

N. J. Prabhakar

Vs

State of Andhra Pradesh

Civil Appeal No. 593 of 1985

(Ranganatha Misra, M. M. Dutt JJ)

14.09.1987

ORDER

1. Heard learned counsel for the parties. This is a case where the Andhra Pradesh Administrative Tribunal decided in favour of the appellant and directed his reinstatement to service. Later, the State Government annulled the order in exercise of power vested under Article 371-D(5) of the Constitution. In view of the Constitution Bench judgment of this Court in P. Sambamurthy v. State of Andhra Pradesh ((1987) 1 SCC 362 : (1987) 2 ATC 502 : AIR 1987 SC 663), the power of annulment vested in the State Government was not available to be worked out and, therefore, the annulment has to be quashed. Quashing of the annulment would bring about restoration of the order of the Tribunal. Mr. Chari appearing for the State of Andhra Pradesh contends that during the pendency of this appeal an interlocutory order had been made by this Court directing a fresh enquiry to be made against the appellant and different orders were made from time to time to implement that direction. He points out that the final order in such a proceeding has brought about dismissal of the appellant and Mr. Chari says that in view of that order the Tribunal's order to restore the appellant to service cannot now be given effect to.

2. We are not in a position to accept his submission. If annulment had not been effected - that annulment has now been found to be a nullity - there would have been no scope for this appeal to be carried in this Court and the interlocutory order could not have been made to ultimately bring about a reversal of the situation.

3. The principle well known to law that where the foundation falls the superstructure too must go applies to the situation. That being the position we are not prepared to agree with Mr. Chari's submission and deprive the appellant of the benefit conferred on him under the decision of the Tribunal.

4. The appeal succeeds and we direct that the Tribunal's order will now be given effect to. No costs.

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