

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1063 of 1994

Allahabad this the 13th day of May 1997

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

Union of India through General Manager, Central Railway, V.T. Bombay.

Applicant

By Advocate Sri G.P. Agrawal

Versus

1. Smt. Aruna Kumari Sharma W/o Late Mangi Lal
2. Sri Sunit Kumar Sharma S/o Late Mangi Lal - 14 years
3. Km. Ranjana Sharma D/o Late Mangi Lal - 12 years
4. Basudeo S/o Late Mangi Lal - 10 years,
5. Km. Nitu D/o Late Mangi Lal - 8 years
6. Krishna Kant S/o Late Mangi Lal - 6 years

minors u/g of their mother and natural guardian Smt. Aruna Kumari Sharma r/o Behind the Syndicate Bank, Mauja Ka Nagla, Jagner Road, Agra (Notice is to be served only on Smt. Aruna Kumari Sharma for herself and on behalf of their minor children).

7. Commissioner under Workmen Compensation Act, 1923 at Agra.

Respondents

Advocate Sri A. Kulshrestha

ORDER

By Hon'ble Dr. R.K. Saxena, Judicial Member

The present O.A. has been filed by Union of India through General Manager, Central Railway to challenge the order dated 16.6.1992 and award dated 31.3.1994 passed by the respondent no. 7.

2. The brief facts of the case are that the respondent no.1 to 6 had espoused a case for compensation before the Commissioner under Workmen Compensation Act on the ground that one Mangi Lal who was the husband of respondent no.1, and father of respondents no.2 to 6 had died in an accident on 22.10.1987 when he was on duty. The case was instituted with some delay and the respondents no.1 to 6 had moved an application for condoning the delay. The said application was allowed vide order dated 16.6.1992. The respondent no.7 considered the case of the respondents no.1 to 6 and awarded an amount of Rs.79,760-00 as compensation vide award dated 31.3.1994. Feeling aggrieved by these two orders, this O.A. has been preferred here.

3, The respondents no.1 to 6 contested the case on several grounds including the ground that this Tribunal has got no jurisdiction to entertain the petition.

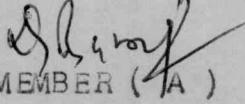
4. We have heard Sri G.P. Agrawal, learned counsel for the applicant. We were deprived of the arguments from the other side because none had appeared for the respondents.

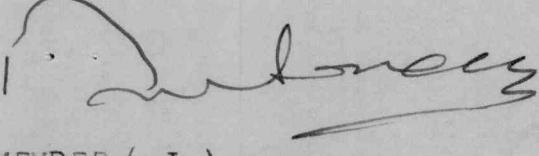
5. The main question for the consideration is whether the award given by the respondent no.7 can be challenged before this Tribunal. It may be mentioned that the orders and awards under the Workmen Compensation Act have been made appealable before the High Court under Section 30 of the Act. There is no dispute that this Workmen Compensation Act is labour law. Their Lordships of Hon'ble Supreme Court in the case of

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K.P. Gupta Vs. Controller, Printing and Stationery etc
(1996) 1 U.P.L.B.E.C. 174' has held that section 28 of
Administrative Tribunals Act, 1985 ~~does~~ not take~~s~~ away
the jurisdiction which ^{was} ~~was~~ exercisable by the Labour
Courts. Considering the provisions of Payment of Wages
Act, it was further observed that Section 17 of the
said Act which provided for the appeal continues in
existence and the powers could be exercised by the
said Appellate Authority which was prescribed therein.
On the same analogy, this case ^{can} be considered. The
Appellate Authority under Section 30 of Workmen Com-
pensation Act, 1923 is High Court. Thus, the applicant
cannot approach the Tribunal. Even in exercise of the
supervisory powers under Article 227, it is not possible
because in recent judgment in Civil Appeal No. 481 of
1989 L. Chandra Kumar Vs. Union of India and Others,
decided on 18/3/1997, it was held that supervisory
powers under Article 227 were exercisable by the High
Court only. Thus, on examination of the facts and
legal position from all the angles, it is concluded
that this O.A. is not maintainable here. Therefore,
it stands dismissed. The applicant, if so advised, may
approach the proper forum. The stay granted on 07/9/94,
stands vacated.


MEMBER (A)


MEMBER (J)

/M.M./