

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.No.2436/1993

NEW DELHI DATED THIS THE 29th APRIL 1994.

Shri N.V. Krishnan, Vice Chairman(A)

Shri C.J. Roy, Member(J)

Union of India through

1. General Manager,
Northern Railway,
Baroda House,
New Delhi 110 001.
2. Divisional Personnel Officer,
Bikaner Division,
Northern Railway,
DRM's Office,
Bikaner 334 001.

...Applicants

By Advocate Shri R.L. Dhawan

versus

1. Shri Raghbir Singh
S/o Shri Budha,
Gangman, Gang No.B-8,
C/o C.P.W.I, Bikaner Division,
Northern Railway, Rewari.
2. Presiding Officer,
Central Government Labour Court,
Ansul Bhavan, 11th Floor,
Kasturba Gandhi Marg,
New Delhi 110 001.

By Advocate: None.

O R D E R'Oral'

None for the respondents though called twice. The respondents were not present even on earlier occasion though served.

2. The applicants ie. the General Manager, Northern Railway and the Division Personnel Officer, Bikaner Division, Northern Railway are aggrieved by the order dated 27.5.93 of the Presiding Officer, Central Labour Court, New Delhi in L.C.A.No.16/92.

...2...

7

2. A claim application under Section 33-C(2) of the Industrial Disputes Act, 1947 was filed by the first respondent Shri Raghbir Singh, Gangman, in the Central Government Labour Court, New Delhi claiming a sum of Rs.3439/- as difference of wages for the period he was engaged as a casual worker from 25.5.77 to 22.12.78. He was engaged on daily wage basis of Rs.6.85 per day. The claim made was that, as a consequence of the decision of the Hon. Supreme Court in the case of Dhirendra Chamoli and others Vs. State of U.P. (1986(1) LLJ 134), the workman was entitled to the same salary and wages as were payable to regular Class-IV employees discharging the same functions as a workman. The applicants herein (respondents before the labour court) raised an obligation that the claim was not maintainable as it was not computed by an award. This was ignored and on the basis of a chart produced by the management as to what would have become payable if this proposition is accepted, the claim of the workman was allowed in respect of an amount of Rs.1003/-.

3. The applicants have assailed the order of the Labour Court on two important grounds, namely, that

the claim petition was barred by limitation and that the Labour Court has no jurisdiction to determine the entitlement on this account and that it had to function only as an executive court.

4. Respondent No.1, the affected workman, has not filed a reply. He is not present today also.

5. We have heard the learned counsel for the applicant. He has produced for our perusal, a judgement in a similar case ie. OA.1839 of 1993 (Union of India Vs. Surat Ram) wherein, the order of the Labour Court passed under similar circumstances has been set aside and quashed.

6. We are of the view that in so far as limitation is concerned, it appears that applications under Section 33-C(2) of the Industrial Disputes Act, 1947 are not barred by limitation (Central Bank of India Vs. P.S. Rajagopalan- AIR 1964 (SC) 743).

7. However, the other objection of the applicants goes to the root of the matter and is well taken. It may be seen that sub-section(2) of Section 33-C can be invoked only when the workman is entitled to receive from employer any money or benefit. In

other words, in the first instance, the right of a workman to a monetary claim or other benefit has to be established. In that case alone, the Labour Court has jurisdiction to quantify the amount in respect of that claim.

8. In the present case, the right of a workman to get the benefit of the judgement of the Hon. Supreme Court in the case of Dhirendra Chamoli and others Vs. State of UP (Supra) ought to have been established separately, in which case alone, the order under the circumstances could have been justified.

9. We are of the view that the Labour Court has exceeded its jurisdiction by going to the question of entitlement of the workman (ie.respondent No.1) to the benefits of the judgement of the Hon. Supreme Court in the proceedings under Section 33-C(2) of the Industrial Disputes Act, 1947. We, therefore, find that the impugned order has been passed beyond the jurisdiction of the Labour Court. The impugned order is therefore set aside and quashed. The OA is disposed of accordingly. No costs.

/kam/

Abroy
(C.J. ROY)
MEMBER (J)

Un
28.4.84
(N.V. KRISHNAN)
VICE CHAIRMAN (A)