

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

OA.No.2504/93

Dated this the 2nd of September, 1994.

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

Shri C.J. Roy, Hon.Member(J)

Union of India through

1. General Manager,  
Northern Railway,  
Baroda House,  
New Delhi 110 001.

2. The Divisional Personnel Officer,  
Bikaner Division,  
Northern Railway,  
D.R.M.s Office,  
Bikaner 334 001.

By Advocate: Shri R.L. Dhawan.  
versus

...Applicants

1. Shri Phool Singh,  
S/o Shri Udami Ram,  
Gangman under P.W.I.  
Bikaner Division,  
Northern Railway,  
Rewari.

2. Presiding Officer,  
Central Government Labour Court,  
Ansals Bhawan, 11th Floor,  
Kasturba Gandhi Marg,  
New Delhi 110 001.

By Advocate: None. ...Respondents

O R D E R (Oral)

By Shri N.V. Krishnan.

The applicants are aggrieved by the Annex-A.1 order dated 10.9.92 of the Central Government Labour Court in L.C.A.No.2/92. Notice was issued to the respondent No.1, the concerned workman and it was stated on 17.12.93 that dasti service could not be effected, as the Respondent No.1 has left the service. The applicants were, therefore, directed to ascertain the fresh address of the respondent No.1 and effect service at the new address. It is stated that service has been effected and Acknowledgement Due has been received on 13.2.94. The respondent has remained absent on four occasions

thereafter. We had given the last opportunity earlier to appear and argue the matter but the respondent No.1 has still not appeared. In the circumstances, the matter is heard ex-parte.

2. We notice that the OA has been filed on 2.11.93 though it ought to have been filed on 10.9.93. About the one month time has been taken in obtaining the certified copy of the order with the result that there is a delay of one month in filing the OA, which is condoned.

3. It is contended by the learned counsel for the applicant that the order of the Labour Court is without jurisdiction as power under Section 33-(C2) of the Industrial Disputes Act, can be exercised only when there is an award in favour of the workman or any relief is given to him by any other authority. We notice that in a similar matter, an order dated 15.12.93 has been passed in OA.1839 of 1993. A copy is kept on record. We notice from the order of the Labour Court that the workman had made a claim for difference in wages for the period from 7.4.77 to 31.12.78 amounting to Rs.3832/- on the ground that he has not been paid wages like a regular worker. The order has been given in favour of the workman on the ground that the workman was entitled to the benefit of 'equal pay for equal work' based on the decisions of the Hon. Supreme Court mentioned therein.

4. Section 33-(C2) of the Industrial Disputes Act, reads as follows:-

"where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government (within a period not exceeding three months);

(a)

(Provided that where the presiding officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit)".

In view of this unless there is a direct declaration in favour of the respondent No.1 to the effect that he was doing the same work which the similarly situated persons getting regular pay-scales were doing, he cannot claim a vested right for getting same pay-scale from the Railways.

5. In the absence of any such declaration or a reference under Section-10 of the Act, the Labour Court has no jurisdiction under Rule 33-(C2) of the Industrial Disputes Act.

6. In the circumstances, the impugned order(Annex.A1) dated 10.9.92 of the learned Presiding Officer, Central Government Labour Court, New Delhi, in L.C.A. No.2/92 awarding the claim of respondent No.1 amounting to Rs.982/- is hereby set aside and quashed. No costs.

*[Signature]*  
(C.J. ROY)  
MEMBER(J)

*[Signature]*  
2.9.94  
(N.V. KRISHNAN)  
VICE CHAIRMAN(A)

/kam/