

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

WRIT APPEAL NO.1498 OF 2018

J U D G M E N T

(Per Hon'ble Sri Justice Sanjay Kumar)

This appeal is sought to be maintained by the Assistant Director of Sericulture, Karimnagar District, against the common order dated 12.12.2017 passed by a learned Judge of this Court in so far as it pertains to W.P.No.5689 of 2001. The appeal was however filed with a delay of 97 days. I.A.No.1 of 2018 was therefore filed seeking condonation of this delay.

We are however of the opinion that neither the I.A., nor the appeal deserve consideration as we find that the appeal grounds seek to raise new points which were never placed before the learned Judge.

Learned Government Pleader for Agriculture and Cooperation, State of Telangana, concedes that neither the issue relating to the Andhra Pradesh (Regulation of Appointments to Public Services and Rationalisation of Staff Pattern and Pay Structure) Act, 1994, nor the issues which were considered by the Supreme Court in SECRETARY, STATE OF KARNATAKA V/ s. UMADEVI¹ and A.MANJULA BHASHINI V/ s. MANAGING DIRECTOR, AP WOMEN'S COOPERATIVE FINANCE CORPORATION LTD² were raised before the learned Judge. He would however assert that as these are legal issues, they can still be raised at the stage of appeal.

We are not persuaded to agree.

No doubt, a purely legal issue can be raised at any stage of the proceedings but when an appeal is sought to be maintained against an

¹ (2006) 4 SCC 1

² (2009) 8 SCC 431

adjudication undertaken by a learned Judge of this Court, the scope of the appeal would be limited to the issues which fell for consideration before the learned Judge. The only exception would be when any jurisdictional aspect is raised, which was not raised before or considered by the learned Judge. This is because it would go to the root of the matter as jurisdiction cannot be conferred even by consent.

That being so, we are not inclined to entertain this appeal against the order of the learned Judge as, by no stretch of imagination, can we hold the said order to be erroneous when wholly new grounds are sought to be pressed into service to attack the said order in this appeal. We therefore see no reason to condone the delay and entertain this appeal.

I.A.No.1 of 2018 in W.A.No.1498 of 2018 and W.A.No.1498 of 2018 shall stand dismissed. This order shall however not preclude the appellant from approaching the learned Judge by way of an appropriate petition 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

19th NOVEMBER, 2018

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