

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

OA NO. 2691/93

New Delhi this the 28th November, 1994.

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

Smt. Lakshmi Swaminathan, Member(J).

Union of India through

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

...Petitioners.

By Advocate Shri R.L. Dhawan.

Versus

1. Shri Daya Ram.
2. Shri Prakash Chand.
3. Shri Pushkar

...Respondents.

(All working as Group 'D' employees  
under Signal Inspector, Bikaner  
Division, Northern Railway, Gurgaon)

By Advocate Shri Pratap Rai.

ORDER(ORAL)

Shri N.V. Krishnan.

The applicants (Railways for short) are aggrieved by the Annexure A-1 order dated 26.11.1992 of the Presiding Officer, Labour Court in LCA No. 40/91. The facts of the case are that the three respondents herein (Workmen for short) were employed at Gurgaon and for their travel on duty to Delhi, they were paid travelling allowance at rates applicable to Delhi, i.e., 'A' class city. The respondents realised that this was a mistake and that they are entitled to rates applicable to Gurgaon only. Hence, steps were taken to recover the excess amounts by deducting Rs.100/- from the wages of the workmen. The workmen, therefore, filed an application u/s 33C(2) of the Industrial

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Disputes Act, 1947 claiming that the deductions are without jurisdiction and that, therefore, are illegal and for determination and computation of the amount of money due to the applicants.

2. The Railways filed a reply (Annexure A-6) in para 3 of which they submitted that the Labour Court had no jurisdiction because the applicants have challenged the legal and valid deductions, in respect of which the court did not have the jurisdiction.

3. The Labour Court found that the only basis of the case of the Railways was the letter dated 5.2.1987. It found that this letter related to only House Rent Allowance and City Compensatory Allowance and was not concerned with Travelling Allowance. Accordingly, the Court held that the payments already made to the workmen may not be recovered and the recovery made should be refunded to them.

4. On notice, the respondents/workmen filed a reply opposing the OA.

5. The matter was heard today. The main issue for consideration was whether, without establishing their right to receive travelling allowance at a particular rate, the workmen could have approached the Labour Court to compute the amount payable to them. The learned counsel for the workmen relied on the judgement of the Supreme Court in Central Bank of India Vs. Rajagopalan, 1963-II-LLJ-89 and in Taj Mahal Cafe Private Ltd. Vs. Labour Court, Hubli, 1970-II-LLJ-51 to support his contention that the decision of the Labour Court cannot be interfered with.

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6. The learned counsel for the applicants, however, drew our attention to a ~~later~~ judgement of the Supreme Court in the Central Inland Water Transport Corporation Ltd. Vs. Workmen, 1974 SCC (L&S) 421. In this judgement, the earlier judgement in the case of Central Bank of India has also been referred to. It was pointed out that in the Central Bank of India's case a right was conferred on workmen belonging to certain categories in terms of the Shastri Award. The only question was whether the respondents therein belonged to that category. It was held that it was competent for the Labour Court in a proceeding under Sec. 33C(2) to make this limited inquiry as to whether the workmen who came before the Court came within that category on whom certain rights were conferred by the Shastri Award.

7. We have heard the rival contentions. We notice that the applicants did not indicate to the Labour Court the source on the basis of which they claim a right to receive the T.A. at a particular rate which had been violated by the orders of recovery. In the circumstance, we find that though an objection regarding jurisdiction was raised, this was not gone into and accordingly that decision is liable to be set aside. The learned counsel for the respondents requested that in that event the case be remanded to the Labour Court.

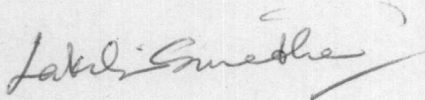
8. We find that this is a reasonable request. In the circumstance, while allowing this OA and quashing the impugned Annexure A-1 order of the Labour Court, we remand the matter to the learned Presiding Officer to first determine the <sup>u</sup>question whether <sup>u</sup>it has jurisdiction to dispose of the claim under Section <sup>u</sup>33<sub>1</sub>(2) of the Industrial Disputes Act, 1947, after giving an opportunity to the workmen to establish that they did

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have an established right to receive the travelling allowance at the rates at which they were initially paid that allowance by the Railways.

9. The O.A. is disposed of with the above directions.



(Smt. Lakshmi Swaminathan)  
Member(J)

'SRD'



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