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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No.2738/92

NEW DELHI THIS THE 15TH DAY OF SEPTEMBER, 1994.

**HON'BLE SHRI J.P. SHARMA, MEMBER (J)
HON'BLE SHRI B.K. SINGH, MEMBER (A)**

1. Union of India, through
The General Manager,
Northern Railway,
New Delhi.
2. Sr Divl Personnel Officer,
Northern Railway,
New Delhi. ...Applicant

(By Advocate : Shri H.K. Gangwani)

VERSUS

1. Shri Ved Prakash,
S/o Arjun Dev Khalasi,
Under Inspector of Works,
Northern Railway,
NEW DELHI.
2. Presiding Officer,
Central Administrative Tribunal-cum-
Labour Court,
11th Floor, Ansal Bhavan,
New Delhi. ...Respondents

By Advocate : None

ORDER (Oral)

Shri J.P. Sharma, Member (J)

The Applicant Shri Ved Prakash is a workman and while working as Khalasi under Inspector of Works, Northern Railway, Delhi, filed petition before Labour Court under Section 33-C(2) of the I.D. Act claiming the sum of Rs.16470.80 paise as difference of wages for the period from 6.4.67 to 30.4.77. This case was Registered as LCA No.430/90. It is stated that the applicant was employed as Casual worker on 6.04.67 at Rs 3/- per day. He performed the same duty as the permanent employees from the date of his employment but the employer paid him wages

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at the much lower rate. Hence the applicant claimed the above mentioned difference. The Labour Court entertained the claim and conceding the judgement of Surrinder Singh and Another and the Engineer-in Chief CPWD and others reported in 1986 (1) -403 - adopting the principle of "Equal pay for Equal Work " to the aggrieved claimant . Ultimately the decree was passed for a sum of Rs.12,189/- which the Management was directed to pay to the workman within the 2 months failing which it shall be liable to pay interest at 12% rate till the actual date of payment. Aggrieved by the aforesaid award of the Labour Court the Railways filed this application for quashing of this impugned Order dated 7.02.1992.

2. A notice was issued to the workman, petitioner in the labour Court on 27.08.93 which was again issued on 23.12.93 and against issued on 23.02.94. An order dasti was also given to the applicant ~~to~~ Railways on 13.04.94 to serve the notice through some of their agency on the workman, working under them. The learned counsel for the respondents have reported that the Workman No.2 have refused to accept service. The Railways have also sent the notice through Registered post but the applicant refused the acceptance of the notice, and letter to this effect addressed to the Counsel Shri H.K. Gangwani, on behalf of the Railway Manager on 5.05.94 has been filed and that has been taken on record.

3. We heard Shri HK Gangwani, Counsel for the applicant for some time who placed before us a

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a decision arrived at in O.A.No.247/92 decided on 22.04.94. In this case also the Railway was the applicant and the workman Shri Vikram Singh was the respondent. There also the Labour Court has allowed the claim of the workman on the basis of the principle of "Equal Pay for Equal Work" under the provisions of Section 33-C (2) of the Industrial Disputes Act 1947, they have considered this aspect and we find that under the aforesaid provisions only the wages which have been withheld and ascertained ^{sum} ~~some~~ can be decreed by the Labour Court and Principle of 'Equal pay for equal Work' cannot be invoked under the provisions under Section 33-C(2) as has been done in the present case. We may emphasise that in order to apply the principle of 'equal pay for equal work' the nature of duty, the work, functions and responsibilities shouldered by the claimant, vis-a-vis the person with whom he claims similarly has to establish the fact that the duties and responsibilities performed by both are similar, same and identical. The award of Labour Court do not touch this aspect of this case and only making a reference of Surrinder Singh case (Supra), The claimed has been allowed. On this point also we find that the judgement of Labour Court is silent regarding the major issue to be decided before holding the equivalence of pay of two similarly situated employees.

4. We, therefore, find that the application is to be allowed.

5. The award of the labour Court dated 7.02.92 is quashed and set aside and the claim of

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Respondent No.2 is rejected. Cost on parties

6. In case the Respondents No.2 has been paid amount the railways are at liberty to recover the same according to rules.


(B.K. SINGH)
MEMBER (A)


(J.P. SHARMA)
MEMBER (J)

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