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V. Devaiah Vs. Superintendent of Police, Karimnagar District

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Court : Andhra Pradesh

Decided On : Nov-22-2001

Reported in : 2002(1)ALD408; 2002(1)ALT241

Judge : S.B. Sinha, C.J., ;S.R. Nayak and ;G. Raghuram, JJ.

Acts : Administrative Tribunals Act, 1985 - Sections 15, 20(2), 21, 22, 27 and 30; Limitation Act, 1963 - Sections 3, 4 to 24 and 29(2); Andhra Pradesh Administrative Tribunals (Procedure) Rules, 1989 - Rules 17(2) and 19; Constitution of India - Articles 226, 227, 323A and 323A(2) - Schedule - Articles 127 and 137; Contempt of Courts Act, 1971; Indian Penal Code (IPC), 1860 - Sections 193, 219 and 228; Evidence Act; Tribunals and Inquiries Act, 1958; Tribunals and Inquiries (Amendmend) Act, 1971; Coal Mines (Nationalisation) Act, 1973; Waste Lands (Claims) Act; Drugs Act; Companies Act; Kerala Buildings (Lease and Rent Control) Act, 1965 - Sections 18; Limitation Act, 1908; Code of Civil Procedure (CPC), 1908 - Order 21, Rule 92

Appeal No. : WP No. 15100 of 2001

Appellant : V. Devaiah

Respondent : Superintendent of Police, Karimnagar District

Advocate for Def. : Addl. Advocate-General

Advocate for Pet/Ap. : K. Ananth Rao, Adv.

Disposition : Petition allowed

Judgement :

S.B. Sinha, C.J.

1. Whether the State Administrative Tribunal constituted under the Administrative Tribunals Act, 1985 (for short 'the Act') has jurisdiction to condone delay in filing review petition is the question referred to this Full Bench.

FACTS

2. The petitioner was appointed as Police Constable in the Armed Reserve Police of Karimnagar District in the year 1990. By an order dated 31-10-1991, the respondent terminated the services of the petitioner on the ground that he did not undergo the three star test at the time of selection. He filed O.A.No. 47791 of 1991 before the learned Tribunal challenging the order of termination wherein direction was given to the respondent to conduct the test for the petitioner. The respondent found that the petitioner did not come up for selection in the test conducted. The petitioner challenged the said order in O.A.No. 4322 of 1993. The learned Tribunal by reason of an order dated 6-3-1995 allowed the O.A., filed by the petitioner. As the respondent did not implement the order of the Tribunal, the petitioner filed Contempt Application, being C.A.No. 228 of 1996. The respondent onreceipt of notice in the contempt case, filed a review petition in Review M.A.(Sr) No. 5662 of 1996 along with a petition in M.A.No. 1646 of 1996 to condone delay of 424 days in filing the review petition. The learned Tribunal allowed the said petition and condoned the delay in filing review petition.

3. The petitioner questioning the said order of the learned Tribunal filed the writ petition on the ground that no sufficient cause has been shown to condone theinordinate delay of 424 days in filing the review petition.

4. One of the questions that arose for consideration before the Division Bench of this Court was as to whether in terms of Rule 19 of the A.P. Administrative Tribunals (Procedure) Rules, 1989, a review application filed beyond the period of thirty days could be entertained. The Division Bench having regard to the

importance of the question referred the matter to a larger Bench.

FINDINGS

5. The matters relating to the constitution of the Tribunal for the purpose of adjudication of disputes relating to certain matters as enumerated therein being the subject-matter of the Central List, there cannot be any doubt, that the same conies within the purview of List I of VIIth Schedule to the Constitution of India. The Parliament has the legislative power to constitute tribunals for adjudication of disputes and provide for jurisdictional power of a Court relating to service matters of the State Public Service.

6. A separate Administrative Tribunal for each State may be constituted for resolution of the service disputes in terms of a legislation enacted under Article 323A(2)(a) of the Constitution of India. The Tribunal is of hybrid nature having special constitution protection. The Administrative Tribunal, thus,enjoys constitutional safeguards. The Administrative Tribunals Act, 1985 is a legislation enacted in terms of Article 323A of the Constitution of India and it is acomplete code in itself.

7. Section 15 of the Act provides for the jurisdiction, powers and authority of State Administrative Tribunals exercisable immediately before that day by all Courts, except the Supreme Court, in relation to service matters specified therein. Section 17 of the Act empowers the Tribunal to punish for contempt by exercising the same jurisdiction, powers and authority in respect of contempt of itself, as a High Court, under the Contempt of Courts Act, 1971. Section 21 of the Act prescribes the period of limitation for admitting an application. Section 27 of the Act provides for execution of orders of a Tribunal in the same manner in which any final order of the nature referred to in Clause (a) of Sub-section (2) of Section 20 would have been executed. Section 30 says that all proceedings before a Tribunal shall be deemed to be judicial proceedings within the meaning of Sections 193, 219 and 228 of the Indian Penal Code.

8. The source of power of the High Court to issue a writ under Articles 226 and 227 of the Constitution of India is the Constitution itself and not the statutes

enacted by the Legislature. We may notice that a Division Bench of this Court has held that having regard to the decision in CHANDRA KUMAR v. UNION OF INDIA, : [1997]228ITR725(SC) , the Tribunal has no jurisdiction to initiate the proceedings for contempt. The said decision has now been reversed by the Apex Court in T.SUDHAKAR PRASAD v. GOVERNMENT OF ANDHRA PRADESH, 2001 (1) LR of India 1 = (2001) I SCC 516.

9. The distinction between the courts and the Tribunals is well known. Reference in this connection may be made to the case of GOURI SHANKAR BAJORIA v. RAM RANKA, : AIR1963 Pat398 . There cannotbe doubt whatsoever having regard to its nature of functions that the Tribunal is a Court within the meaning of the provisions of the Evidence Act as also within the meaning of the provisions of the Contempt of Courts Act Although the definition of 'Court' as contained in the Indian Evidence Act is not exhaustive. It is for the purpose of the said Act alone and all authorities, which are legally authorised to take evidence, must be held to be Courts within the meaning of the said provision.

10. In BRUNANDAN SINHA v. JYOTI NARATN, : 1956 CriLJ156 , it has been held that any Tribunal or authority whose decision is final and binding between the parties is a Court. In VINDAR KUMAR SATYA v. STATE OF PUNJAB, : 1956 CriLJ326 , the Apex Court has made a broad distinction between a Court and quasi-judicial Tribunal. In SITAMARID CENTRAL COOPERATIVE BANK LTD. v. JUGAL KISHORE SINHA, : AIR1965 Pat227 , a Division Bench of Patna High Court has held that the Assistant Registrars appointed under the Bihar and Orissa Co-operative Societies Act to be Courts. The said judgment has been affirmed by the Apex Court in THAKUR JUGAL KISHORE SINHA v. SITAMARHI CENTRAL COOPERATIVE BANK LTD., AIR 1967 SC 1434, in S.K. SARKAR v. VINAY CHANDRA MISRA, : 1981 CriLJ283 , the Board of Revenue has been held to be a Court subordinate to the High Court for the purpose of provisions of the Contempt of Courts Act. It is, thus, clear that the Tribunal, which is empowered to issue summons for appearance of any person and examine him on oath would be a Court within the meaning of the provisions of the Evidence Act, as also in terms of the Contempt of Courts Act.

11. Dr. Durga Das Basu in his Administrative Law, II Edition, at page 280 has also given broad features whichcharacterise a 'Court'. The said broad distinction may not be held to be applicable in India as various special Tribunals are being constituted and although they are not regular Courts but they have judicial authorities and the trappings of the Court.

12. The word 'Tribunal' derives its origin from a Latin word meaning thereby a raised platform on which the seats of the tribunes or the magistrates are placed. Thus, all courts are tribunals but all tribunals are not courts. In essence the Administrative Tribunals may be called specialised courts of law, although they do not fulfil the criteria of civil courts as is understood as they do not entertain suits on various matter. However, the Tribunals are bound by the rules of evidence and procedure as laid down under the law and are required to decide strictly as per law.

13. O. Hood Phillips and Paul Jackson in O. Hood Phillips' Constitutional and Administrative Law, Sixth Edition, at page 575, observed:

'Administrative jurisdiction or administrative justice is a name given to various ways of deciding disputes outside the ordinary courts. It is not possible to define precisely what bodies constitute the 'ordinary courts' although this expression was used in the Tribunals and Inquiries Acts, 1958 and 1971. There are some bodies that might be placed under the heading either of ordinary courts or of Special Tribunals. Guidance cannot be found in the name of a body; the Employment Appeal Tribunal, for example, is a superior court of record.'

At page 576 under the Chapter 'Special Tribunals' the author has stated as follows:

These are independent statutory tribunals whose function is judicial. They are often called 'administrative tribunals' especially those more closely related by appointment or policy to the Minister concerned, because the reasons for creating them are administrative. The tribunals are so varied incomposition, method of appointment, functions and procedure, and in their relation to Ministers on the one hand and the ordinary courts on the other, that a satisfactory formal classification

is impossible.'

14. It therefore follows that the tribunal, although not a civil court in its true sense but being a Court is bound to act independently and impartially and exercise judicial authority without any fear or favour from any person and thus would be a court within the meaning of the provisions of the Evidence Act and the Contempt of Courts Act.

15. It is settled law that a statutory Tribunal, which has been conferred with the power to adjudicate a dispute and pass necessary order, has also the power to implement its order. The Act, which is a self-contained code, even if it has not been specifically spelt out must be deemed to have conferred upon the Tribunal all powers in order to make its order effective. In SAVITRI v. GOVIND S1NGH RAWAT, : 1986 CriLJ41 , it has been held as follows:

'Every Court must be deemed to possess by necessary intendment all such powers as are necessary to make its orders effective. This principle is embodied in the maxim 'ubi aliqutd conceditur, conceditur et id sine quo res ipsa esse non potest (Where anything is conceded, there is conceded also anything without which the thing itself cannot exist.) Vide Earl Jowitt's Dictionary of English Law 1959 Edn. P.1797). Whenever anything is required to be done by law and it is found impossible to do that thing unless something not authorised in express terms be also done then that something else will be supplied by necessary intendment. Such a construction though it may not always be admissible in the present case however would advance the object of the legislation under consideration. A contrary view is likely to result in grave hardship to the applicant, who may have no means to subsist until the final order is passed. There is no room for the apprehension thatthe recognition of such implied power would lead to the passing of interim orders in a large number, of cases where the liability to pay maintenance may not exist. It is quite possible that such contingency may arise in a few cases but the prejudice caused thereby to the person against whom it is made is minimal as it can be set right quickly after hearing both the parties.'

16. In ARABIND DAS v. STATE OF ASSAM, AIR 1981 Gau. 18, a Full Bench of Assam High Court held:

'We are of firm opinion that where a statute gives a power, such power implies that all legitimate steps may be taken to exercise that power even though these steps may not be clearly spelt in the statute. Where the rule making authority gives power to certain authority to do anything of public character, such authority should get the power to take intermediate steps in order to give effect to the exercise of the power in its final steps, otherwise the ultimate power would become illusory, ridiculous and inoperative which could not be the intention of the rule making authority.

In determining whether a power claimed by the statutory authority can be held to be incidental or ancillary to the powers expressly conferred by the statute, the court must not only see whether the power may be derived by reasonable implication from the provisions of Ihe statute, but also whether such powers are necessary for carrying out the purpose of the provisions of the statute which confers power on the authority in its exercise of such power.'

17. In view of the above, it cannot be said that the Tribunal is merely a Tribunal of enquiry, but it is a 'court' and will have all the powers of a court including its inherent power.

18. Having regard to the Statement of Objects and Reasons for enacting the said Act, there cannot be any doubt that it was enacted for constitution of a permanent and impartial Tribunal. It has been constitutedfor the purpose of adjudicating disputes in respect of matters relating to State Public Service of Government of Andhra Pradesh. The said Act provides for a supplemental forum for resolution of service disputes.

19. Constitution of tribunals by itself cannot be questioned on the ground of legislative incompetence. In L. CHANDRA KUMAR (supra), it has been held that the tribunals can be constituted by the Parliament under Entries 77, 78, 79, 95 of List 1 and the State Legislature under Entry 11A of List 111.

20. Constitution of a tribunal depends upon the nature of the functions it has to perform. Recently in C.V. RATNAM v. UNION OF INDIA, : 2001(6)ALD35 , a Full Bench of this Court noticed:

The Apex Court has referred to 'Administration of Justice' by Prof. Robin C.A. White and held that a Tribunal composed of a lawyer as Chairman and two lay members would present an opportunity to develop a model of adjudication that combines the merits of lay decision making with legal competence and participation of lay members would lead to general public confidence in the fairness of the process and widen the social fairness of [he process and widen the social experience represented by the decision makers. It was emphasised that apart from their breadth of experience, the key role of lay members, would be in ensuring that the procedures do not become too full of mystery and ensure that litigants before them are not reduced to passive spectators in a process designed to resolve their disputes.

21. Having regard to the fact that the jurisdiction of the Courts, except Supreme Court stands barred, it clearly goes to show that it is required to impart justice to the employees of the State of Andhra Pradesh and other authorities as notified in relation to grievance against their employer.

22. Disputes relating to service law are complicated. The Tribunal in a given case isnot only required to adjudicate on the question of fact but it is also required to interpret the provisions of Constitution of India, various Acts, Rules and Circulars issued by the State. Yet in a given case it may even consider the question as regards the constitutionality of the provisions of law.

23. It may be that on some occasions, an Administrative Member may also resolve a dispute but the same, in our considered opinion, would not make it a Tribunal as contra-distinguished from Court. In M.P. Jain and S.N. Jain's Principles of Administrate Law at page 184, it has been stated as under:

'Adjudicatory functions may be entrusted to a single person or multimembered body. A1 times, no formal qualification may be prescribed for the person or persons appointed to adjudicate: sometimes legal knowledge or training may be prescribed. Even knowledge in some other technical field may be laid down, e.g., a bench of the Income Tax Appellate Tribunal has one legal and one accountant member. In some case, the adjudicalory body may be authorised to associate with itself an expert possessing special knowledge on a matter relevant to the enquiry

to assist him.'

24. Similarly, in O. Hood Phillips Constitutional and Administrative Law, Sixth Edition, at page 585, the matter relating to appointment of members of tribunals has been stated thus:

'The Chairman of some tribunals are appointed by the Lord Chancellor, and the Chairman of certain other tribunals are selected by the appropriate Minister from a panel of persons appointed by the Lord Chancellor.'

25. In Administrative Law by P.P. Craig, 1983 Edition, at page 159, it has been stated as follows:

A number of tribunals will have lay members as well as Chairman who is usually legally qualified. What type of people serve in suchpositions? Research which has been completed tends to confirm what one might well have expected. The average age is relatively high, a reflection of the fact that it is often only such people who can afford the time to undertake the task. The social background tends to be middle class, with an under representation of less privileged or ethnic groups. How far this actually influences decisions which are reached is difficult to measure. The platitude that we are all affected or conditioned by our social back ground is nonetheless an important one. Moreover in some areas appearances count for as much as reality whatever the true nature of the letter is. Thus feelings mat middle class lay members may not always appreciate the difficulties of less privileged groups has been voiced particularly strongly in the context of supplementary benefit appeal tribunals.....

For the moment it is sufficient to draw attention to the fact that although tribunals are in theory as independent as the courts they are, in this particular matter, considerably less so in practice: For example, while Presidents and Chairman have increasingly been given an administrative or supervisory, as well as judicial role, they have no power to recruit staff, but must accept whomsoever a department, or its regional officer, may nominate; while the staffs themselves are in an ambivalent position, being seconded or loaned from the departments to which they belong and in which their future promotion and career may generally be

assumed to lie; there being, as matters stand, no career prospect in the service tribunals alone. These arrangements place departments and staff alike in a potentially invidious position.

The suggestion that clerks should be appointed by the Lord Chancellors Department rather than by the subject-matter department was rejected by the Franks Committee. While recognising the advantages of independence that this would entail was felt to be impossible because there would be no real career structure that could be held out to such officers. Whether this is indeed a convincing rationale 25 years on is debateable. Wraith and Hutehesson haveargued that the expansion in the number of tribunals, combined with the changing nature of the Lord Chancellor's Department, has altered the position, and advocate the creation of a separate tribunal service, a view worthy of further consideration.'

26. Normally like Administrative Tribunals, there are many other Tribunals which are headed either by a Judge or a person, who has the requisite qualification to be a Judge of the High Court e.g. Income-tax Appellate Tribunal, Railway Claims Tribunal, L.I.C., Tribunal, Tribunal under the Coking Coal Mines (Nationalisation) Act, Coal Mines (Nationalisation) Act, 1973 Tribunal under Waste Lands (Claims) Act, Drugs Act and Companies Act. In relation to constitution of various Tribunals, qualifications of the Members or the Presiding Officer had been prescribed statutorily. Jag Griffith and H. Street in the 'Principles of Administrative Law', Fifth Edition, at page 147, have dealt with the matter relating adjudications on matters of law and tact and the application of standards and have observed as follows:

'...one may expect, therefore, to find non-legal specialist personnel on tribunal non-legal specialist personnel on tribunal of this class. What is a 'fair' rent; adequate compensation for a dispossessed land owner; are premises educationally suitable is a building of special architectural interest; is work 'available'? These are typical examples of legal standards the working out of which has been entrusted to administrative bodies.'

27. If the Tribunal is a Court, the Limitation Act, 1963 will apply having regard to the provisions contained in Subsection (2) of Section 29 thereof, which reads as

under:

'Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of Section 3 shall apply as if such periodwere the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Sections 4 - 24 (inclusive) shall apply only insofar as, and to the extent to which, they are not expressly excluded by such special or local law.'

28. The question is no longer res Integra. In S.T. COMMR.. U.P. v. M.D. & SONS, AIR 1997 SC 523, it has been held that Section 12 of the Limitation Act would apply also in relation to sales tax matter. The question now stands concluded by a recent decision of the Apex Court in MUKRI GOPALAN v. C.P. ABOOBACKER, : AIR 1995 SC2272 . Therein the Apex Court while considering the question whether the appellate authority constituted under Section 18 of the Kerala Buildings (Lease and Rent Control) Act, 1965 has power to condone the delay in filing of appeal before it under the said section, has held:

Once it is held that the appellate authority functioning under Section 18 of the Rent Act is not a persona designate, it becomes obvious that it functions as a court....

After repealing of Indian Limitation Act, 1908 and its replacement by the present Limitation Act of 1963 a fundamental change was made in Section 29(2). The present Section 29(2) as already extracted earlier clearly indicates that once the requisite conditions for its applicability to given proceedings under special or local law are attracted the provisions contained in Sections 4 - 24 both inclusive would get attracted which obviously would bring in Section 5 which also shall apply to such proceedings, unless applicability of any of the aforesaid Sections of the Limitation Act is expressly excluded by such special or local law. By this charge it is not necessary to expressly state in a special law that the provisions contained in Section 5 of the Limitation Act shall apply to the determination of the periods under it. By the general provision contained in Section 29(2) this provision is madeapplicable to the periods prescribed under the special laws. An express

mention in the special law is necessary only for any exclusion. It is on this basis that when the new Rent Act was passed in 1965 the provision contained in old Section 31 was omitted. It becomes therefore apparent that on a conjoint reading of Section 29(2) of Limitation Act of 1963 and Section 18 of the Rent Act of 1965, provisions of Section 5 would automatically get attracted to those proceedings, as there is nothing in the Rent Act of 1965 expressly excluding the applicability of Section 5 of the Limitation Act to appeals under Section 18 of the Rent Act,'

29. Yet again in KERALA S.E. BOARD v. T.P. KUNHALIUMMA, : [1977]1SCR996 , it has been held that Article 137 of the Limitation Act would apply to any petition or application filed under anyAct.

30. In DADI JAGANNADHAM v. JAMMULU RAMULU, 2001 AIR SCW 3051, the Apex Court while overruling the decision in P.K. UNNI v. NIRMALA INDUSTRIES, : [1990]1SCR483 , interpreted the provisions of Article 127 of the Limitation Act, 1963 vis-a-vis Order XXI, Rule 92 of the Code of Civil Procedure. It held:

'The settled principles of interpretation are that the Court must proceed on the assumption that the legislature did not make a mistake and that it did what it intended to do. The Court must, as far as possible, adopt a construction which will carry out the obvious intention of the legislature. Undoubtedly if there is a defect or an omission in the words used by the legislature, the Court would not go to its aid to correct or make up the deficiency. The Court could not add words to a statute or read words into it which are not there, especially when the literal reading produces an intelligible result. The Court cannot aid the Legislature's defective phrasing of an Act, or add and mend, and, by construction, make up deficiencies which are there.'

31. We are therefore of the opinion that Section 5 of the Limitation Act would apply even in relation to matters under Administrative Tribunals Act to the extent which are not covered under Section 21 thereof. In other words, only to the extent of matters specified in Section 21 of the Act, the provisions of the Limitation Act, 1963 shall not be applicable.

32. However, although the Tribunal may have the power to condone the delay in terms of Section 5 of the Limitation Act, the period of limitation fixed in terms of Rule 19 of the A.P. Administrative Tribunals (Procedure) Rules, 1989 should not be lost sight of. Such a discretion should be exercised judiciously and not arbitrarily, whimsically or capriciously. Such a prayer is to be liberally considered insofar as the day-to-day delay and hour to hour delay may not necessarily be taken into consideration, as has been observed by the Apex Court in STATE OF BIHAR v. SUBHASH SINGH, : [1997]1SCR850 . But when a review petition is filed with the delay of 424 days, the order condoning such delay should not have been passed lightly. Such application should be supported by materials to show that there had been no utter laxity on the part of the applicant. The Tribunal itself has held that there is no detailed explanation for the delay of 424 days in filing the review petition. If that be so, in our opinion, no ground to condone such delay has been made out. As the entire position is based on the merit of the matter, on its own showing, the Tribunal did not find any explanation for the delay of 424 days in filing the review petition. In our opinion, the Tribunal committed misdirection in law. (See SECRETARY OF STATE v TAMESIDE, 1976 (3) AII.ER 665).

33. Another thing must be borne in mind. While considering the matter relating to condonation of delay, as indicated hereinbefore the merit of the matter mayhave some role to play. But the same by itself should not be the sole ground. If such consideration is allowed to be made, the same will be violative of principles of natural justice.

34. In COLLECTOR, LAND ACQUISITION, ANANTNAG v. KATIJI, : (1987)ILLJ500SC , the step motherly attitude shown towards the State was rectified by the Supreme Court and the matter related to the filing of appeal aggrieved by the enhancement of compensation. But in service jurisprudence, the delay plays a vital role as the settled thing should not be unsettled after a long time. The teamed Tribunal has not assigned any cogent reason for condoning the delay. The impugned order suffers from an error apparent on the face of the record. It is accordingly set aside. The Writ Petition is allowed accordingly. No costs.

CASES CITED

B.Rajagopala Naidu v The State TransportAppellate Tribunal, Madras, : [1964]7SCR1

Basheshar Math v Commissioner of IncomeTax, : [1959]35ITR190(SC)

Central Bank of India v Their Workmen, : [1960]1SCR200

Naresh Shridhar Mirajkar v. State ofMaharashtra, : [1966]3SCR744

U.M.R. Rao v. Smt. Indira Gandhi, : AIR 1971 SC1002

Goda Raghuram, J.

I am in respectful agreement with the conclusion recorded by My Lord the Chief Justice that the writ petition be allowed and the order of the A.P. Administrative Tribunal allowing M.A. 1646/96 filed by the respondent State seeking condonation of a delay of 424 days in filing Review MA (SR) 5662/96 for review of the judgment of the APAT dt 6.3.1995 in OA 4322/93], be set aside. I concur with the finding that the State had not satisfactorily explained theinordinate delay of 424 days in preferring the application for review. However, I wish to record my views as regards one aspect dealt with in the erudite opinion of my Lord the Chief Justice.

2. The decision of the A. P. Administrative Tribunal is reversed and the writ petition allowed on facts on the ground that the delay of the respondent State in filing the application for review of the order in the OA, has not been satisfactorily explained and that the learned Tribunal erred in condoning the delay without a reasonable cause therefor, established by the State.

3. It is therefore not necessary to embark upon an enquiry, in this case, into the larger question as to whether the legislative silence in Section 22 of the 1985 Act implicates the applicability of the provisions of the Limitation Act. This aspect of the matter should be left to be decided in an appropriate case where resolution of the question becomes imperative. I express this view in deference to the settled principle that courts are not to decide larger questions when the adjudication can

be rested on a narrow locus. S.R. Das, CJ, has stated that '... this Court should not make any pronouncement on any question which is not strictly necessary for the disposal of the particular case before it.' - vide Basheshar Math v Commissioner of Income Tax, : [1959]35ITR190(SC) . The same principle is reiterated by S.K. Das, J in Central Bank of India v Their Workmen, : [1960]1SCR200 , by Gajendragadkar CJ, in B. Rajagopala Naidu v. The State Transport Appellate Tribunal, Madras, : [1964]7SCR1 and in Naresh Shridhar Mirajkar v State of Maharashtra, : [1966]3SCR744 and by Sikri CJ, in U.M.R.Rao v Smt. Indira Gandhi, : AIR 1971 SC1002 . These principles have a compulsive obligation in the area of constitutional interpretation. Even in other situations it is held to be a salutory principle.

4. The question whether the provisions of the Limitation Act apply to govern uncovered areas of the 1985 Act, in my considered view, cannot adequately be addressed by a general precedential inference that since a Tribunal is a Court so is an Administrative Tribunal under the 1985 Act

5. Some of the aspects that ought to fertilise the analysis of this question are:

(A)An analysis of the historical imperatives that have occasioned the constitutional amendment (the 42nd);

(B) The incorporation of Article 323-A and B, the coming into being of hybrid Tribunals providing a coalescing and overarching Judicial administrative expertise to decision making;

(C) The delays that were inherent in the traditional adjudicatory fora which necessitated the genesis of these alternative disputes resolution mechanisms by a hybrid composition;

(D) The prescription of a specific time limit for preferring a Review Application (Rule 17(2) of the A.P. Administrative Tribunal (Procedure) Rules, 1989);

(E) The Juxtapositional signals, of prescription of a time limit in Section 21 for institution of original applications and the parameters set out for condonation of delays in such institution vis-a-vis the statutory silence in Section 22;

(F) Whether the provisions of the Limitation Act enacted pursuant to the legislative field enumerated in the Concurrent List (Entry 13) is applicable to a Tribunal constituted under the special constitutional dispensation qua Article 323A; and

(G) Whether the 1985 Act is a complete code in itself on a cumulative analysis of its enacting history, its text and structure or is a part of the corpusjuris.

6. Such wide canvas analysis need not be embarked upon in a case which could and has been determined on a limited plane - the rationality of the decision of the Tribunal qua the factual matrix.

7. I am thus of the considered view that the question regarding application of the provisions of the Limitation Act to the 1985 Act, be left open for analysis in an appropriate case where such analysis is found warranted and imperative.

8. Subject to the above, I record my concurrence with the decision of My Lord The Chief Justice, that the writ petition beallowed.

CASES CITED

State of Bihar v. Rai Bahadur Hurdut RoyMoti Lall Jute Mills and Anr., : [1960]2SCR331

T. Shepherd and Anr. v. Union of India andOrs., : (1988)ILLJ162SC

S.R. Nayak, J.

I have had the advantage of reading the draft judgments prepared by the Hon'ble the Chief Justice, S.B.Sinha, and my learned brother G. Raghuram, J. I am in respectful agreement with my Lords' opinion that this writ petition is entitled to be allowed and the order of the A.P. Administrative Tribunal, Hyderabad (for short, the Tribunal) dated 11.7.2001 allowing M.A.No. 1646 of 1996 filed by the respondent-State authorities seeking condonation of delay of 424 days in filing Review M.A.(SR) No. 5662 of 1996 for review of the judgment of the Tribunal dated 6.3.1995 in O.A.No. 4322 of 1993, be set aside. The State authorities have utterly failed to show any cause much less sufficientcause to condone enormous

delay of 424 days in filing the Review MA. However, I wish to state there is no necessity or any warrant for this Court to pronounce its opinion on the larger and general question, whether the Tribunal constituted under the Administrative Tribunals Act, 1985 has jurisdiction to condone delay in filing review petition. The resolution of such larger question is not necessary to decide the present writ petition. The writ petition could be disposed of on other grounds as noted above without going into the larger question.

2. It is trite, Courts will not enter upon the question of constitutionality of a law or pure question of law if it is possible to dispose of the case and determine the rights of the parties before them, on other grounds. The Courts will enter upon the question of constitutionality of a law or pure question of law only when the resolution of such question becomes imperative to decide the case. In taking this opinion, I am fully fortified by the judgments of the Supreme Court in State of Bihar v. Rai Bahadur Hurdut Roy Moti Lall Jute Mills and Anr., : [1960]2SCR331 and T. Shepherd and Anr. v. Union of India and Ors., : (1988)ILLJ162SC , apart from certain other decisions cited by G. Raghuram, J in his separate judgment. In that view of the matter, 1 rest my opinion with the opinion of my Lords that the writ petition be allowed and the impugned order of the Tribunal be set aside solely on the ground that the State authorities, who are the applicants in M.A.No. 1646 of 1996, have utterly failed to show sufficient cause to condone the enormous delay of 424 days in filing the review application. 1 should not be treated to have concurred with the opinion of S.B. Sinha, CJ., that the Tribunal has jurisdiction to condone the delay in filing the review petition in terms of Section 5 of the Limitation Act and I leave that larger general question open to be decided in an appropriate case.

3. In the result and for the foregoing reasons, the writ petition is allowed and the impugned order of the Tribunal dated 11.7.2001 is set aside. Consequently M.A. No. 1646 of 1996 filed by the respondent-State authorities stands dismissed. No costs.

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