

6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY - 1

O.A. No. 93/89

Kishore J. Mahajan ..Applicant

v/s

Union of India & Ors. ..Respondents

Coram: Hon.Shri Justice M.S.Deshpande, V.C.
Hon.Shri R. Rangarajan, Member (A).

APPEARANCE:

Mr. G.S. Walia
Counsel for the applicant

Mr. P.R. Pai
Counsel for the respondents

ORAL JUDGMENT:

DATED: 2.3.1994

(Per: M.S.Deshpande, Vice Chairman)

By this application the applicant challenges the order dated 30.8.1988 by which the applicant, who was deputed as Trainee Motorman, was sent back to his parent cadre with effect from that date.

2. It appears that the applicant approached the Conciliation Officer and Assistant Labour Commissioner, Bombay and the Conciliation Officer adjourned the case to 15.11.1988 for enabling the respondent employer to furnish their comments. On 22.11.1988 the respondent, Divisional Railway Manager, wrote to the conciliation officer stating that the applicant

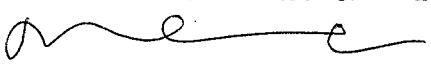
8


had started the train without a proper signal and authority and that he should not be continued for further training as safety rules cannot be compromised. This obviously was an order passed on merits by one of the ^{parties} authorities to the conciliation proceedings. The proper course for the conciliation officer would have been to make a report to the proper Government, which in this case was the Union of India, and it was for the Union of India to make a reference to the proper Tribunal under the Industrial Disputes Act. This was not done.

3. It is apparent that in view of the decision of the Larger Bench in A. PADMAVALLEY & ORS. V. C.P.W.D. & TELECOM, Full Bench Judgments (CAT) Vol.II, 334, this is a matter which may have to go to the forum established under the Industrial Disputes Act for adjudication.

4. The only direction that we can make under Article 266 of the Constitution of India, to the respondents ⁽¹⁵⁾ to refer the dispute to the appropriate Tribunal under Section 10(1)(d) of the Industrial Disputes Act within a period of two months from the date of receipt of a copy of this order .

5. The application is disposed of with the above direction. No order as to costs.


 (R Rangarajan)
 Member (A)


 (M.S.Deshpande)
 Vice Chairman