

**Central Administrative Tribunal
Principal Bench
New Delhi**

**MA Nos.4828/2018 & 4829/2018 in
CP No.650/2018 in
OA No.1669/2017**

This the 20th day of November, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

In the matter of:

Suo moto Contempt

(Mr. N. K. Aggarwal, for respondents in OA No.1669/2017;
and Mr. A. K. Behera, for Bar Council of India, Advocates)

Ravi Kumar ... Respondent

(In person)

O R D E R

Justice L. Narasimha Reddy, Chairman :

MA No.4828/2018 in CP No.650/2018

The respondent in the contempt case filed this MA with a prayer to drop the contempt proceedings, as being impermissible in law.

2. It is stated that the contempt proceedings were initiated under Section 15 of the Contempt of Courts Act, 1971 (for short, the Act), and as per the settled law, if a Court does

not take action under Section 14 of the Act, the procedure prescribed under Section 15 cannot be adopted later.

3. Another contention of the applicant is that the very basis for initiation of the contempt proceedings is certain remarks contained in a writ petition, WP(C) No.9362/2018, on the file of the Delhi High Court, and since those contents were adverted to by the Delhi High Court already, the present proceedings before the Tribunal are barred by *res judicata* under Section 11 of the Code of Civil Procedure (CPC).

4. Placing reliance upon the judgment of the Hon'ble Supreme Court in *T. Sudhakar Prasad v Government of Andhra Pradesh & others* [(2001) 1 SCC 516], the applicant also contends that the Tribunal does not have the jurisdiction to deal with the matter, in view of the provisions contained in Articles 323A and 323B of the Constitution of India, and Section 17 of the Administrative Tribunals Act, 1985 (for short the A.T. Act).

5. We heard the applicant in the MA (respondent in the contempt case), who argued in person, in detail.

6. The contempt proceedings were initiated by taking note of the averments in grounds 1, 2 and 5 in WP(C) No.9362/2018, which, in turn, were taken note of by the

Hon'ble High Court in its order dated 19.09.2018. The applicant submits that the proceedings under Section 15 of the Contempt of Courts Act cannot be initiated, if no steps were taken under Section 14 of that Act.

7. Section 14 of the Act empowers the Court of Record to punish a person for contempt on the face of the Court. In other words, if the behavior of an individual, who is present in the Court, is objectionable and derogatory, the Court can straightway take note of it and pass suitable orders. Section 15, on the other hand, empowers the Court to initiate for any other acts which are derogatory in nature.

8. Section 17 of the A.T. Act specifically confers power upon the Tribunal under the Contempt of Courts Act. The occasion for the Tribunal to initiate proceedings under Section 14 would arise, if only any objectionable conduct on the part of an individual is noticed right in the Court hall. Nowhere in the Contempt of Courts Act, is it mentioned that proceedings under Section 15 cannot be initiated unless they are preceded by those under Section 14.

9. The context in which the comment by an author, which is extracted in the MA, was made, is that in case a

contempt occurs in the face of the Court, and no action is taken thereon, that very act or omission cannot constitute the basis for proceeding under Section 15. That is not the situation here.

10. The second contention is that the proceedings in this contempt case are barred by *res judicata*. The plea is totally untenable. Firstly, the contempt proceedings were not initiated against the applicant by the Tribunal, or, for that matter, in any Court. The occasion to invoke the principle of *res judicata* would arise if only proceedings were initiated before a competent Court of law, the issue was finally decided, and the very issue as between the same parties is sought to be adjudicated in the same forum, or in another forum of equal jurisdiction. The applicant is not able to point out even a semblance of these requirements in the proceedings. Hence, this plea cannot be accepted.

11. Reliance is placed upon the judgment of the Hon'ble Supreme Court in *T. Sudhakar Prasad*'s case. An attempt is made to submit that the Tribunal does not have jurisdiction, and it is only the High Court which is repository of such power. Apart from not helping the applicant, the judgment makes this plea untenable. The Hon'ble Supreme

Court maintained a distinction between the power of the High Court under Article 215 of the Constitution of India to punish a person for contempt of court, on the one hand, and the power of the Tribunal under Section 17 of the A.T. Act, on the other.

The following passage makes this aspect very clear:

“17.Clause (2)(b) of Article 323-A specifically empowers Parliament to enact a law specifying the jurisdiction and powers, including the power to punish for contempt, being conferred on the Administrative Tribunals constituted under Article 323-A. Section 17 of the Act derives its legislative sanctity therefrom. The power of the High Court to punish for contempt of itself under Article 215 of the Constitution remains intact but the jurisdiction, power and authority to hear and decide the matters covered by sub-section (1) of Section 14 of the Act having been conferred on the Administrative Tribunals the jurisdiction of the High Court to that extent has been taken away and hence the same jurisdiction which vested in the High Court to punish for contempt of itself in the matters now falling within the jurisdiction of Tribunals if those matters would have continued to be heard by the High Court has now been conferred on the Administrative Tribunals under Section 17 of the Act. The jurisdiction is the same as vesting in the High Courts under Article 215 of the Constitution read with the provisions of the Contempt of Courts Act, 1971. The need for enacting Section 17 arose, firstly, to avoid doubts, and secondly, because the Tribunals are not “courts of record”. While holding the proceedings under Section 17 of the Act the Tribunal remains a Tribunal and so would be amenable to the jurisdiction of the High Court under Articles 226/227 of the Constitution subject to the well-established rules of self-

restraint governing the discretion of the High Court to interfere with the pending proceedings and upset the interim or interlocutory orders of the Tribunals. However any order or decision of the Tribunal punishing for contempt shall be appealable only to the Supreme Court within 60 days from the date of the order appealed against in view of the specific provision contained in Section 19 of the Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunals Act, 1985. Section 17 of the Administrative Tribunals Act is a piece of legislation by reference. The provisions of the Contempt of Courts Act are not as if lifted and incorporated in the text of the Administrative Tribunals Act (as is in the case of legislation by incorporation); they remain there where they are, yet while reading the provisions of the Contempt of Courts Act in the context of Tribunals, the same will be so read as to read the word "Tribunal" in place of the word "High Court" wherever it occurs, subject to the modifications set out in Section 17 of the Administrative Tribunals Act. Section 19 of the Contempt of Courts Act, 1971 provides for appeals. In its text also by virtue of Section 17 of the Administrative Tribunals Act, 1985 the word "High Court" shall be read as "Tribunal"...."

From this, it becomes clear that the powers conferred upon the Tribunal under Section 17 of the A.T. Act, are in no way inferior, and in relation to the proceedings within its purview, i.e., service matters, it can exercise the same powers which the High Court can, under the relevant provisions of the Contempt of Courts Act.

12. Viewed from any angle, the MA does not merit consideration, and it is accordingly dismissed.

MA No.4829/2018 in CP No.650/2018

13. This MA is filed with a prayer to provide two documents, namely, certified copy of the final order in WP(C) No.9362/2018, dated 19.09.2018; and certified copy of the record of WP(C) No.9362/2018. By their very nature, they are the proceedings of the Delhi High Court, and were in fact instituted by the applicant himself. Therefore, the applicant can procure them from the appropriate source. The MA is accordingly rejected.

14. The applicant is granted two weeks' time to file his reply/counter affidavit in the CP. List on 10.12.2018.

**(Pradeep Kumar)
Member (A)**

**(Justice L. Narasimha Reddy)
Chairman**

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