

(10)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A.359/89

Mrs. Ashalata Tukaram Navghane,
65 E SB Konkar New Bldg.,
Kondhwe Khurd,
Pune - 411 022.

.. Applicant

vs.

1. The General Manager
High Explosives Factory,
Kirkee,
Pune - 411 003.
2. The Chairman,
Ordnance Factory Board,
10-A, Auckland Road,
Calcutta - 700 001.
3. The Commissioner of
Workmen's Compensation Act &
Judge,
1st Labour Court,
Sadashiv Peth,
Pune - 411 030.
4. Union of India
through
The Secretary,
Ministry of Defence,
New Delhi - 110 011.

.. Respondents

Coram: Hon'ble Shri Justice U.C. Srivastava, Vice Chairman
Hon'ble Shri M.Y. Priolkar, Member(A)

Appearances:

1. Mr. Saxena
Advocate for the
applicant.
2. Mr. R.K. Shetty
Advocate for the
Respondents No.
1 and 2.

ORAL JUDGMENT:
(Per U.C. Srivastava, Vice-Chairman)

Date: 2-5-1991

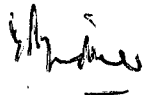
The applicant who is working as Clerk
in the High Explosives Factory at Kirkee, while going
to the Factory on her cycle, met with an accident near
the Factory gate. Having failed to get any relief
against the accident from the departmental authorities
she approached the Commissioner under Workmen's Compensation
Act. Before the Workmen's Compensation Act evidence were


tendered and after taking into consideration the evidence the Commissioner, Workmens Compensation Act concluded that she has not suffered any permanent disability which may entitle her to claim any compensation. The applicant has approached this Tribunal stating that as the Commissioner had no jurisdiction to entertain her application and the same was wrongly moved, that is why she had come here challenging the definition of Workman given under the Workmens Compensation Act.

2. The applicant after having invoked the jurisdiction of Commissioner of Workmens Compensation Act could not have invoked the jurisdiction of Administrative Tribunals Act. Any how, we have heard the learned counsel. The main attack of the a learned counsel for the applicant is on the definition of workmen given under Section 2(s) of the Workmens Compensation Act under which this clerical staff has been specifically excluded. The learned counsel contended that this is hit by Article 14 of the Constitution of India and there is no rationale behind the exclusion of clerical staff from the definitions when even the Engineers are included. The Workmens Compensation Act is an act for the benefit of the labour. It is one of the labour laws of the country ^{which have} got their sanctity also from the directive principles of state policy. Under the definition persons, ^{the} those who actually work with the machine, etc.

or those who handle the machines or those who are directly involved with the manufacturing process of or industrial process have been included but not others. ~~An~~ Accidents of this type ^{taking} took place on a street obviously are excluded from this.

We ~~do not~~ find the rationale behind the exclusion of clerical staff obvious and very clear and it cannot be said that its exclusion is irrational or arbitrary or there is no nexus behind it. The nexus is very well there as it is confined only to those who work with the industrial or manufacturing process. Obviously we do not find any merit in this application which is rejected. However, ^{if} the applicant can claim benefit elsewhere, our order will not stand in her way.


(M.Y. PRIOLKAR)
Member(A)


(U.C. SRIVASTAVA)
Vice-Chairman