

THE HON'BLE SRI JUSTICE SANJAY KUMAR

AND

THE HON'BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No. 34854 of 2018

ORDER:

The Union of India and its officials in the All India Radio (Prasar Bharati) filed this writ petition aggrieved by the order dated 01.11.2017 passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad, in O.A.No.21/949/2017 and the consequential order dated 23.08.2018 passed in Contempt Petition No.21/19/2018.

By order dated 16.11.2018 passed in I.A.No.2 of 2018 in this writ petition, this Court granted interim suspension of the orders under challenge.

Heard Sri K. Lakshman, learned Assistant Solicitor General, appearing for the petitioners, and Sri G. Jayaprakash Babu, learned counsel for the respondent.

By interim order dated 01.11.2017 passed in O.A.No.21/949/2017, the Tribunal directed the authorities, the petitioners in this writ petition, to pay provisional pension to the respondent/applicant. Alleging disobedience to this order, the respondent/applicant instituted contempt proceedings in C.P.No.21/19/2018 before the Tribunal. It appears that the petitioners herein, being the respondents in the O.A., filed M.A.No.21/316/2018 to vacate the interim order granted on 01.11.2017. Clubbing these matters together, the Tribunal passed an order on 23.08.2018 observing that the matter was adjourned at the request of the learned Senior Standing Counsel for the respondents in the O.A., holding that no further adjournment would be granted failing which the respondents were directed to appear in person before the Tribunal.

Sri K. Lakshman, learned Assistant Solicitor General, would inform this Court that the Tribunal is insisting on compliance with the interim order dated

01.11.2017 as a condition precedent to even consider the vacate stay petition filed in relation to that order.

Sri G Jayaprakash Babu, learned counsel would however assert that the respondents in the O.A. filed the vacate stay petition long after passing of the interim order and that is why the Tribunal is insisting on compliance without advertting to the vacate stay petition.

We are however of the considered opinion that once a vacate stay petition is filed in relation to an interim order, propriety demands that the Court should deal with the said vacate stay petition and, depending upon the result thereof, proceed further in the Contempt Case. Merely because the vacate stay petition is filed sometime after passing of the interim order would not mean that the Court can insist on compliance with the order as a condition precedent to take up and hear the vacate stay petition.

In that view of the matter, the Tribunal ought not to have directed the presence of the respondents in the event they fail to comply with the interim order, without first taking up for consideration the vacate stay petition filed by the respondents in the O.A, which was numbered as M.A.No.21/316/2018 in O.A.No.21/949/2017.

The writ petition is accordingly disposed of directing the Tribunal to first take up the vacate stay petition and thereafter proceed further in the Contempt case. The Tribunal shall endeavour to dispose of the said vacate stay petition expeditiously keeping in mind the interest of the respondent herein.

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

22nd November, 2018
KSM

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