

K.G. Derasari And Anr. vs Union Of India (Uoi) And Ors. on 10 December, 1999

Equivalent citations: [2000(86)FLR489], JT1999(10)SC486, (2001)10SCC496

Author: U.C. Banerjee

Bench: U.C. Banerjee

ORDER

G.B. Pattanaik, J.

1. Leave granted.

2. The short question that arises for consideration in this appeal is whether the Tribunal was justified in an application for contempt by issuing direction which tantamounts to the review of its earlier decision?

3. The dispute relates to the principles to be followed for determination of seniority on being promoted to the post of U.D.C. from that of L.D.C.

4. On an application being filed before the Central Administrative Tribunal (for short "the Tribunal") which was registered as O.A. No. 392/93, the Tribunal disposed of the matter by its order dated 17.1.1995 following the decision in the case of Mohinder Kumar and Ashok Mehta [T.A. No. 556/1986 and O.A. 147/88]. That decision of the Tribunal was made on 17.1.1995 and it transpires that there was an earlier decision in the case of N. Ravindran which arose out of a judgment of Central Administrative Tribunal, Ernakulam Bench and which had not been placed before the Tribunal. On a contempt application being filed before the Tribunal alleging that the decision dated 17.1.1995 has not been followed, the Tribunal examines the decision in Ravindran's case, reviews its earlier order and holds that there is no contempt. It is this order which is being assailed in this appeal.

5. The learned Counsel for the appellant contends that in a proceeding for contempt under the provisions of Contempt of Courts Act, the Court or the Tribunal is required to examine whether the decision which has already reached finality not being challenged or annulled in an appropriate forum, has been complied with or not. It is not permissible for the Tribunal at that stage to re-examine the matter in the light of some other judgment and reverse its earlier decision.

6. The learned Additional Solicitor General, however, contends that the law on the question of inter se seniority having been settled by the judgment of this Court in Ravindran's case in C.A. Nos. 4556-59/93, it will be well within the powers of the Tribunal to take that into consideration and review its earlier direction notwithstanding the fact that the application before the Tribunal is one for initiation of a contempt proceeding as the authorities did not comply with its earlier direction. He also pointed out that in pursuance of the direction of the Tribunal in the impugned order, a fresh tentative seniority list was drawn up which was circulated inviting objections and, on consideration of those objections, a final gradation list had been formed and, therefore, it would not be appropriate for this Court to unsettle that finality. The learned Additional Solicitor General also brought to our notice the provisions of Rule 24 of the Administrative Tribunal Rules.

7. Having considered the rival submissions at the bar, we have no hesitation to come to the conclusion that the Tribunal was not entitled to in a contempt proceeding, to consider the legality of its earlier order which has reached finality not being assailed or annulled by a competent forum. If the Tribunal has not looked into any previous decision of this Court which is the law of the land and by which it was bound, the remedy available to the aggrieved person was to file an application for review. Admittedly, no review application was filed before the Tribunal. In an application for contempt, the Tribunal was only concerned with the question whether the earlier decision has reached its finality and whether the same has been complied with or not. It would not be permissible for a Tribunal or Court to examine the correctness of the earlier decision which has not been assailed, and reverse its earlier decision. In that view of the matter, the impugned order cannot be sustained, the same being beyond the powers and jurisdiction of the Tribunal in a contempt proceeding.

8. Needless to mention that if the impugned order is not sustainable, then the subsequent seniority list drawn up pursuant to the direction under the said order also cannot be sustained. We, therefore, set aside the impugned order of the Tribunal and leave the parties to take such remedial measures as may be permissible under law.

9. This appeal accordingly stands allowed.