

## **S.V. Surendra Rao (since died) and Another Vs Bharat Chandra, Secretary, Home (Police (C)) Dept. and Others**

**Court:** Andhra Pradesh High Court

**Date of Decision:** Jan. 29, 2001

**Acts Referred:** Administrative Tribunals Act, 1985 " Section 17

**Citation:** (2001) 1 ALD(Cri) 522 : (2001) 3 ALT 19 : (2001) 1 APLJ 447 : (2001) 3 RCR(Criminal) 147

**Hon'ble Judges:** G. Bikshapathy, J; B. Subhashan Reddy, J

**Bench:** Division Bench

**Advocate:** K. Anantha Rao, for the Appellant; Govt. Pleader, for the Respondent

**Final Decision:** Dismissed

### **Judgement**

@JUDGMENTTAG-ORDER

B. Subhashan Reddy, J.

This contempt case emanates out of an order dt. 7-6-1999 passed by this Court in W.P.NO. 8386 of 1999. By

the said order in the writ petition direction was issued to respondents 2 and 3 to give effect to the orders of the A.P. Administrative Tribunal dt.

19-4-1994 passed in O.A.No. 2894 of 1992. The complaint of the writ petitioners was that even though the Administrative Tribunal has passed

an order on 19-4-1994 and the same had become final it was not given effect to on account of which they are put to great hardship. It is apt to

extract hereunder the relief granted by the A.P. Administrative Tribunal.

(1) Substitution of PSO 107 by G.O.Ms.No. 585. Home dated 7-10-1991 is held to be invalid.

(2) The list of Head Constables prepared in the year 1990 in various parts of the State in anticipation of G.O.Ms.No. 585 for sending them for

training is held to be illegal and will not be operated any further. This will not affect the persons who have already successfully completed the tests

after training by the end of April 1994.

(3) The list of Head Constables prepared in 1992 for sending them to training in the various parts of the State is held to be illegal and will not be

operated upon.

(4) Only those Head Constables who have passed in the initial test contemplated by 2 (C) by the respective Zonal Officers viz., Deputy Inspector

General in accordance with the provisions of 2(C) except the requirements in common question paper for all the Head Constables in the State to

be treated as qualified for being sent for training and to the extent of vacancies for them should be sent for training for regular appointments after

training according to Rules 11(3) and 15.

(5) Inclusion in any lists other than the one mentioned in para 4 will not confer or continue as OSSIs otherwise than in accordance with law or as

mentioned in this judgment.

(6) No Head Constable working as OSSI will be replaced by another temporarily appointed Head Constable as OSSI. For effecting reversion of

OSSIs for want of vacancies due to regular candidates being appointed or other valid grounds, the reversion of OSSIs will be in reverse order of

seniority of Head Constables (in Districtwise seniority) among those who are already working as OSSIs by the date of the interim order viz., 9-2-

1993 which is adopted by the Director General of Police Memo dt. 25-2-1993. The Government will immediately take steps for making regular

appointments to the post of Sub-Inspector of Police in accordance with the rules both by direct recruitment and by promotion. This should be

initiated within three months from date of receipt of this order. Any Head Constables who is continued as OSSIs because of any interim order of

the High Court and contrary to the conclusions in this judgment will be continued till expedite orders by the Court"".

2. Mr. K. Ananth Rao, the learned Counsel for the petitioners submits that even though the Tribunal vide its order dt. 19-4-1994 directed the

Government to take steps immediately, no action was taken in spite of lapse of several years and hence present writ petition was filed seeking a

direction to give effect to the orders of the Tribunal. He further submits that though this Court has also passed orders directing implementation of

the orders of the Tribunal, the same were violated and as such there is wilful non-compliance of the orders of this Court amounting to contempt of

Court.

3. We are not expressing as to whether there is wilful non-compliance of the orders for the reason that we are not entertaining this contempt case.

4. In a service matter when the order of A.P. Administrative Tribunal was not complied with, the successful party had initiated contempt

proceedings against the Governmental authorities for punishing them for the wilful non-compliance of the said orders of the Tribunal. Against the

said initiation of proceedings and contending that the Administrative Tribunal had no jurisdiction to initiate the contempt proceedings in view of the

recognition of the power of judicial review of this Court by the Supreme Court in L. Chandra Kumar Vs. Union of India and others, the State

Government filed a writ petition and this Court acceded to the said contention in Government of Andhra Pradesh Vs. K. Anantha Reddy and

Others, that the Contempt of Courts Act, 1971 vests the power of contempt only in two Courts, i.e., Supreme Court and the High Courts and in

view of the constitution amendment and taking away the jurisdiction of the High Court in service matters, the Administrative Tribunal was vested

with the power of contempt by referential legislation u/s 17 of the Administrative Tribunals Act, 1985 and such reference to the word Tribunal

wherever occurred in Section 17 of the Administrative Tribunals Act, 1985 had disappeared in view of the Judgment of the Supreme Court in L.

Chandra Kumar's case (1 supra). But, the said Judgment has been reversed by the Supreme Court in T. Sudhakar Prasad Vs. Govt. of A.P. and

Others, holding that regardless of the recognition of the power of judicial review of the High Court over the judicial decisions of the Administrative

Tribunals the power to punish for contempt still rests with the Administrative Tribunals and that it has not been divested and that the High Courts

are not entitled for initiation of contempt proceedings for violation of the orders passed by the Administrative Tribunals and that the Administrative

Tribunals alone have jurisdiction to entertain the contempt cases and any decision committing the contemnors for contempt is only appealable to

Supreme Court.

5. But Mr. K. Ananth Rao, the learned Counsel for the petitioners, submits that this Contempt Case is filed for wilful non-compliance of the orders

passed by the Court in Writ Petition No. 8386 of 1989 and as such the decision rendered by the Supreme Court in T. Sudhakar Prasad's case (3

supra) is not applicable. We do not accede to this contention. In the said Writ Petition we had directed to give effect to the orders passed by the

A.P. Administrative Tribunal if the said orders had become final. The said order has to be understood in the context of the Supreme Court's

decision in T. Sudhakar Prasad case (3 supra) that we had only affirmed the order passed by the Administrative Tribunal and as the merger theory

is not applicable in the case of contempt, contempt jurisdiction lies only with the Administrative Tribunals and not with the High Court. Even if the

order of the Administrative Tribunal is reversed by the High Court and becomes final, the High Court will not be having jurisdiction to punish the

contemnors in case of non-compliance of the said orders. This is the only, way in which the Judgment of the Supreme Court in T. Sudhakar

Prasad's case (3 supra) can be understood.

6. In the circumstances, we dismiss this contempt case as not maintainable. It is open to the petitioners to approach the Tribunal for invoking the

power of contempt, if they so desire. No costs.