

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

Date of decision : 30.3.1990

• P R E S E N T

HON'BLE SHRI N.V KRISHNAN, ADMINISTRATIVE MEMBER

&

HON'BLE SHRI N.DHARMADAN, JUDICIAL MEMBER

ORIGINAL APPLICATION NO.75/89

1. Sr.Divisional Personnel Officer, Southern Railway, Palghat-2.
2. General Manager, Southern Railway, Madras-3.
3. The Union of India represented by the General Manager, Southern Railway, Madras-3.
4. Divisional Accounts Officer, Southern Railway, Palghat-2. .. Applicants

v.

1. P.Nanjamma
2. V.C Ammu
3. C.Raman
4. P.C Janaki
5. K.Gandimadi
6. K.Palanisamy
7. Veerasabapathi
8. T.Rugumini
9. S.Vasudevan
10. N.Palaniammal
11. M.Natchi
12. K.Arumugham
13. Pappamma
14. Meenashi
15. R.Mariamma
16. D.Radha
17. M.Premalatha
18. K.Visalashi
19. R.Kalliyani
20. M.P Kunhunni
21. P.Parvadi
22. P.M Padmavadi
23. R.Ganesan
24. K.Rajendran
25. N.Marar
26. M.K Devaki Amma
27. K.Sumangali

b/

28. K.PadmaVadi  
29. R.Veeran  
30. The Presiding Officer,  
Central Government Labour Court,  
Kozhikode. .. Respondents

M/s. M.C Cherian & Saramma Cherian .. Counsel for the applicants

M/s. M.Ramachandran, PV Abraham .. Counsel for the respondents

JUDGMENT

Hon'ble Shri N.Dharmadan, Judicial Member

This is a case filed by the Railway challenging the award Annexure -A8 passed by the Labour Court, Kozhikode under Section 33-C(2) of the Industrial Disputes Act granting the claim of special allowance to 1 to 29 who are working as Group D employees in the Railway.

2. Annexure A1 is one of the claim petitions filed by the 13th respondent before the Labour Court claiming gas allowance at the rate of Rs.3/- per month from 1.12.60 to 31.12.72 and at the rate of Rs.10/- from 1.1.73 to 14.5.84. Similar claim petitions had been filed by all the other respondents who are workers. The claim of the respondents is that since they had worked under the conditions hazardous to their health for the periods mentioned in the claim petition, they are entitled to get the special allowance(gas allowance).

3. The applicant Railway has filed Annexure A-2 objection in which it has been stated that the claim is not maintainable under Section 33-C(2) of the Industrial Disputes Act. There is no existing right in this case capable of being computed in terms of money. According to the Railway the claim pertains to a service matter and as such the adjudication of this matter has to be made by the Central Administrative Tribunal. But with regard to the facts the Railway has admitted that the respondents come within the category of persons eligible

for the special allowance (Safaiwala). The Railway further submitted that all the respondents are not eligible for the allowance, only such of those workers who were specially deputed for the work on the basis of rotation alone will be entitled for the special allowance. There is also admission about the recommendation of the Pay Commission for the grant of special allowance to the employees who were employed for doing unpleasant or uncongenial occupations attached to the medical department of the Railway. In fact there is real dispute with regard to the status of the respondents and the rate claimed by them. The Railway has a further case that the claim is barred by limitation. Along with the objection they have produced the Railway Board's letters and office memorandum dealing with the decisions taken by the Railway for fixing the rosters of work and also the grant of special allowance on the basis of the recommendations of the Pay Commission. Annexures A3 and A4 were produced to establish that the grant of special allowance was subject to certain conditions and concurrence of the Board was obtained only at a later date.

5. Today an identical question was considered by us in detail in O.A 153/89. In that case after having dealt with the question in detail we quashed the award and remanded the case to the Labour Court, Kozhikode for a fresh disposal according to law. We feel this case also can be disposed of by following our judgment in the above case. Accordingly we follow our judgment in the above case and dispose of the application with the same directions.

6. Under these circumstances we set aside the award Annexure A8 and issue the following directions. The

Labour Court should consider in the first instance whether there is any existing right available to all the claimants for being computed in terms of money, i.e. a claim coming within the purview of Section 33-C(2) of the Industrial Disputes Act, 1947 as claimed by the respondents 1 to 29 and if so whether any portion of such claim is barred by limitation as contended by the Railway. If the findings of the Labour Court on these issues are ~~in the affirmative and~~ <sup>by</sup> in favour of the claimants it may further consider and decide the quantum of amounts payable by the Railway to each of the respondents 1 to 29 in the light of the evidence adduced by the both parties. The parties are at liberty to produce further evidence in case they are interested in giving any further evidence in support of their contentions.

7. Accordingly we allow this application to the extent of quashing Annexure A-8 award passed in this case by the 30th respondent and remit the case back to the Labour Court, Kozhikode for a fresh disposal of the claims in accordance with law taking into consideration the above observations and directions. There will be no order as to costs. For convenient reference a copy of the judgment in O.A 153/89 is also appended with the judgment.

  
(N.D. DHARMADAN)  
JUDICIAL MEMBER

  
(N.V. KRISHNAN)  
ADMINISTRATIVE MEMBER