

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A. No. 509 1990
I.A. No.

DATE OF DECISION 14.3.91

Sr. Divisional Personnel Officer, Applicant (s)
Southern Rly, Palghat & others

Mr. M C Cherian Advocate for the Applicant (s)

Versus

P. Murugesan and others Respondent (s)

Mr. C P Menon Authorised Agent Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

This is an application filed by the Railways under section 19 of the Administrative Tribunals' Act, 1985 for quashing Annexure A-5 order passed by the "Authority under payment of Wages Act, Labour Court, Kozhikode" granting the request of respondents 1 to 26 for special allowances due to them for the discharge of hazardous duties which is otherwise known as "gas allowance".

2. When some of the respondents 1 to 26 were granted the special allowance "gas allowance" over and above their regular salary by an Award passed by the Labour Court, Kozhikode, the Railways filed O.A. 153/89 challenging the same and the same was quashed by this Tribunal and remitted

back the matter to the Labour Court for a fresh disposal of the claim in accordance with law as per Annexure-2 judgment dated 30.3.1990. The Railways filed a detailed written statement Annexure A-3 objecting the claim of the respondents 1 to 5 on merits and contended that the application itself is not maintainable in the light of the observations contained in Annexure A-2 judgment. But the Labour Court allowed the claim without considering the objections raised in the written statement and also the observations in the Annexure A-2 judgment passed in respect of the claim made by the majority of the respondents for earlier periods.

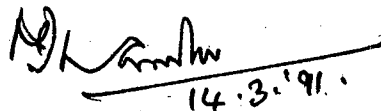
3. The Labour Court ought to have considered the contentions raised by the Railways that an application under section 152 of the Payment of Wages Act can be entertained only in respect of illegal deductions from the wages of the employees or delaying payment of wages and that whether the claim made by the respondents 1 to 26 towards 'gas allowance' is part of the wages coming within the purview of the definition of 'wages' in the payment of Wages Act. The impugned order does not indicate the consideration of any of these relevant aspects raised by the Railways for consideration. The statement in the order that "Railways did not dispute the right of the petitioners for gas allowance" is not correct on the basis of the materials available in this case and the statement made by the learned counsel appearing on behalf of the Railways. On the merits also the learned counsel for the Railways raised disputes and he submitted that this is covered by our observation in the earlier judgment Annexure A-2. This is agreed to by Shri C. P. Menon, the authorised representative appearing on behalf

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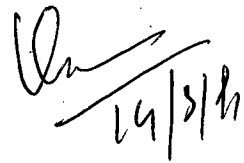
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of the respondents 1 to 26. Accordingly, we set aside the order Annexure A-5 passed by the Court of the Authority under the payment of Wages Act, the Labour Court, Kozhikode and remit the matter to that Court for a fresh consideration of the claims of respondents 1 to 26 in accordance with law taking in to consideration the observations and directions in Annexure A-2 judgment.

4. The application is allowed to the extent indicated above. There will be no order as to costs.


14.3.91.

(N. DHARMADAN)
JUDICIAL MEMBER


14/3/91

(N. V. KRISHNAN)
ADMINISTRATIVE MEMBER

KMN