

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No. 322 of 1996

Thursday, this the 25th day of April, 1996

CORAM

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN  
HON'BLE MR P V VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

1. The General Manager,  
Southern Railway, Madras.
2. The Divisional Railway Manager,  
Southern Railway, Trivandrum.
3. The Assistant Engineer,  
Southern Railway, Quilon.
4. The Permanent Way Inspector,  
Southern Railway, Mavelikkara. .. Applicants

By Advocate Mrs Preethy for Mrs. Sumathi Dandapani

Versus

1. V. Chellappan Pillai,  
Retired Gangman,  
Koteril Vellamel Veedu,  
Puliyurvanchi Thekku,  
Edakulangara Post, Karunagappally.
2. Presiding Officer,  
Labour Court, Kollam. .. Respondents

By Advocate Mr. TC Govindaswamy (R1)

The application having been heard on 25th April, 1996, the Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN:

Applicants - Railways, seek to quash A3 award of the Labour Court, Kollam invoking our visitorial jurisdiction.

2. An application was filed by respondent Workman under Section 33 C(2) of the Industrial Disputes Act, claiming enhanced pensionary benefits. The Labour Court found that

applicant acquired temporary status on 21.11.1968 and computed pensionary benefits on that basis.

3. Learned Counsel for applicants submitted that the Labour Court far exceeded its jurisdiction, and made a determination which was beyond the scope of Section 33 C(2). She laced her contentions with principle and precedent, citing the decisions in Central Inland Water Transport Corporation Vs. its Workmen (AIR 1974 SC 1604) and Municipal Corporation of Delhi Vs. Ganesh Razak & Anr. (1995 (29) ATC 93 - SC). It was submitted further that the jurisdiction inhering in the Labour Court under Section 33 C(2) is comparable with the jurisdiction of a Court executing a decree, and not with that of a Court passing a decree. The Labour Court can only calculate or compute in terms of something which is adjudged or already provided for, though matters incidental could be considered. The submission of learned Counsel commends acceptance.

4. We have now to examine whether in substance, the Court below made an adjudication or determination, or only a computation on the basis of what had been determined or what was obvious. Though, at one place the Labour Court says:

"of course there is dispute as to the date of entry into service",

it found that the date of entry into service or date of attaining temporary status was indisputable. The Labour Court observed:

"it is claimed that he had joined service as casual labour on 21.3.1964. and that he had completed continuous service of 6 months on 20.11.68 ..... none of the opposite parties have (has) come forward to challenge the testimony of the petitioner .... he would

swear that he had joined service as casual labour on 21.3.64 and attained temporary status on 21.11.68. In support of the claim he has produced Ext.P1 series. On a perusal of the Ext.P1 it can be seen that he has put in 6 months continuous service on 20.11.1968 so that a conclusion is irresistible that he has acquired temporary status with effect from 21.11.1968."

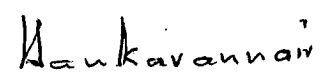
5. Though the Labour Court has used the expression 'dispute' without any specific intent, what it found is that the date of entry and date of attainment of temporary status, is undisputed and indisputable. On this basis the Court computed the benefits and made the award.

6. We think that no adjudicatory process has been resorted to by the Labour Court irrespective of its loose phraseology. A finding is liable to be upset only if, and if only, it is such that no reasonable person instructed in fact or law would have reached (See Chandavarkar Sita Ratna Rao Vs. Ashalata S. Guram, AIR 1987 SC 117). In the case on hand, it cannot be said that the finding regarding temporary status based on uncontroverted material is either unreasonable or vitiated by an error apparent on the face of the record.

7. In the circumstances, though we accept the arguments of the learned Counsel on the question of law, having regard to the facts, we decline jurisdiction and dismiss the application. No costs.

Dated the 25th April, 1996

  
P V VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER

  
CHETTUR SANKARAN NAIR(J)  
VICE CHAIRMAN

LIST OF ANNEXURE

1. Annexure A3: True copy of award passed in CP No.2/90(C) dt. 1.4.1995 of the 2nd respondent.

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