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CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

OA No.1368/94

New Delhi this the 4th Day of May, 1995.

Hon'ble Mr. N.V. Krishnan, Vice-Chairman (A)  
Hon'ble Dr. A. Vedavalli, Member (J)

Union of India through:

1. Chief Signal & Telecom  
Engineer (Nirman)  
Northern Railway,  
Baroda House,  
New Delhi.
2. Dy. Chief Signal &  
Telecom Engineer (PS)  
Office of the Divisional  
Railway Manager,  
Northern Railway,  
New Delhi.

...Applicants

(By Advocate Sh. P.S. Mahendru)

Versus

1. Sh. Nihut Ram, S/o Sh. Ram Sumer,  
through Bharat Singh Senger Mahamantri,  
Near Daga School,  
Bikaner (Rajasthan).
2. The Presiding Officer,  
Central Govt. Labour Court,  
Kasturba Gandhi Marg,  
New Delhi.

...Respondents

(By Advocate : None)

ORDER (Oral)

(By Mr. N.V. Krishnan, Vice-Chairman (A))

The applicants are the Chief Signal Telecom  
Engineer, Northern Railway and his Deputy Chief Signal &  
Telecom Engineer (P.S.). They are aggrieved by the  
Annexure A-1 order of the Learned Presiding Officer of  
the Central Government Labour Court in LCA-96/92  
(Annexure A-1) by which the claims of the workman, the  
first respondent herein has been allowed to the extent of  
Rs.7,703/- It is stated that the Labour Court has no

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jurisdiction to entertain that claim under Section 33-C(2) of the Industrial Disputes Act, 1947 and such an objection was filed before that authority (Annexure A-3). Nevertheless, without considering this objection the award has been granted.

2. Notice has been issued to the first respondent and a reply has been filed by the first respondent along with written arguments. The learned counsel for the respondents is not present today, though served.

3. We have heard the learned counsel for the applicants and have also perused the written arguments of the learned counsel for the respondents. We are of the view that this matter is squarely concluded by the decision of the Supreme Court in M.C.O. vs. Ganesh Razak & Anr. 1994 (4) SCALE 967 revising the judgement of the High Court of Delhi. It was held as follows:-

"12. The High Court has referred to some of these decisions but missed the true import thereof. The ratio of these decisions clearly indicates that where the very basis of the claim of the entitlement of the workmen to a certain benefit is disputed, there being no earlier adjudication or recognition thereof by the employer, the dispute relating to entitlement is not incidental to the benefit claimed and is, therefore, clearly outside the scope of a proceeding under Section 33C(2) of the Act. The Labour Court has no jurisdiction to first decide the workmen's entitlement and then proceed to compute the benefit so adjudicated on that basis in exercise of its power under Section 33C(2) of the Act. It is only when the entitlement has been earlier adjudicated or recognised by the employer and thereafter for the purpose of implementation or enforcement thereof some ambiguity requires interpretation that the interpretation is treated as incidental to the Labour Court's power

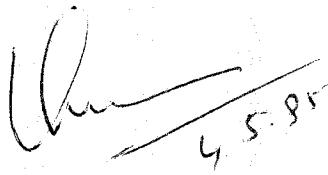
under Section 33C(2) like that of the Executing Court's power to interpret the decree for the purpose of its execution."

4. In the present case the orders of the Labour Court do not disclose that there was any decision or award about the entitlement of the workers. Hence, we are of the view that the Labour Court's order is without jurisdiction and accordingly it is quashed.

5. The O.A. is disposed of as above. No costs.



(Dr. A. Vedavalli)  
Member(J)

  
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(N.V. Krishnan)  
Vice-Chairman(A)

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