

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO
WRIT PETITION NO.43330 OF 2018

ORDER

(per Hon'ble Sri Justice Sanjay Kumar)

This writ petition arises out of the order dated 08.11.2018 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad (*hereinafter*, 'the Tribunal'), in M.A.No.433 of 2018 in O.A.No.3388 of 2017. The petitioner is the applicant in the said O.A. and filed the subject M.A. to fix an early date for the hearing of the O.A. By the order dated 08.11.2018, presently under challenge, the Tribunal observed as under:

'There is no urgency in the matter relating to promotion.
Hence, Miscellaneous Application is dismissed.'

Sri T.Koteswara Rao, learned counsel for the petitioner-applicant, would bring it to the notice of this Court that O.A.No.3388 of 2017 was dismissed in the first instance by the Tribunal, *vide* order dated 19.12.2017. Aggrieved thereby, the petitioner-applicant filed W.P.No.1830 of 2018 before this Court. The said writ petition was disposed of by a Division Bench of this Court, *vide* order dated 31.01.2018. By the said order, the Division Bench, while setting aside the order dated 19.12.2017 passed by the Tribunal in O.A.No.3388 of 2017, observed as under:

'In that view of the matter, we hereby set aside the order dated 19.12.2017 passed by the learned Tribunal in O.A.No.3388 of 2017, by giving liberty to the petitioner to get the O.A., revived. Thereupon, the learned Tribunal shall permit the petitioner to amend the prayer and, thereafter, shall adjudicate the O.A., on merits, by considering the issues raised by the petitioner. Since it is second round of litigation, we expect the learned Tribunal to dispose of the O.A., as expeditiously as possible, but not later than three months from the date of receipt of this order.'

It may be noted that, in its wisdom, the Division Bench fixed a specific outer limit for the disposal of the O.A. taking into account the fact

that it was the second round of litigation. This order was passed as long back as on 31.01.2018.

M.A.No.433 of 2018 was filed by the petitioner-applicant in the subject O.A. in April, 2018 and according to Sri T.Koteswara Rao, learned counsel, it was taken up on the Bench by the Tribunal only in June, 2018. Needless to state, by the said date the Tribunal would have received a copy of the order passed by this Court in W.P.No.1830 of 2018. The Tribunal therefore ought to have been more mindful of the time stipulation in the said order and ought not to have dismissed the M.A. by holding that there was no urgency in the matter. Judicial discipline required the Tribunal, which is subject to the superintendence and control of this Court under Article 227 of the Constitution, to abide by any temporal mandate fixed by this Court. It is not open to the Tribunal to sit in appeal over any such mandate and decide for itself as to whether there was urgency in the matter or not. The dismissal of M.A.No.433 of 2018 in O.A.No.3388 of 2017 by the order dated 08.11.2018 was wholly unjustified. The said application is accordingly ordered and the Tribunal is directed to forthwith take up the O.A. for final disposal in terms of the time stipulation mentioned by this Court in its order dated 31.01.2018 passed in W.P.No.1830 of 2018.

The writ petition is allowed. 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

29TH NOVEMBER, 2018
PGS