

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

WRIT PETITION No.23875 OF 2018

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

This writ petition was filed by an employee of the East Coast Railway, Visakhapatnam, with the following prayer:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus directing to CBI-Probe into the irregularities and illegalities committed by Respondent Nos. 5 to 7 in awarding marks for Record of Service, evaluation of answer sheets of written examination, depriving the petitioner due consideration for promotion etc. Consequently, direct the Respondent No. 3 & 4 to include the name of the Petitioner and remove the names of Respondent No. 8 & 9 from the amended Provisional Panel, dated: 06.11.2017 in view of this Hon'ble Court common order passed in WP 6005 of 2011 and pass such other order or orders may deem fit and proper in the circumstances of the case.”

Respondents 5 to 7 in the writ petition are the Divisional Railway Manager, the Senior Divisional Personnel Officer and the Senior Divisional Mechanical Engineer of the East Coast Railway, Visakhapatnam. The allegation made against them is that they awarded marks for the record of service and had undertaken evaluation of answer sheets of the written examination irregularly, warranting a probe by the Central Bureau of Investigation. The written examination in question is in relation to recruitment to the post of Junior Engineer Grade-II in the service of the East Coast Railway.

In terms of the law laid down by the Supreme Court in L.Chandra Kumar v. Union of India¹, in so far as service matters relating to the Central Government and its instrumentalities are concerned, the Court of the first instance is the Central Administrative Tribunal constituted under the provisions of the Administrative Tribunals Act, 1985. It is only after the said Tribunal renders an adjudication on merits that cause would arise for the party aggrieved thereby to invoke the jurisdiction of this Court under Article 226 of the Constitution.

The aforestated prayer of the petitioner and the material placed on record demonstrate that he did not choose to approach the Central Administrative Tribunal, Hyderabad Bench, prior to filing this writ petition. This writ petition is therefore not maintainable, being in violation of the binding procedure laid down by the Supreme Court in L.Chandra Kumar¹.

On this short ground, the writ petition is dismissed.

Interim order dated 19.07.2018 shall stand vacated. Pending miscellaneous petitions, including the implead petition in I.A.No.2 of 2018, shall also stand dismissed. No order as to costs.

SANJAY KUMAR,J

M. GANGA RAO, J

Dt: 06.09.2018
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¹ (1997) 3 SCC 261