

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

WRIT PETITION NO.34119 OF 2018

ORDER: (per SK,J)

This writ petition arises out of the order dated 09.08.2018 passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad, in MA/21/489/2018 in CP/21/120/2014 in OA/20/296/12. The petitioner is the applicant in the said OA, contempt petition and miscellaneous application. By order dated 28.01.2014, the said O.A. was allowed setting aside the penalty order dated 24.11.2011 impugned therein and holding that the petitioner-applicant was entitled to all consequential benefits, including promotion on par with her juniors, fixation of pay and arrears and other consequential benefits, as per rules.

Alleging disobedience to the said order, the petitioner-applicant filed Contempt Petition No.120 of 2014 before the Tribunal. It appears that the petitioner-applicant baldly complained therein that notwithstanding the time frame fixed by the Tribunal for compliance with the order passed in the said O.A., the authorities had not done so. Further, during the course of arguments in the said contempt petition, it appears that the counsel for the petitioner-applicant only raised the issue of his client being entitled for promotion from the year 2001 instead of the year 2003, as decided by the authorities *vide* the proceedings dated 15.11.2014. The contempt case was dismissed by the Tribunal, *vide* order dated 26.04.2016, holding that if the petitioner-applicant had any grievance with regard to the date of her promotion, she was at liberty to challenge the same by way of independent proceedings. The petitioner-applicant then filed the subject miscellaneous application in the contempt

petition specifically contending that she was held entitled to all consequential benefits by the Tribunal *vide* the order dated 28.01.2014 passed in the O.A. but in spite of the same, she had been denied financial upgradations as per the Executive Promotion Policy of the authorities. No doubt, she also alleged that a misrepresentation was made by the authorities during the course of the contempt petition hearing and that it would amount to fraud. The Tribunal dismissed the miscellaneous application *vide* the order dated 09.08.2018, presently under challenge.

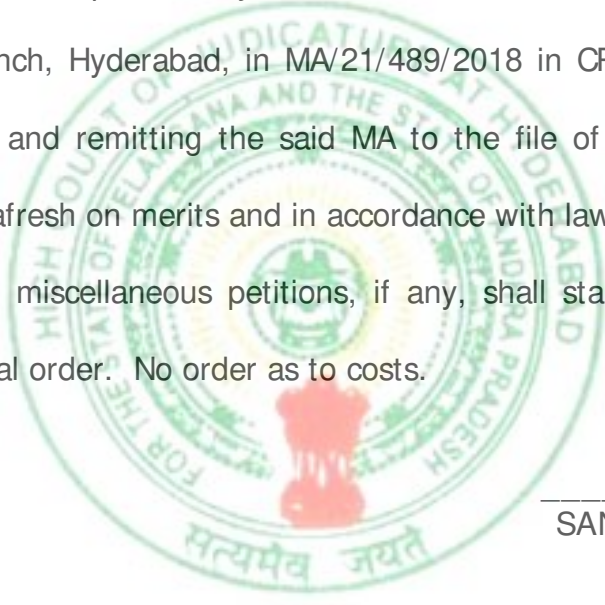
Perusal thereof reflects that the Tribunal again limited its consideration to only the issue of promotion which had been raised in the first instance during the contempt petition hearing and observed that no fraud was established, as claimed by the petitioner-applicant. Significantly, the Tribunal did not consider the issue of financial upgradations being a part of the consequential benefits that would be due to her in terms of the order passed in the O.A.

Sri G.Narender Raj, learned counsel for the petitioner-applicant, would point out that the Assistant General Manager (Administration) of the Bharat Sanchar Nigam Limited (BSNL), Hyderabad, addressed letter dated 29.09.2014 to the Assistant General Manager (Legal), BSNL at Hyderabad, informing him that the consequential time bound upgradations under the BSNL Executive Promotion Policy were still under process and would be decided by the DPC as per rules. This communication was made in relation to compliance with the Tribunal's order dated 28.01.2014 in O.A.No.296 of 2012. Learned counsel would further inform this Court that this aspect of the matter was specifically raised in the MA and argued before the Tribunal but unfortunately, the Tribunal did not address the same.

Perusal of the order under challenge bears out that this aspect was never given any consideration while adjudicating the subject MA. As the Tribunal would have the power of reviewing its order passed in a contempt petition also and as this aspect of the matter was not considered either at the time of dismissal of the contempt petition or of the miscellaneous application filed therein, we are of the opinion that the interest of justice requires the Tribunal, being the Court of the first instance, to address this aspect on its merits.

The writ petition is accordingly allowed setting aside the order dated 09.08.2018 passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad, in MA/21/489/2018 in CP/21/120/2014 in OA/20/296/12 and remitting the said MA to the file of the Tribunal for consideration afresh on merits and in accordance with law.

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:24.09.2018

GJ