CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO.1100/94 &

O.A.No.1102/94

(7)

New Delhi, this the 17th day of January, 1995

Hon'ble Shri J.P. Sharma, Member(J)

Hon'ble Shri B.K. Singh, Member (A)

O.A.NO.1100/94

1. Union of India, through the
General Manager, Northern Railway,
Baroda House, New Delhi.

2. Divisional Personnel Officer,
Northern Railway, Delhi Division,
Near New Delhi Railway Station,
New Delhi.

3. Deputy Chief Engineer(Construction),
Northern Railway, Kashmiri Gate,
Delhi. ... Applicant

By Advocate: Shri Romesh Gautam

Vs.

1. Shri Prabhu Singh,
s/o Shri Neki Singh
Gangman under FWI
Patel Nagar(Construction),
Delhi Division, Northern Railway,
New Delhi.

2. Presiding Officer,
Central Govt. Labour Court,
Nirmal Tower, Barakhamba Road,
New Delhi.

3. The Asstt. Collector,
Old Civil Supply Building,
Tis Hazari, Delhi. ... Respondents

By Advocate: None

O.A. No.1102/94

1. Union of India through
General Manager, Northern Railway,
Baroda House, New Delhi.

2. The Deputy Chief Telecommunication
Engineer/T-II,
Northern Railway, Mandal Officer,
New Delhi.

3. The Senior Divisional
Personnel Officer,
Northern Railway,
Delhi Division,
State Entry Road,
New Delhi. .../Applicants

By Advocate: Shri Romesh Gautam

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Versus

1. Shri Mahesh Kumar,
   s/o Shri Algoo Ram,
   Railway Casual Labour Union
   (Regd.No.33/69),
   through,
   Shri Bharat Singh Sengar,
   Mahamantri,
   Near Daga School,
   Bikaner(Raj).

2. The Presiding Officer,
   Central Govt. Labour Court,
   Nirman Tower,
   Barakhamba Road,
   New Delhi.

3. The Asstt. Collector,
   Old Civil Supply Building,
   Tis Hazari,Delhi. ... Respondents

By Advocate: Applicant in person

ORDER (ORAL)

Hon'ble Shri J.P. Sharma, Member(J)

Both the applicants have filed certain claim before the Central Govt. Labour Court, New Delhi. In the case of Shri Mahesh Kumar, it was registered as L.C.A.No.55 of 1989 and in the caseof Shri Prabhu Singh, it was registered as L.C.A.No.74/88. Both the applicants have filed application under section 33-C(2) of the I.D. Act,1947 claiming difference of wages for certain period. In the case of Shri Mahesh Kumar O.A.No.1102/94, this period is from 10.9.75 to 31.12.89 andin the case of Shri Prabhu Singh, this period is from 1.1.69 to 14.2.86. The Labour Court decided the case of Prabhu Singh by the award dated 11.12.92 andof Mahesh Kumar by the award dated 7.5.93. Aggrieved by the said award, the Union of India Railway filed the O.As. aforesaid for the grant of the reliefs that the aforesaid award

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be quashed. On notice a reply was filedin the case of Mahesh Kumar, O.A.No.1102/94 through the counsel Shri Bharat Singh Sengar. In the case of Prabhu Singh inspite of notice, no reply has been filed by the petitioner Shri Prabhu Singh before the Labour Court.

2. We have taken both the cases together for hearing and heard the learned counsel Shri Romesh Gautam for the Union of India. Shri Mahesh Kumar who was petitioner before the Labour Court is present in person and stated that his counsel has asked him to take adjournment for the next date. Shri Prabhu Singh is not present in this case, who is respondent No.1 in O.A.1102/94.

3. We have considered the similar cases argued by the learned counsel Shri Bharat Singh Sengar, who is located at Bikaner. The learned counsel has argued similar cases where the Union of India i.e. the Railway has challenged the award given by the Central Govt. Labour Court,Delhi in the case of different petitioners who filed similar application for arrears of wages before the Labour Court and were granted the reliefs. We have decided that case on the basis of authority of Hon'ble Supreme Court reported in JT 1994(7) SC 476 Municipal Corporation of Delhi V Ganesh Razak and another. In that case, the Hon'ble Supreme Court has considered certain claims which were preferred under section 33C(2) filed before the Labour Court,Delhi and the

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Labour Court has granted the reliefs to the petitioners. While interpretating the provisions of section 33C(2) the Hon'ble Supreme Court held that Labour Court is like an Executive Court and can interpret the decree for the purpose of execution, where the basis of the claim is referable to the award or settlement, but it does not extend to determination of the dispute of entitlement or the basis of the claim if there is no prior adjudication or recognition of the same by the employer. Thus, the Hon'ble Supreme Court by the aforesaid judgement quashed the relief granted to the petitioners of those cases by the Labour Court which was upheld by the High Court of Delhi on the Civil appeal filed by the Municipal Corporation of Delhi against the judgement of the Delhi High Court.

4. In the present case we find that there has been a Mian Bhai Tribunal constituted sometimes in 1974 and in that case the Single Member has given the award that a temporary status shall be conferred on the Railway Casual Labour working in the open line if he has put in 4 months of regular service and that such an employee shall also be entitled to the regular pay scale of the post on which he is working. The Labour Court, however, did not take this into account at all and decided the case of both the petitioners on the basis of principle enunciated under Article 39-D of the Constitution of India that persons discharging similar duties and functions are entitled to equal pay for equal work. The Labour Court cannot decide such an entitlement

and therefore the grounds of decision given by the Labour Court in both the impugned award before us cannot be sustained. The award therefore of the Labour Court both in the case of Mahesh Kumar as well as Prabhu Singh is quashed.

5. We do find that though the applicant has not submitted any argument before us but since we have already taken a view in earlier bunch of cases i.e. O.A. No.1252/94, O.A.1253/94, so we adopt the same view in the present case also. Therefore while quashing the said award we remit the matter again to the Central Govt. Labour Court to decide the case afresh in the light of the fact whether on the basis of the jurisdiction, limitation and entitlement of both the applicants on the basis of an earlier adjudication, settlement or award. Both the parties shall be free to file supplementary pleadings before the LabourCourt and to raise all the points which have been taken in the present O.A. by way of pleadings. Both the O.As. are therefore disposed of accordingly with no order as to costs. A copy of the judgement be placed in the other file.

(B.K. SINGH)
MEMBER(A)

Attested
19/1/95
CO/C-IV

(J.P. SHARMA)
MEMBER(J)

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