

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

WRIT PETITION No.38452 OF 2018

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

This Writ Petition was filed with the following prayer:

“ ... the reasons disclosed in the accompanying Affidavit, it is therefore, prayed that this Hon'ble High Court may be pleased to grant appropriate relief more in the nature of Writ of Mandamus under Article 226/227 of the Constitution of India to the effect that entertaining the OA No.1771/2018 filed by the part respondents by the Hon'ble Tribunal that too by the learned Single Bench and passing the ex parte interim order by order dt.28.08.2018 in OA No.1771/2018 is void and without jurisdiction and contrary to the Administrative Tribunal Act, 1985 including section 24 of the Administrative Tribunal Act and set aside the orders of the Hon'ble Tribunal dt. 28.08.2018 in OA No.1771/2018 as erroneous, void and without jurisdiction restraining the AP Administrative Tribunal from conducting trial under section 19 of the AP Administrative Tribunal Act, 1985 consisting of Single Member and further direct that official respondents to forthwith effect promotion to the post of Assistant Commissioner of Labour as per the rules in considering the case of the Petitioner for promotion to the post of Assistant Commissioner of Labour as per the seniority and as per the rules with effect from the date of availability of posts as per AP Labour Service Rules with all consequential benefits and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.”

We find that the interim order, which is the cause for grievance, merely states as follows:

“Pending further orders in the O.A., the respondents are at liberty to proceed with the promotions, as per the qualifications prescribed to the post of Assistant Commissioner of Labour under the relevant enactments. It is needless to say that any promotions to the post of Assistant Commissioner of Labour will be subject to the further orders in the O.A.”

In so far as the entertainment of the O.A. by the Tribunal through a Member constituting a Bench sitting single is concerned, we find that Section 5(6) of the Administrative Tribunals Act, 1985, permits the same. The issue sought to be raised in this regard therefore stands settled.

Sri P.V.Krishnaiah, learned counsel, would contend that the prayer in the O.A. was for a direction to the Government to amend the Rules and the O.A. itself ought not to have been entertained as such a direction cannot be issued in law.

Be it noted that the petitioner is not a party to the O.A. and if it is his case that the O.A. ought not to be entertained on merits, it is always open to him to get himself impleaded in the O.A. in accordance with law and oppose the same.

In so far as the interim order is concerned, Sri P.V.Krishnaiah, learned counsel, would contend that the Tribunal directed that promotions must be made as per the qualifications prescribed for the post of Assistant Commissioner of Labour under the relevant enactments and that exclusion of the applicable service rules is not warranted.

We find no merit in this submission as the term 'relevant enactments' would mean not only statutes, if any, but also statutory rules.

The dictionary meaning of 'enactment' is that it means (1) the process of enacting (2) a law that has been passed. In that view of the matter, the word 'enactment' does not exclude the relevant statutory rules.

Further, as this Writ Petition is sought to be maintained against an *ex parte* order, we are of the opinion that cause is not

made out for exercise of the power of judicial review vesting in this Court under Article 226 of the Constitution of India.

We find no reason to entertain this writ petition and the same is accordingly dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

25th October, 2018
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