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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 925/1990. DATE OF DECISION: 10-1-1992.

Bachi Singh & Anr. Applicants.

v/s.

Union of India & Ors. Respondents.

CORAM: Hon'ble Mr. Justice Ram Pal Singh, V.C. (J).
Hon'ble Mr. P.C. Jain, Member (A).

Shri S.C. Birla, counsel for the applicants.
Shri M.L. Verma, counsel for the respondents.

P.C. JAIN, MEMBER (A): JUDGMENT

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant No.1, who is working as Transmission Assistant in the office of Assistant Engineer, V.F.T., Kidwai Bhawan, New Delhi, is the General Secretary of the Association of Phone Inspectors, Transmission Assistants, Auto Exchange Assistants and Wireless Operators (APRAW), which is applicant No.2. The applicants are aggrieved by non-implementation by the respondents of the minutes of the Conciliation Proceedings held on 10.3.1988 and the order passed on 14.9.1989 by the Department of Telecommunication and advertisements issued by various circles allegedly on the ground that the aforesaid order and the advertisements are against the minutes of the Conciliation Proceedings, referred to above. They have prayed for (1) a direction to the respondents to implement the "Agreement-cum-Understanding" arrived at on 10.3.1988 before the Chief Labour Commissioner (C), at New Delhi, with immediate effect with all retrospective consequential reliefs; (2) a direction to the respondents to make immediate provisions to provide training for J.T.O. to the applicants and similarly placed candidates who are borne on the cadre of P.I., T.A., A.E.A., W.O., who have listed themselves in the list of seniority; (3) a direction to the respondents not to recruit any personnel on the cadre of J.T.O.

unless and until the present strength of the candidates borne on the above cadres is totally exhausted and merged with the J.T.O; and (4) to quash and set aside the DOT letter dated 14.9.1989 to the extent it regards the competitive and qualifying examination for the cadre of J.T.O. and advertisements issued by the various circles; as also for (5) payment of cost of this application.

2. On notice on admission and interim relief, directed to be issued to the respondents, they filed their return opposing the O.A. and thereafter the applicants filed a rejoinder thereto. Accordingly, we heard the learned counsel for the parties on the question of maintainability of the O.A. We have also carefully perused the material on record.

3. At the outset, we may take up the preliminary objections raised by the respondents in this regard. Their first objection is that the matter in issue in this O.A. is directly and substantially in issue in a previously instituted application between most of the parties in the Bombay Bench of this Tribunal and, as such, this O.A. is barred under the doctrine of res-subjudice, public policy and under Section 10 of the Civil Procedure Code. Second objection is that the respondent No.2 is an un-recognised and unregistered Union under the Trade Union Act, 1926 and, as such, the application is liable to be rejected. Third objection is that the respondents are an industry and the applicants are the workmen and that they have not exhausted the remedies applicable and available to them under the Industrial Disputes Act, 1947. Another objection is that the application is barred under Sections 20 and 21 of the Administrative Tribunals Act, 1985. Still another objection raised is that the Tribunal has no jurisdiction under joint consultative machinery and compulsory arbitration and, as such, the O.A. is liable to be rejected under Article 21 of the Scheme.

4. This application is based on the minutes of the Conciliation Proceedings held in the office of Shri S.K. Das,

Deputy Chief Labour Commissioner(C) on 10.3.88, a copy of which has been filed by the applicants and is available from page 23 to page 27 of the paper book. A perusal of these minutes shows that first the Department placed its proposals in the meeting and ultimately the Federation put up their proposals. Thereafter the operative part of the minutes of the meeting appears and it is reproduced below: -

"The Minister assured his good offices for the implementation of the Demand and appealed to call off the programme of action.

Accordingly, the Federation agreed to call off the agitational programme.

On behalf of the Management, it was stated that they are making all sincere efforts to sort out the demands of the Federation, as per the assurance given by the Minister.

In view of this, the dispute is treated as closed. * From the above, it is clear that in the aforesaid Conciliation Meeting, it cannot be said that an agreement was reached as contemplated under Chapter IV of the Industrial Disputes Act, 1947. The minutes do not disclose the agreement arrived at on the specific issues raised in that meeting. Even otherwise, the applicants will have to seek the remedies under the relevant provisions of the Industrial Disputes Act before approaching this Tribunal in this matter. There is nothing to show that they have acted accordingly. This matter came up in a number of O.As before a Five-Member Bench of the C.A.T. in A. PADMA-VALLEY AND OTHERS Vs. CPWD & TELECOM, decided on 30.10.1990 (Full Bench Judgments of Central Administrative Tribunals (1989-1991) - Vol. II). In that case, it was decided as follows: -

"41. To sum up, our conclusions are as follows:

- (1) The Administrative Tribunals constituted under the Administrative Tribunals Act are not substitutes for the authorities constituted under the Industrial Disputes Act and hence the Administrative Tribunal does not exercise concurrent jurisdiction with those authorities in regard to matters covered by that Act. Hence

all matters over which the Labour Court or the Industrial Tribunal or other authorities had jurisdiction under the Industrial Disputes Act do not automatically become vested in the Administrative Tribunal for adjudication. The decision in the case of Sisodia which lays down a contrary interpretation is, in our opinion, not correct.

- (2) An applicant seeking a relief under the provisions of the Industrial Disputes Act must ordinarily exhaust the remedies available under that Act.
- (3) The powers of the Admin Tribunal are the same as that of the High Court under Article 226 of the Constitution and the exercise of that discretionary power would depend upon the facts and circumstances of each case as well as on the principles laid down in the case of Rohtas Industries (supra).
- (4) The interpretation given to the term 'arrangements in force' by the Jabalpur Bench in Rammoo's case is not correct.

We answer the questions raised before the Larger Bench accordingly. All these Applications which have been listed before this Bench will now be listed before Division Benches for disposal in accordance with law."

4. In view of the above findings of the Five-Member Bench of this Tribunal, the O.A. is not maintainable. There is nothing in this case which would justify or require us to exercise any discretionary power in the light of the principle laid down by the Supreme Court in the case of Rohtas Industries Vs. Rohtas Industries Staff Union (AIR 1976 SC 425), to which a reference has been made by the Larger Bench in the above case, as already stated. Moreover, the so-called "Agreement-cum-Understanding" arrived at on 10.3.1988 cannot be deemed to be an order envisaged in sub-section (1) of Section 19 of the Administrative Tribunals Act, 1985, in respect of which an application can be filed in the Tribunal for the redressal of the grievances. In view of our findings, we do not consider it necessary to deal with the other preliminary objections, which are secondary in nature.

5. In the light of the above, we are of the considered view that the O.A. is not maintainable and is rejected as such.

(P.C. JAIN)
(P.C. JAIN)
MEMBER(A)

10.10.1988
(RAM PAL SINGH)
VICE CHAIRMAN(J)