

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

WRIT PETITION No.41383 of 2018

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

The petitioner is the applicant in O.A.Dy.No.2162 of 2018 on the file of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad. The said O.A. was returned by the Registry of the Tribunal on 09.11.2018 raising the issue of its maintainability on the ground that six months had not elapsed since the representation dated 05.11.2018 was filed by the petitioner-applicant in the pending appeal seeking leave to withdraw it. It appears that the O.A. was thereafter called on the Bench and the petitioner-applicant sought leave to withdraw the same unconditionally. Having done so, he filed the present writ petition with the following prayer:

'For the reasons stated in the accompanying affidavit this Honourable Court may be prayed to issue a writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in not permitting the Petitioner to withdraw his Appeal dated 13.12.2014 as illegal, improper, unjust, arbitrary and contrary to law and consequently direct the 2nd respondent to consider the withdrawal letter dated 05.11.2018 and permit the Petitioner to withdraw his Appeal dated 13.12.2014 and thereby close all the proceedings including Show Cause Notice No. CON/C/C/SF.V/14/2012 dated 07.07.2015; and pass such other order or orders as this Honourable Court may deem fit and proper in the circumstances of the case.'

We are of the opinion that in the light of the law laid down by the Supreme Court in L.CHANDRA KUMAR V/ s. UNION OF INDIA¹, it is not open to the petitioner-applicant to bring a service dispute directly

¹ (1997) 3 SCC 261

before this Court without first inviting adjudication from the Tribunal constituted under the Administrative Tribunals Act, 1985. Admittedly, in the case on hand, there is no adjudication by the Tribunal as the petitioner-applicant himself withdrew the O.A. filed by him before it. In that view of the matter, he cannot seek to maintain this writ petition before this Court.

The writ petition is accordingly dismissed. We however make it clear that this order shall not preclude the petitioner-applicant from pursuing appropriate remedies before the proper forum in accordance with law.

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

Date: 03.12.2018
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SANJAY KUMAR, J

M. GANGA RAO, J