

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

WRIT PETITION No.31745 OF 2018

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

The prayer of the petitioner in this case reads as under:

“For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue writ or direction preferably Writ of Mandamus declaring the action of the Respondent No.1 in constituting DPC with ineligible person i.e. the present In-charge Director, Insurance Medical Services (IMS) and instead of concluding the action initiated vide Memo No.417436/IMS & VIG/2016 dated 04.10.2017 for effecting regular promotion to the post of Civil Surgeon (RMO)/Joint Director as per law, seniority and rules and considering the Juniors (unofficial respondent) for the post of Joint Director in violation of rule of vertical seniority and disturbing the petitioner even though she is continuing as on today as In-charge Joint Director since 26.05.2017 as illegal, arbitrary and violative of principles of natural justice and consequently set aside the G.O.Ms.No.10, dated 28.06.2018 and consequential G.O.Rt.No.202, Labour Employment Training & Factories (MS & VIG) Department, dated 28.06.2018 and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.”

Though Sri Kowturu Pavan Kumar, learned counsel for the petitioner, would attempt to link the prayer in this writ petition to the dismissal of O.A.No.310 of 2018 filed by the petitioner before the Andhra Pradesh Administrative Tribunal, Hyderabad, *vide* order dated 20.08.2018, we find from perusal of the said order that G.O.Ms.No.10 dated 28.06.2018 and G.O.Rt.No.202 dated 28.06.2018, which are now sought to be subjected to challenge, were never examined by the Tribunal.

In the light of the law laid down by the Supreme Court in L.Chandra Kumar v. Union of India¹, the Tribunal is the Court of the first instance and it is not open to an employee, who is bound by the dictum of the aforesaid decision to approach the Tribunal in the first instance, to file a writ petition before this Court directly.

The writ petition is accordingly dismissed on this short ground leaving it open to the petitioner to avail the appropriate remedy in accordance with law.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.



SANJAY KUMAR, J

M. GANGA RAO, J

Dt: 05.09.2018
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¹ (1997) 3 SCC 261