

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION NO.6555 OF 2018

ORDER: (per SK,J)

The petitioner is the applicant in O.A.No.285 of 2018 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. She filed this writ petition aggrieved by the order dated 22.02.2018 passed therein by the Tribunal. The said order reads as under:

'Admit. Issue notices to the respondents returnable in six weeks. Appointment, if any, to be made to the post of Junior Lecturer (Tamil) will be subject to final result in the Original Application.'

Having considered the submissions made by Sri V.Ravichandran, learned counsel for the petitioner, in the context of the Presidential Order and the manner in which it is sought to be applied in the case on hand, this Court directed, *vide* order dated 11.04.2018, that in the event appointments had not been made till that date, *status quo* should be maintained.

I.A.No.2 of 2018 was filed by the fifth respondent to vacate the aforestated order.

Having heard Sri V.Ravichandran, learned counsel, and Sri M.Venkataram Reddy, learned counsel for the fifth respondent, we are of the opinion that this Court cannot adjudicate the issues sought to be raised in the writ petition as the Tribunal, being the Court of the first instance in terms of the law laid down by the Supreme Court in *L.CHANDRA KUMAR v. UNION Of INDIA*¹, necessarily has to do so in the pending O.A. before this Court can step in to exercise of the power of judicial review under Article 226 of the Constitution.

¹ (1997) 3 SCC 261

At this stage, Sri M.Venkataram Reddy, learned counsel, would raise the issue of maintainability of this writ petition by placing reliance on the Division Bench judgment of this Court in R.MANJULA v. PRINCIPAL SECRETARY TO GOVERNMENT, REVENUE (SERVICES.I) DEPARTMENT, HYDERABAD². Therein, the Division Bench observed that refusal to grant an *ex parte* interim order in every case by the Tribunal cannot be characterised as a 'decision', which could be subjected to scrutiny before this Court in exercise of its jurisdiction under Article 226 of the Constitution. The Division Bench went on to state that this Court, in exercise of its jurisdiction under Article 226 of the Constitution, would not normally interfere with the discretionary orders passed by the Tribunal and grant of an interlocutory order or refusal thereof being within the discretion of the Tribunal, this Court would not interfere with such discretion unless it is established that passing of such interlocutory order or refusal thereof had resulted in an irreversible situation resulting in manifest injustice.

Applying the aforesaid principle to the case on hand, it is not in dispute that the post in question was first notified as long back as in the year 2008. It appears that the Andhra Pradesh Public Service Commission (APPSC) furnished information, *vide* Memo dated 14.02.2013 under the Right to Information Act, 2005, stating that the fifth respondent herein was not selected for the subject post being a non-local as the post was reserved for OC (W) local category in Zone-IV. This aspect of the matter would therefore have to be examined by the Tribunal and at this stage, allowing the fifth respondent to be appointed by virtue of the liberty granted by the Tribunal by way of the order under challenge, would result

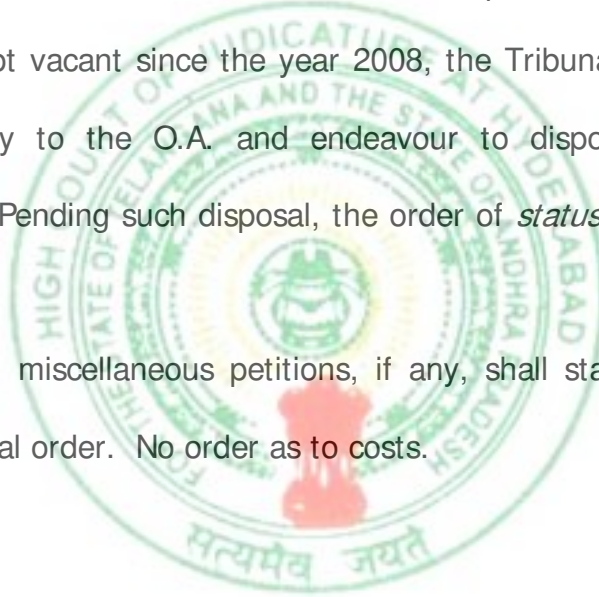
² 2002 (3) ALD 648 (DB)

in grave injustice to the petitioner and would constrain her to again file a fresh O.A.

Given this situation, we are of the opinion that the Tribunal should have been more mindful of the past history of the case while refusing interim relief to the petitioner who had sought stay of all further proceedings pursuant to the selection notification dated 07.02.2018 issued by the APPSC in relation to the earlier notifications dated 26.11.2008.

In that view of the matter, we dispose of the writ petition directing the APPSC to maintain *status quo* obtaining as on today till the disposal of the O.A. by the Tribunal. Given the fact that the post in question seems to have been kept vacant since the year 2008, the Tribunal is requested to bestow priority to the O.A. and endeavour to dispose of the same expeditiously. Pending such disposal, the order of *status quo* shall remain in operation.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.



SANJAY KUMAR,J

M.GANGA RAO,J

Date:04.10.2018

GJ