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P.L. KANTHA RAO AND ORS.

v.

STATE OF ANDHRA PRADESH

JANUARY 13, 1995

B

[K. RAMASWAMY AND S.C. SEN, JJ.]

A.P. Administrative Tribunal Act, 1985—Secs. 29 & 29A—Scope of—Execution of order—Enforcement—"Proceeding"—Meaning of.

C

Petitioners had filed a petition before the Administrative Tribunal which allowed the same. For its implementation, the petitioners filed a writ petition in the High Court which directed them to approach the Administrative Tribunal to get an enforcement order under Para 8(5) of the Presidential Order. After obtaining a certificate to this effect, the petitioners moved the Chief Judge, City Civil Court, Hyderabad which directed its implementation. The order in the execution came to be challenged by the respondents in the High Court.

D

The High Court held that under Sec. 29 of the Act, the execution is by way of a proceeding thereby attracting Sections 29 and 29-A of the Act. It further held that as the present Tribunal had been constituted under the Act, the petitioners were entitled to invoke the jurisdiction of the Tribunal for enforcement of the order passed by the erstwhile Administrative Tribunal.

E

Dismissing the petition, this Court

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HELD : Enforcement of the order is a "proceeding" within the meaning of the A.P. Administrative Tribunals Act and also as broadly understood. Jurisdiction to adjudicate under the provisions of the Act had been expressly taken out from the Civil Courts and the High Court and conferred upon the Tribunal constituted under the Act. Thus, the execution petition filed in the civil court would not lie and the petitioners could avail the remedy of enforcement before the Tribunal constituted under the Act and Rules. [242-E-F]

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CIVIL APPELLATE JURISDICTION : Special Leave Petition No.

H

23415 of 1994.

From the Judgment and Order dated 15.6.94 of the Andhra Pradesh High Court in C.R.P. No. 3708 of 1993. A

H.S. Gururaja Rao, Seshagiri Rao and S. Muralidhar for the Petitioners.

The following Order of the Court was delivered :

This petition is filed against the order of a Single Judge of the High Court of Andhra Pradesh, dated 15.6.94, made in C.R.P. No. 3708/93. The petitioners filed R.P. No. 986/84 in the A.P. Administrative Tribunal constituted under the Presidential Order 1985, pursuant to the power under Article 371-D. The Tribunal by its order dated March 19, 1986, allowed their petition. For its implementation the petitioners filed a writ petition in the High Court in which by order dated 6.3.87 the High Court directed to approach the Administrative Tribunal to seek an order under para 8(5) of the Presidential Order for its enforcement. On obtaining the certificate from the Tribunal on March 9, 1987, the petitioners filed E.P. No. 4/89 in the court of Chief Judge, City Civil Court, Hyderabad. When the Chief Judge directed its implementation, the order in the execution came to be challenged in the High Court. The learned Single Judge in the impugned order held that under s.29 of the Administrative Tribunal Act 1985 (for short, 'the Act'), the execution is by way of a proceeding and that therefore, Sections 29 and 29-A of the Act get attracted. It was also held that as the present A.P. Administrative Tribunal came to be constituted under the Act, the petitioners are entitled to invoke the jurisdiction of the Tribunal for enforcement of the order passed by the erstwhile administrative tribunal. Feeling aggrieved, this petition has been filed. C D E

After perusing the relevant provisions and the order of the High Court, we are of the view that the High Court is right in its conclusion that it is a proceeding under ss.29 and 29-A of the Act and that the petitioners could avail of the remedy of enforcement before the Administrative Tribunal constituted under the Act. The relevant portion of s.29 reads thus: F

"..... other proceeding pending before any court or other authority immediately before the date of establishment of a Tribunal under this Act, being a by proceeding the cause; of action whereon it is based is such that it would have been, if it had arisen after such establishment, within the jurisdiction of such H

A Tribunal, shall stand transferred on that date to such Tribunal".

The word 'proceeding' engrafted in s.29 must be understood in a broader perspective. The word 'proceeding' would depend upon the scope of the enactment wherein the expression is used with reference to a particular context where it occurs. In may mean a course of action for enforcing a legal right. In the journey of litigation, there are several stages, one of which is the realisation of the judicial adjudication which attained finality. The word 'proceed' though has not been defined under s.29, it is a comprehensive term. We are not concerned with the constitutionality of the Tribunal and conferment of powers in it under the Act. For the purpose of the case, we proceed upon the premise of the Act being valid.

The right to adjudicate the dispute arising from the service conditions of the employees of the State has been expressly taken out from the jurisdiction of the civil court and the High Court, except of this court under Article 136 and has been conferred upon the Tribunal constituted under the Act. The right to enforce the order of a Tribunal is incidental to the right to claim the relief relating to the service conditions of the employees. Having divested the jurisdiction of the civil courts to adjudicate these disputes, the Act did not intend to confer jurisdiction in the civil court of the execution of the order of the Tribunal. Therefore, the term 'proceeding' in s.29 is a very wide term to mean a prescribed course of action to enforce the legal right. It indicates the prescribed mode in which the judicial business is conducted. The execution is a step in the judicial process. It seeks to enforce the final order to realise the result of the adjudication. Therefore, it is an integral part of the order passed by the Tribunal which was abolished and that new Tribunal came to be constituted under the Act. Therefore, the Tribunal constituted under the Act gets jurisdiction and power to enforce the orders passed by the Tribunal and which attained finality.

The High Court, therefore, is right in its conclusion though for different reasons that the execution Petition before the Civil Court would not lie. The S.L.P. is accordingly dismissed. It is open to the petitioners to approach the A.P. Administrative Tribunal to have the order passed by the erstwhile Administrative Tribunal enforced in accordance with the procedure prescribed under the Act and the Rules.

H A.G.

Petition dismissed.