

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 756 of 1996

Allahabad this the 23rd day of April 1997

Hon'ble Dr. R.K. Saxena, Member (Judicial)
Hon'ble Mr. D. S. Baweja, Member (Admn.)

1.

Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.

2. Divisional Railway Manager, Northern Railway, Ambala.

Applicants

By Advocate Sri Prashant Mathur.

Versus

1. Deepak Kumar S/o Shri Shiv Dayal R/o 5508, Railway Double Storeyed Building, Mission Compound, Saharanpur.

2. The Commissioner, Workmen's Compensation, Saharanpur.

3. Additional District Magistrate, Saharanpur.

Respondents

O R D E R (Oral)

By Hon'ble Dr. R.K. Saxena, Member (J)

This O.A. has been preferred by the present applicants challenging the order dated 07/8/95 (annexure A-1) passed by the Commissioner, Workmen's Compensation.

2. It was admitted and notices were issued. In pursuance of the notices, the respondent no. 1 had appeared in person and filed counter-reply in which the O.A. has been opposed. By moving the misc. application, the respondent no. 1

further contended that the O.A. was not maintainable.

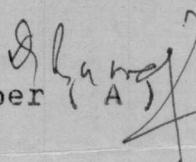
3. We have heard Sri Prashant Mathur and also the respondent no.1, who is present in person.

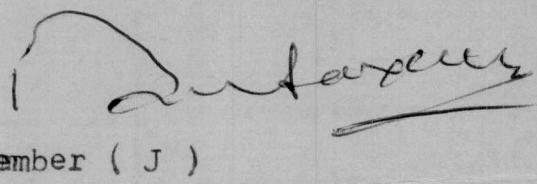
4. The question for determination in this case is whether any order passed or award given by the Commissioner under Workmen's Compensation Act, 1923 can be challenged before the Tribunal. Section 30 of the Workmen's Compensation Act, 1923 provides that an appeal shall lie before the High Court for the orders which are given thereunder ^{and} passed by the Commissioner. In 'Krishna Prasad Gupta Vs. Controller, Printing and Stationery A.I.R. 1996 S.C. 608', it was held by their Lordships that if a forum is prescribed under any labour law, jurisdiction of that forum was not taken away by Section 28 of the Administrative Tribunals Act, 1985. In that case, the appellate forum under Section 17 was provided and thus, the petitions which used to be ~~preferred~~ ^{preferred} before the Tribunal, challenging the award of the prescribed authority, were held beyond jurisdiction of the Tribunal. If the same analogy is made applicable the appellate forum has provided under the Workmen's Compensation Act. There is no dispute that the Workmen's Compensation Act comes within the scope of Labour Law. In this way, the appellate jurisdiction of the High Court under Section 30 of this Act cannot be deemed to have been taken away by Section 28 of the Administrative Tribunals Act, 1985. Even if any doubt is created about this interpretation, it is set at rest by the Judgment of the Hon'ble Supreme Court in 'Civil Appeal No. 481 of 1989 L. Chandra Kumar Vs. U.O.I. & Ors. decided on 18.3.97' wherein it is provided

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that the supervisory power vests in the High Court. In view of this legal position, it is quite clear that the present O.A. does not remain maintainable here. Therefore, it stands dismissed.

5. If the applicants are so advised, they may approach the proper form even now. The stay order which was granted on 30/7/96 and was confirmed on 10.1.1997, stands vacated.


Member (A)


Member (J)

/M.M./