

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 238 of 1993.
~~TA/NO.~~

DATE OF DECISION 10-04-1997.

Shri Kishorbhai Jayantilal Trivedi Petitioner

Mr.P.H.Pathak Advocate for the Petitioner [s]
Versus

Union of India and ors. Respondent

Mr.Akil Kureshi Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V.Ramakrishnan : Vice Chairman

The Hon'ble Mr. T.N.Bhat : Member (J)

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ? nd
- 2, To be referred to the Reporter or not ? nd
- 3, Whether their Lordships wish to see the fair copy of the Judgment ?
- 4, Whether it needs to be circulated to other Benches of the Tribunal ? nd

Kishorbhai Jayantilal Trivedi,
Bedi Naka,
Jetha Savji's street,
Rajkot.

...Applicant.

(Advocate : Mr.P.H.Pathak)

Versus

1. Union of India,
Notice to be served through
Secretary,
Govt. of India,
Ministry of Labour,
New Delhi.
2. Executive Engineer (C),
Central Electrical Div.
Outside Shahpur Gate,
Jawahar Saw Mill Compound,
Ahmedabad.

...Respondents.

(Advocate : Mr.Akil Kureshi)

ORAL JUDGMENT

O.A.NO. 238 OF 1993.

Date : 10-04-1997.

Per : Hon'ble Mr.V.Ramakrishnan : Vice Chairman


Heard both the sides.


The applicant has prayed for quashing the order of Ministry of Labour dated 2.4.1991, as Annexure-A/3, which refuses to make reference to the Labour Court under Section 10 of the Industrial Disputes Act, even though it is admitted that the conciliation proceedings had failed. Mr.Pathak submits that the refusal by the Ministry in making a reference is contrary to the law laid down by the

Supreme Court in this regard reported in AIR 1989 SC, 1565, (Telco Convoy Drivers Mazdoor Sangh and anr. Vs. State of Bihar and ors.) as the Government is only entitled to form an opinion as to whether an industrial dispute "exists or is apprehended", but it is not entitled to adjudicate the same on merits. He further states that the order of the Ministry in refusing the reference has been done after going into the merits as the Ministry has come to the conclusion that the workman has left the work on his own accord. Mr. Akil Kureshi for the respondents does not deny that this order is not in confirmation^m with the Supreme Court decision in Telco Convoy Drivers Mazdoor Sangh and anr. Vs. State of Bihar and ors.

3. We find that the reason given by the Ministry for refusing to make a reference is by its order dated 2.4.1991, Annexure-A/3, and it goes into the merits which it clearly mentions that the conciliation proceedings had failed. We quash the order and direct the Ministry to conform to the law laid down by the Supreme Court and to make appropriate reference to the labour court within a period of two months from the date of receipt of a copy of this order.

4. With the above directions, O.A. is finally disposed of with however, no order as to costs.


(T.N. Bhat)
Member (J)


(V. Ramakrishnan)
Vice Chairman

ait.


CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD

Applicati on No. OA/238/93
Transfer Application No. _____

CERTIFICATE

Certified that no further action is required to be taken
and the case is fit for consignment to the Record Rood (Decided).

Dated: 16/5/97
Countersign : P. 20591
Section Officer.


Signature of the Dealing
Assistant

