

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

WRIT PETITION No.8696 of 2017

ORDER: (Per Justice Sanjay Kumar)

The petitioner is the applicant in O.A.No.257 of 2017 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. The main relief sought by the petitioner in the said O.A. was to declare the action of the State of Andhra Pradesh in considering the recommendations made by the Director General of Police, State of Andhra Pradesh, only to the extent of transfer of Andhra Pradesh Special Police to Armed Reserve wing and not considering the recommendations in relation to transfer of Armed Reserve Police Constables to Civil Wing. A consequential direction was sought by him to the State to implement the recommendations in this regard by issuing orders as was done in the case of transfer of Andhra Pradesh Special Police to Armed Reserve wing. By way of his interim prayer, the petitioner prayed that pending disposal of the main O.A., the Tribunal may be pleased to suspend the operation of the Radio Message dated 25.01.2017 of the Superintendent of Police, Guntur District, or alternatively direct the authorities to consider his case for sending him to pre-promotional training along with the unofficial respondent.

By order dated 06.02.2017, the Tribunal admitted the O.A. and issued notice to the respondents returnable in six weeks. As the Tribunal did not grant interim relief, the petitioner is before this Court.

Sri K. Muralidhar Reddy, learned counsel for the petitioner, would contend that once the O.A. is admitted, the same would not see the light of day in the near future. He would further point out that the Tribunal did not consider the petitioner's prayer for interim relief pending disposal of the O.A.

Learned counsel would rely upon para 22.1 of the judgment of the Supreme Court in State of Uttar Pradesh v. Arvind Kumar Srivastava¹ in the context of the relief granted by the Court being extended to all others identically situated, especially in service matters.

¹ (2015) 1 SCC 347

No doubt, in terms of the procedure followed by the Tribunal, the interim prayer made in the O.A. does not take the form of a separate miscellaneous application, at the outset. However, that would not mean that the Tribunal is not required to consider the prayer for such interim relief immediately. Failure to consider such prayer may result in grave injustice to the applicant. In the event the Tribunal is of the opinion that grant of interim relief is not warranted, it necessarily had to record reasons therefor in its order. By merely admitting the O.A. and issuing notice to the respondents, the Tribunal cannot, in effect, deny interim relief to the applicant in the O.A.

This being the legal position, we are equally bound by the law laid down by the Supreme Court in *L. Chandra Kumar v. Union of India*². The Tribunal is the Court of the first instance to deal with the disputes raised by Government employees and it is only after adjudication thereof by the Tribunal, be it at the interlocutory or the final stage, that the jurisdiction of this Court under Article 226 of the Constitution can be invoked. Though, in the present case, the Tribunal effectively denied interim relief to the petitioner, there is no application of mind or adjudication by the Tribunal in this regard, as is evident from the order dated 06.02.2017. We therefore cannot entertain this writ petition.

The writ petition is accordingly dismissed leaving it open to the petitioner to renew his request for grant of interim relief before the Tribunal. We are sure that the Tribunal will take note of the observations made supra and act accordingly.

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

SANJAY KUMAR, J

N. BALAYOGI, J

13.03.2017

GJ

² (1997) 3 SCC 261