Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

O.A. No.8 of 1992

Dated: 24 March, 1995

Hon. Mr. S. Das Gupta, A.M.
Hon. Mr. T.L.Verma, Member(J)

Union of India, through D.R.M.
N. Railway, Allahabad and P.W.I.
N. Railway, G.T. Road,
Kanpur. ... Applicant.

(By Advocate Sri G.P. Agrawal)

Versus

1. Jagdev Prasad son of Ram Gopal,
through Bhartiya Majdoor Sangh, U.P.
situated at 2, Naveen Market
Pared Road, Kanpur.

2. Presiding Officer, Central Government
Industrial Tribunal Cum Labour Court,
Pandu Nagar, Kanpur . ... .. Opp. Parties.

(By Advocate Sri B.N. Singh)

O R D ER

(By Hon'ble Mr. S. Das Gupta, Member(A))

The Union of India through D.R.M. Northern Railway, Allahabad has filed this application under Section 19 of the Administrative Tribunals Act, 1985 challenging the judgment and order dated 21.6.1991 by the Presiding Officer Industrial Tribunal and Labour Court, Kanpur, the respondent no.2 in this application.

2. The applicant's case is that the respondent no. 1 who was employed as a Chaukidar retired from from service on 31.5.1988. After retirement, he filed a petition under Section 33(c)(2) of the

Industrial Disputes Act, 1947 for payment of difference of pay between the grade to which he claimed to be entitled and the grade on the basis of which he was actually paid between 1.1.1973 to 31.5.1988 amounting to Rs. 5743.91. The claim of the respondent no. 1 was partly allowed by the impugned order dated 21.6.1991. The applicant has prayed that the same be quashed on the ground that the respondent no. 2 has no jurisdiction to adjudicate this matter; that the respondent no. 1 had never worked in the grade of Rs. 210-270; the findings of the respondent no.2 are self controdictory and that the application before the respondent no. 2 is not maintainable.

3. Contesting the claim of the applicant, the respond--ent no. 1 has filed a counter affidavit stating that this Tribunal has no jurisdiction to entertain the present application. It has been further stated that the Railway Board by a circular dated 3,10.1980 revised the pay scale of the Engineering Store Watchman from Rs. 196-232 to Rs. 200-250 w.e.f. 1.1.1973 but the Railway Administration had not paid the arrears in accordance with this order. The applicant has filed a Rejoinder Affidavit in which the contentions made in the Original Application have been reiterated.

4. We have heard the learned counsel for the parties and have gone through the pleadings of the case.

5. The respondent no. 1 had filed an application under Section 33(c)(2) before the Industrial Tribunal-Cum Labour Court. He had claimed ~~of~~ payment of arrears which he claimed had accrued to him on account of the upgradation of his pay scale from Rs. 196-232 to Rs. 200-250 w.e.f. 1.1.1973 and to the still higher scales of Rs. 210-290 from a subsequent date. The learned counsel for the applicant strenuously argued that the respondent no. 1 had filed this claim petition after retirement and the claim pertains to a very old period. It was also emphasised that he did not raise any objection during his service period and had accepted the payments made to him without objection.

6. The provisions of Section 33(c) (2) ~~which~~ enables an employee to recover from the employer any money or any benefit which is capable of being computed in terms of money and any question relating thereto can be decided by the Labour Court. A simple reading of this section would make it clear that an application under this section is not subject to any limitation under the Act itself. The scope of this section came under the scrutiny of the Hon'ble Supreme Court in the case of Bombay Gas Co. Ltd Vs. Gopal Bhiva, AIR 1964 SC 952. It was held by the Hon'ble Supreme Court that the words of Section 33-C(2) are plain and unambiguous and it would be the duty of the Labour Court to give effect to the said provision without any considerations of limitation. It is well settled that Article 181 applies only to applications

which are made under the Code of Civil Procedure and so, its extension to applications made under Section 33-C(2) of the Act would not be justified.

Hence, limitation prescribed by Article 181 cannot be invoked in deling with application under Section 33(2) of the Industrial Disputes Act,1947".

7. It would therefore, be clear that merely because the applicant lodged his claim under Section 33-C(2) after he retired and the claim ~~apparent~~ pertained to a much earlier period, would not be a bar to the proceedings under the said Section. The applicant's contention that the petitioner under Section 33-C(2) was barred by limitation, does not, therefore, have any force.

8. The applicant has also taken a stant that the Labour Court has no jurisdiction to adjudicate the matter. On a fair and reasonable construction of this section, it is clear that if a workman's right to receive the benefit is disputed, that may be determined by the labour court. Before proceedings to compute the benefit in terms of money, the labour court inevitably has to deal with a question as to whether the workman has a right to receive the benefit. If the said right is not disputed, the labour court must deal with that question and decide whether the workman has a right to receive the benefit as alleged by him and it is only if the labour court answers

this point in favour of the workman that the next question of making the necessary computation can arise.

9. In the application before us, the respondent no. 1 had filed a claim before the labour court under Section 33-C(2) of certain monetary benefits which were denied to him by the applicant. The Labour Court was fully competent to adjudicate the matter since his right to such benefit was disputed by the employers. We have found from the impugned award that the respondent no. 2 has passed a reasoned and well discussed order upholding ~~the period~~ a part of the claim lodged by the respondent no.1 and rejecting the other part. We find nothing in this order which calls for any interference by us. There is a catena of decisions of the apex court cautioning the High courts and the Tribunals not to interfere lighly with the findings of fact by the labour courts and the Industrial Tribunal under Industrial Disputes Act, 1947. In the case before us, the Industrial Tribunal-Cum Labour Court had come to certain findings on the claims made by the respondent no.1 as regards the monetary benefits due to him from his employer. We find no perversity in such findings on the face of the records.

10. In view of the foregoing, we see no reason to interfere with the impugned order dated

21.6.1991. The application is,therefore, dismissed. There will be no order as to costs.

Member(J) Member(A)

(n.u.)