

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

WRIT PETITION NO.29134 OF 2010

ORDER

(Per Hon'ble Sri Justice Sanjay Kumar)

This writ petition was preferred by the erstwhile combined State of Andhra Pradesh and its Commissioner of Tribal Welfare aggrieved by the interim order dated 11.11.2010 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad (*hereinafter*, 'the Tribunal'), in O.A.No.7756 of 2010. The said O.A. was filed by the first respondent herein assailing G.O.Rt.No.900 dated 02.11.2010 issued by the then Government of Andhra Pradesh and the consequential proceedings dated 03.11.2010 issued by the Commissioner of Tribal Welfare, Andhra Pradesh, Hyderabad. By the order dated 11.11.2010, the Tribunal admitted the O.A. and suspended G.O.Rt.No.900 dated 02.11.2010. A further interim direction was granted to the effect that the first respondent-applicant should be admitted to duty within two days from the date of receipt of a copy of the order. Aggrieved thereby, the authorities preferred this writ petition.

By order dated 30.11.2010, this Court granted suspension of the interim order granted by the Tribunal.

While so, the main O.A. itself came to be disposed of by the Tribunal *vide* order dated 28.01.2015. A copy of the said order is placed on record. Perusal thereof reflects that the reasoning adopted by the Tribunal for disposal of the O.A. was as under:

'3. But, this Tribunal is of the opinion that there is no necessity for keeping this Original Application pending, since the entire subject matter is seized by the High Court. The ultimate decision that may be passed by the High Court in W.P.Nos.29133 and 29134/2010 would govern the field/ the applicant as well as the respondents. As the matter now stands by virtue of Interim suspension orders passed by the High Court in both the pending Writ Petitions, the applicant is out of service. There is no stay Order from the High Court for disposal of this Original Application.

4. In the circumstances, this Original Application is disposed of holding that final decision that would be given by the High Court in W.P.Nos.29133/2010 and 29134/2010 would govern the applicant. In case W.P.No.29133/2010 is dismissed by the High Court, this O.A. stands allowed. Otherwise, this O.A. will stand dismissed.'

It appears that the Tribunal completely lost sight of the mandate of the Supreme Court in L.CHANDRA KUMAR V/ s. UNION OF INDIA¹ to the effect that in service matters relating to the State, it is the Tribunal which is the Court of first instance and the responsibility resting upon the Tribunal in this regard cannot be lightly brushed aside as has been done in the case on hand. The validity of G.O.Rt.No.900 dated 02.11.2010 could not have been examined by this Court in a writ petition arising out of the interim order passed in O.A.No.7756 of 2010 and the Tribunal itself ought to have undertaken that exercise in that O.A. However, we may note that the present writ petition arises out of the interim order passed in O.A.No.7756 of 2010 and the same ceased to exist upon the disposal of the O.A. The writ petition is therefore infructuous as the interim order dated 11.11.2010 in O.A.No.7756 of 2010 is no longer in operation.

The writ petition is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

24th OCTOBER, 2018

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¹ (1997) 3 SCC 261