
(2001) 03 AP CK 0125

In the Andhra Pradesh High Court

Case No : Writ Petition No. 1359 of 2000

M. Sanjeeva Reddy

APPELLANT

Vs

A.P. Administrative Tribunal, Hyderabad and others

RESPONDENT

Date of Decision : 08-03-2001

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2001) 3 ALD 89 : (2001) 3 ALT 285

Hon'ble Judges : S.B. Sinha, C.J.; V.V.S. Rao, J

Bench : Division Bench

Advocate : Ms. G. Saraswathi, for the Appellant; Government Pleader for Service-I and Mr. M. Vijaykumar, Counsel, for the Respondent

Judgement

S.B. Sinha, CJ

1. This writ petition is directed against the order passed by the Andhra Pradesh Administrative Tribunal in OA No.38240 of 1991 and MA No.2349 of 1999 dated 13-10-1999.

2. The 4th respondent herein filed OA No.38240 of 1991 before the A.P. Administrative Tribunal, wherein respondents 5 and 6 herein were impleaded as party respondents, for a direction to the respondents 2 and 3 herein to consider his case for promotion to the post of Assistant Commissioner of Endowments. He also filed a miscellaneous application being MA No.2349 of 1996 in the said OA to implead the writ petitioner herein as party to the said OA. It may also be noted that one Sri K. Satyanarayana filed OA No.38249 of 1991 for similar relief. Further, 4th respondent and K. Satyanarayana together filed OA No. 1134 of 1999 before the Tribunal seeking a direction to the official respondents to prepare a final seniority list by declaring them seniors to the petitioner in terms of an earlier judgment of the Tribunal in OA No.4921 of 1996. According to the petitioner, though the Tribunal listed all the above three O.As for hearing on 11-10-1999, but, curiously, OA Nos.38240 and 38249 of 1991 were only taken up for hearing on 13-10-1999 and disposed of the same by the order under

challenge.

3. The learned Tribunal, it appears, proceeded with the matter in absence of a counter-affidavit filed by the opposite parties and disposed of OA Nos.38240 and 38249 of 1991 in the following terms:

"In the facts and circumstances of the case, we direct that the claims of the applicants in both these O.As for promotion to the post of Assistant Commissioner of Endowments should be considered by the respondents in accordance with their seniority in the unit of appointment, on merits and in accordance with the rules, and appropriate orders should be passed for their promotion to the post of Assistant Commissioner of Endowments as expeditiously as possible, in any case, within three months from the date of receipt of this order. If promotion orders have been passed in the case of the applicants, their inter se seniority with others should be fixed after giving due notice to the concerned by considering the direction given by the this Tribunal in RPN0.4160 of 1987 to the effect that a pass in the Accounts test for Executive Officers is equivalent to pass in the Accounts test for Subordinate Officers, Part-I.

4. Along with the above two O.As an order in M.A. No.2349 of 1996 was also passed impleading the petitioner herein as party to OA No.38240 of 1991.

5. The petitioner contends that the order of the Tribunal has affected his rights as the same had been passed without affording him an opportunity of hearing as though earlier the matters were directed to be listed along with O.A No.1134 of 1999, all the mailers were not listed together for hearing on 13-10-1999 when the impugned order was passed.

6. From the facts narrated above, it is clear that several cases have been filed before the Tribunal. Originally, the petitioner herein had not been impleaded as a party to the proceedings in OA Nos.38240 of 1991. He was only issued a notice on the implead petition in the year 1997 whereupon he had engaged a Counsel. But, it is only by the order under challenge, the petitioner herein was actually impleaded as respondent No.5 in OA 38240 of 1991 by ordering the miscellaneous application M.A. No.2349 of 1997. The Tribunal having impleaded the writ petitioner herein as party to OA No.38240 of 1999, ought to have afforded an opportunity of hearing to him. Further, having regard to the nature of controversy involved in the above matters pending before it, we are of the view that the Tribunal should have heard all the matters together and disposed of them by a common judgment. The Tribunal having not done so, we are of the opinion that the impugned order cannot be sustained.

7. Furthermore, it is stated in the writ affidavit that the petitioner had appointed a Counsel for representing him before the Tribunal, but, he did not appear before the Tribunal and it proceeded with the matter ex parte. Whatever may be the reason for not representing the petitioner by his Counsel before the Tribunal, it is well settled principle of law that a party should not suffer for misdemeanour or inaction on the part of his Counsel. (See Rafiq and Another Vs. Munshilal and

Another, . Also see Ramon Services Private Limited v. Subhash Kapoor 2000 (7) Supreme 569, Smt. Lachi Tewari and Others Vs. Director of Land Records and Others, and Mahabir Prasad Singh Vs. M/s. Jacks Aviation Private Ltd., . Having regard to the above well settled principle of law that for the lapse on the part of the Counsel, the litigant should not suffer and also having regard to the peculiar facts and circumstances of this case, we are of the opinion that the matter should be heard afresh by the learned Tribunal.

8. For the reasons aforementioned, the writ petition is allowed and the order of the Tribunal is set aside and the matter is remitted to the learned Tribunal for consideration of the matter afresh. The Tribunal shall hear all the connected matters together and pass appropriate orders on merits by affording an opportunity of hearing to all the parties. There shall be no order as to costs .