

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

* * * *

Allahabad : Dated this 12th day of February, 1996

Original Application No. 117 of 1996

District : Jhansi

CORAM:- Hon'ble Mr. S. Das Gupta, A.M.
Hon'ble Mr. T.L. Verma, J.M.

Union of India through (1) The General Manager,
C. Railway, V.T. Bombay (2) D.R.M. C.Rly, Jhansi.

(By Sri G.P. Agarwal, Advocate)

. Applicants

Versus

1. President, Rashtriya Chaturth Shreni
Majdoor Sangh (INTUK) situated 2/236, Namner,
Agra.
2. The Presiding Officer, C.G.I.T. cum-Labour,
Court, Pandu Nagar, Deoki Palade Road,
Kanpur.

(By Respondents

ORDER (O_r_a_l)

By Hon'ble Mr. S. Das Gupta, A.M.

The Union of India through the General Manager Central Railway, Bombay and the D.R.M. Central Railway, Jhansi, have approached this Tribunal through this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985, challenging the award dated 31-7-1995 passed by the Presiding Officer, Central Government, Industrial Tribunal-Cum-Labour Court, Kanpur, in which it has been held that reversion of five workmen from the post of Pump Operators to the post of Gangmen was unjustified and that such workmen were entitled to difference of wages between the post of Pump Operator and Gangman. The ground taken in this application is

W.C.

that the reference made to the Tribunal was wrongly worded and also the Industrial-Cum-Labour Tribunal did not have jurisdiction to adjudicate this matter. It has also been stated that the finding was wrong on the basis of facts as the applicants were never validly promoted as Pump Operators.

2. We have carefully perused the impugned award. In the preamble to the award the term of reference has been extracted. It appears that this matter was referred to the Industrial Tribunal-Cum-Labour Court, Kanpur by the Central Government as an industrial dispute for adjudication. The reference clearly states that the Tribunal was to adjudicate the ^{is this} ~~award~~. The D.R.M. Central Railway, Jhansi and AEN(M) Agra Cantt were justified in reverting Sri Raghbir Singh Yadav and four others from the post of Pump Operator to the post of Gangman. It was clear that the question of whether the applicants were promoted as Pump Operators or not was not in issue. The reference would indicate that their promotion to the post of Pump Operator was a pre-supposition. It is also clear that the present applicants had submitted ~~this~~ to the adjudication on this term of reference and, therefore, they cannot now turn round to state that the reference itself was wrongly worded. In any case the reference was itself made by the Government of India of which the present applicants are a part.

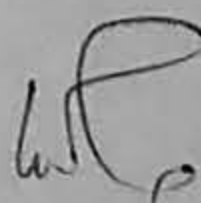
3. We have also seen from the counter reply filed by the present applicants before the Industrial Tribunal-cum-Labour Court that the present applicants did not take a factual plea that the five workmen were not promoted to the post of Pump Operators. They had only

W.C.

only taken plea of law points firstly on the ground that the railways performing sovereign act do not come within the purview of the definition of 'industry' under the Industrial Disputes Act. They have also disputed the jurisdiction of the Industrial-Cum-Labour Court to adjudicate this matter. The said court in the impugned award has considered the pleas on legal ground and have rejected the same indicating reasons. We see nothing in this order to ^{disagree} ~~disagree~~ such findings. So far as the question of fact is concerned, the same not having been raised before Industrial-Cum-Labour Court, we see no reason how it can be raised before us. After all, the Industrial Tribunal is the competent court for recording finding of facts and unless such finding is totally perverse on the face of the fact averred, there would be no reason ~~reason~~ for any other forum to interfere ^{with} it.

4. In view of the foregoing we find no reason to interfere in the award already given by the Industrial Labour Court and, therefore, we dismiss this OA in limine.


Member (J)


Member (A)

Dube/