

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

WRIT PETITION No.9054 OF 2018

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

Challenge in this writ petition is to the action of the Andhra Pradesh Administrative Tribunal, Hyderabad, in admitting O.A.No.331 of 2018 by its order dated 27.02.2018 and issuing notice to the respondents returnable in six weeks.

Sri K.Ram Reddy, learned counsel for the petitioner, the applicant in O.A.No.331 of 2018, would submit that there is a threat of discontinuance of the services of the petitioner/applicant, notwithstanding the fact that he secured a favourable order in W.P.No.6949 of 2018 before this Court on 05.03.2018 with regard to his regularization in service, and therefore there was paramount urgency in considering his plea for interim relief, but the Tribunal did not choose to look into the said aspect and issued notice to the respondents while admitting the O.A. Learned counsel would further state that once the O.A. is admitted, it would not surface for consideration any time soon.

In the light of the clear observations made by a Constitution Bench of seven Judges in L.Chandra Kumar v. Union of India¹, it is only a decision of the Tribunal constituted under Article 323B of the Constitution that would fall for judicial review before a Division Bench of this Court under Article 226 of the Constitution. A mere order of admission and issuing notice to the respondents would not amount to a decision which would be amenable to such review in terms of the law laid down in L.Chandra Kumar¹.

¹ (1997) 3 SCC 261

However, that being said, the Tribunal cannot ignore urgency for interim relief in a given case and merely admit the same, when there is no scope for the prayer for interim relief therein being considered in the near future. By resorting to such a measure, the Tribunal would practically be rendering the matter infructuous.

It may also be noted that another Division Bench of this Court in *Putta Siva Rama Krishna v. State of Andhra Pradesh*² observed as under:

‘9. In the light of these clear and unambiguous statutory provisions as discussed above, we are of the considered view that if, for any reason, the Tribunal is not inclined to grant an *ad interim* order, it has to necessarily consider the request of the applicants for grant of interim orders after service of notice on the opposite party, which necessarily includes its Counsel also appearing in the matter. As the Tribunal has not followed this procedure, these writ petitions are disposed of in the following terms:

“Subject to service of notices on the respondents, the Tribunal shall hear both sides and pass appropriate interim orders on the requests made by the petitioners in their respective OAs for grant of interim orders within four weeks from the date of receipt of this order.” ’

No doubt, it is for the Tribunal to organize its own board but failure to consider the plea for interim relief in an individual case, notwithstanding the demonstrable urgency therein, clearly undermines the very purpose for which the Tribunal has been constituted.

In that view of the matter, the writ petition is disposed of directing the Tribunal to take up O.A.No.331 of 2018 for consideration of the prayer

² 2017 (1) ALD 327 (DB)

for interim relief therein within two weeks from the date of receipt of a copy of this order.

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: 20.03.2018

Note:-

Issue CC in two days.

(B/o)

IBL

