on the interim order passed by the Tribunal. Taking note of this development, the Tribunal disposed of the O.A., vide order dated 27.07.2016, directing the authorities to implement the said G.O. within a time frame.

Sri K.R.Srinivas, learned counsel for the petitioners, would contend that the prayer in the O.A. was not with regard to implementation of the aforesaid G.O. and the direction of the Tribunal to do so within a time frame causes irreparable harm and injury to the petitioners whose seniority will be affected by implementation thereof. He would therefore contend that the Tribunal exceeded its jurisdiction in granting the main relief far beyond the prayer in the O.A.

We find merit in this submission as the petitioners were not made parties to the O.A. though the prayer therein was with regard to the seniority of the applicants therein and the Tribunal did not consider as to whether the same would have impact on any others in the service.

We therefore grant liberty to the petitioners to lay a challenge to G.O.Ms.No.9 dated 29.01.2015 before the Tribunal as the validity thereof was never under consideration before the Tribunal and the same cannot be examined in the first instance by this Court in the light of the law laid down by the Supreme Court in **L. CHANDRA**

KUMAR V/s. UNION OF INDIA¹. As the petitioners were not even made parties to the O.A. and the aforestated G.O. was the result of an interim order passed by the Tribunal behind the back of the petitioners, the Tribunal shall entertain their challenge to the aforestated G.O. without reference to the limitation aspect.

The writ petition is dismissed subject to the aforestated liberty.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

N.BALAYOGI, J

20th FEBRUARY, 2017

Note:-

Issue CC in two days.

B/o

PGS



¹ (1997) 3 SCC 261