

HON' BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON' BLE SRI JUSTICE U. DURGA PRASAD RAO

W.P. No. 15354 of 2016

ORDER:- (ORAL)

(Per Hon' ble Sri Justice Suresh Kumar Kait)

This writ petition is filed assailing the order dated 31.12.2015 in O.A.No. 7358 of 2015 passed by the Tribunal, whereby the Tribunal, while dismissing the O.A. filed by the petitioner, made the following observations:

“It is the grievance of the applicant that his representations dated 18.03.2015 and 18.11.2014 were not being considered and not disposed of by respondent Nos.1 and 3 in spite of lapse of several months. The said representations pertain to implementation of the order of this Tribunal dated 13.08.2014 in O.A.No. 8219 of 2011. This Original Application is sought to be filed for direction to dispose of the applicant's above representations for implementation of order in O.A.No. 8219 of 2011 dated 13.08.2014. The question of giving directions for disposing of representations for implementation of order of this Tribunal will never arise. In case, the order of this Tribunal is not implemented or complied with by any of the respondents, then it is for the applicant to enforce the said orders by way of invoking valid provisions under the Administrative Tribunals Act, 1985 together with the Contempt of Courts Act, 1971. It is fairly stated by the applicant's counsel that since time limit for filing Contempt Application had expired, the applicant had to file this Original Application. This Tribunal is of the opinion that a dead horse cannot be beaten in order to ride on the same. This Original Application is misconceived.

In the result, the Original Application is dismissed.”

Initially the petitioner filed a representation to the respondents seeking appointment on compassionate grounds. The 3rd respondent dismissed the representation vide

proceedings No. AB/ AC.2/ 252, dated 10.02.2011. Challenging the proceedings of the 3rd respondent, the petitioner filed O.A.No. 8219 of 2011, and the Tribunal, vide order dated 13.08.2014, allowed the O.A. setting aside the proceedings dated 10.02.2011.

Thereafter, the petitioner made two representations dated 18.11.2014 and 18.03.2015 requesting the respondents to give appointment on compassionate grounds. Since the order dated 13.08.2014 passed by the Tribunal in O.A.No. 8219 of 2011 was not complied with, the petitioner filed another O.A.No. 7358 of 2015 requesting to implement the order dated 13.08.2014, however, the Tribunal opined that the question of giving directions for disposing of the representations for implementation of the order of the Tribunal will not arise. In case the order of the Tribunal is not implemented or complied with by any of the respondents, then it is for the petitioner to enforce the said orders by way of invoking valid provisions under the Administrative Tribunals Act, 1985 together with the Contempt of Courts Act, 1971. Accordingly, the Tribunal is of the opinion that a dead horse cannot be beaten in order to ride on the same.

The fact remains that by order dated 13.08.2014 in O.A.No. 8219 of 2011 passed by the Tribunal, the proceedings dated 10.02.2011 of the 3rd respondent were set aside,

however, thereafter, no proceedings had taken place *qua* the case of the petitioner. Finding no alternative, the petitioner filed O.A.No. 7358 of 2015 and the same was dismissed as the petitioner had failed to file Contempt Application within the period of limitation.

We note, in pursuance of the order dated 13.08.2014 passed by the Tribunal, the petitioner made two representations dated 18.11.2014 and 18.03.2015 on which decision has not been taken by the respondents. Therefore, this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, give liberty to the petitioner to make a fresh representation to the respondents within a period of two weeks from the date of receipt of a copy of this order. On such representation being filed, the respondents, keeping in view the proceedings dated 10.02.2011 which were already quashed by the Tribunal in O.A.No. 8219 of 2011, shall consider such representation and pass appropriate orders thereon in accordance with law, within a period of four weeks from the date of receipt of the fresh representation.

It is made clear that if the petitioner is still aggrieved with the action or inaction of the respondents, he may challenge the same before the appropriate forum by invoking relevant provisions available under law.

With the above observations, the writ petition is disposed of. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

11.07.2017

SURESH KUMAR KAIT, J

bcj

U.DURGA PRASAD RAO, J

