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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 20 OF 1992

Cuttack, this the 8th day of September, 1997

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

AND

HON'BLE SHRI A.K. MISRA, MEMBER(JUDICIAL)

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1. Heavy Water Project Employees' Union,
represented through its General Secretary,
Rama Kanta Das, aged about 38 years, son of late Radhu
Das, At/Post-Vikrampur, District-Dhenkanal,
Pin-759 106
2. Rama Kanta Das Applicants.

Advocates for applicants - M/s B.B.Ratho,
B.N.Rath,
S.K.Ghose,
K.R.Mohapatra,
M.K.Panda &
B.N.Misra.

Vrs.

1. Union of India, represented through
its Secretary in the Department of Atomic Energy,
Central Secretariat,
New Delhi.
2. Chairman, Atomic Energy Commission,
Anushakti Bhawan,
C.S.M Marg,
Bombay-39.
3. General Manager,
Heavy Water Plant,
At/Post-Vikrampur,
District-Dhenkanal Respondents.

Advocate for respondents - Mr.Ashok Mohanty.

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*Somnath Som
8.9.97*

O R D E R
(ORAL)

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SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of Administrative Tribunals Act, 1985, the applicants who are Heavy Water Project Employees' Union, represented by its General Secretary, and the General Secretary in his individual capacity, have prayed for quashing the notice dated 16.12.1991 issued by the management to one P.K.Misra and similar notices issued to the other striking employees for not regularising their absence period from 7.5.1991 to 10.5.1991 ; there for quashing the consequent proposal to deduct the salary already paid for the aforesaid period. It has been further prayed that the memorandum of settlement between the workers and the management arrived at on 11.5.1991, specifically the agreement made therein with regard to the regularisation of the absence period should be acted upon by the respondents, and the respondents should be directed to give effect to the same immediately. The facts of this case fall within a small compass and can be briefly stated.

*Somnath Som
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2. In the Heavy Water Project, Talcher, under the Ministry of Atomic Energy, Government of India, workers have organised themselves in a Union which is applicant no.1 in this case. This Union had several

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grievances and demands which they were discussing with the management from time to time. As there was not much response from the side of the management, in their notice dated 5.4.1991 (Annexure-1) they had informed the management that in case their legitimate demands were not met by ^{18th} April, 1991 the workers would be constrained to adopt agitational path which might include going on strike. The workers actually went on strike from 7.5.1991 to 10.5.1991. There was conciliation before the Assistant Labour Commissioner (Central), Bhubaneswar, between the employer and the workmen on 11.5.1991 and an agreement was arrived at. This agreement is at Annexure-2. In this agreement, in the concluding portion, it has been specifically mentioned that as a gesture of goodwill the management agree to regularise the absence period from 7.5.1991 to 10.5.1991 by sanctioning C.L., E.L. or anyother leave as per the request of the workers. This agreement was signed by the representatives of the management and the workers as also by the Assistant Labour Commissioner. The grievance of the petitioners in the present application is that notwithstanding this settlement which takes on the character of an award under the relevant provisions of the Industrial Disputes Act, 1947, the management have gone back on their agreement and

*Samanta Mohapatra
8.9.97*

have threatened, vide Annexure-6, to treat the period of absence from 7.5.1991 to 10.5.1991 as dies non and not to give them any salary during this period.

3. We have heard the learned lawyer for the applicants and the learned Senior Standing Counsel appearing on behalf of the respondents. As it appears from the aforesaid facts, the settlement was arrived at in the process of an industrial dispute and for further implementation of the settlement, the applicants have to approach the Industrial Tribunal. The same issue cannot be agitated before the Administrative Tribunal. In the case of Bachi Singh and another v. Union of India & others, 1992(5) SLR 607, the Hon'ble Supreme Court have held that where in a dispute between the management and the Union there has been a settlement before the Conciliation Officer, the application thereafter before the Administrative Tribunal to enforce the settlement is not maintainable and the remedy lies under the Industrial Disputes Act, 1947. In view of this settled position of law, we hold that the application is not maintainable before us. In consideration of this, the application is returned to the applicants for being presented before the appropriate forum.

*Sawnam J.M
8.9.97*

4. With the above observation, the O.A. is

disposed of but, under the circumstances, without any order as to costs.

Sonmathi Jay
(S.SOM) 8.9.93
VICE-CHAIRMAN

AKM
(A.K.MISRA)
MEMBER (JUDICIAL)

AN/PS