

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

THIS THE 28th DAY OF MARCH, 2006

Original Application No. 1136 of 2002

HON'BLE MR. K.B.S. RAJAN, MEMBER-J

Yaswant Singh, S/o late Babu Singh, R/o 326 E Block
Panki, Kanpur.

.. Applicant

By Advocate : Sri S. Pandey.

Versus

1. Union of India through Secretary, Ministry of Labour, Government of India, Shakti Bhawan, Rafi Marg, New Delhi.
2. General Manager through the Divisional Railway Manager, N.R., U.P. at Allahabad.
3. Station Supdt. N.R. Panki, Kanpur.
4. Assistant Operating Manager, N.R. Juhi, Kanpur.

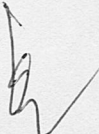
.. Respondents

By Advocate : Sri A.K. Pandey.

ORDER

By Hon. Mr. K.B.S. Rajan, Member (J)

The short question involved as to jurisdiction is whether the order impugned, which has been passed within the provisions of Industrial Disputes Act is challengeable before this Tribunal. This question is no longer res-integra in view of the decision by the Apex Court in the case of **Council of Scientific & Industrial Research v. Padma Ravinder Nath**, (2001) 9 SCC 526 wherein the Apex Court has held as under:-



3. A Full Bench of the Tribunal rendered its opinion on the question but when the matter stood referred to a Division Bench for decision, the latter took the view that it is unnecessary to rest its decision on the question decided by the Full Bench but on certain other aspects it gave certain directions giving relief in part to the employees of CSIR and its constituent unit. Therefore, the view rendered by the Full Bench of the Tribunal thus becomes ineffective so far as the parties are concerned. Further, it is brought to our notice that in a subsequent decision in *A. Padmavalley v. C.P.W.D*¹ the Central Administrative Tribunal, Hyderabad Bench consisting of five Members took the view as follows:

"(1) The Administrative Tribunals constituted under the Administrative Tribunals Act are not substitutes for the authorities constituted under the Industrial Disputes Act and hence the Administrative Tribunal does not exercise concurrent jurisdiction with those authorities in regard to matters covered by that Act. Hence all matters over which the Labour Court or the Industrial Tribunal or other authorities had jurisdiction under the Industrial Disputes Act do not automatically become vested in the Administrative Tribunal for adjudication. The decision in the case of *Sisodia*², which lays down a contrary interpretation is, in our opinion, not correct.

(2) An applicant seeking relief under the provisions of the Industrial Disputes Act must ordinarily exhaust the remedies available under that Act."

4. This view appears to be consistent with the view expressed by this Court in *Rajasthan SRTC v. Krishna Kant*³.

5. In the circumstances, so far as the law on the question whether CSIR is an industry is concerned, it is now settled by the decision of five Judges of the Tribunal referred to above and thus decision of the Full Bench becomes ineffective. So far as the merit of matter is concerned the decision of the Division Bench would bind the parties. The view expressed by the Tribunal in the circumstances is unnecessary and uncalled for. The order made by the Tribunal is therefore set aside. The appeals are allowed. No costs.

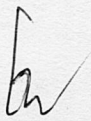
1 (1991) 1 SLR (CAT) 245 : (1990) 14 ATC 914 (Hyd)

2 *S.K. Sisodia v. Union of India*, (1988) 7 ATC 852 : ATR (1988) 1 CAT 680 (All) (FB)

3 (1995) 5 SCC 75 : 1995 SCC (L&S) 1207 : (1995) 31 ATC 110

2. Now a few points of facts, as contained in the O.A. which are as under:-

- (a) On 8.6.1978, the applicant was appointed as Casual Labour and since then he was performing the duty with artificial break till 14.8.1991.
- (b) The authorities have engaged and regularised the juniors to the applicant. After completing 120 days working casual/temporary employee, Railway Servant and Rules become applicable regarding service of said temporary employee, he acquired the status of temporary employee under the said Rules.
- (c) Without adopting said Rules as well as without any notice or opportunity to the applicant, Opposite parties restrained to the applicant to work on his post from 14.8.1991.
- (d) The applicant approached before the Court of Assistant Labour Commissioner (Central), Kanpur by means of claim Petition which has been filed on 11.7.2000; conciliation proceedings ended in failure and hence Assistant Labour Commissioner (Central), Allahabad submitted report dated 21.9.2001. Without considering the evidence on record, Secretary of Central Government have refused to entertain reference by its order dated 6.3.2002 (impugned).

 3. It is evident that what the applicant challenges is one which is within the purview of the Industrial Disputes Act. As such, in view of

the decision of the Apex Court, it has to be held that the this Tribunal has no jurisdiction to deal with the case.

4. The OA therefore, has to be rejected for lack of jurisdiction. However, the time spent on the litigation would be excluded for calculation of limitation, should the applicant choose to seek appropriate remedy in the appropriate forum. The OA is, therefore, rejected with the above observation. No cost.



MEMBER-J

GIRISH/-