

(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 Workmens Compensation  
Act. Before the Workmens 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. Anyhow we have heard the learned counsel. The main attack of the 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 <sup>which have</sup> got their sanctity also from the directive principles of state policy. Under the definition persons <sup>etc.</sup> those who actually work with the machines etc.

or those who handle the machines or those who are directly involved with the manufacturing process

or industrial process have been included but

not others. ~~As~~ Accidents of this type <sup>taking</sup> 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

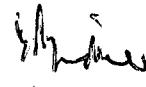
is very well there as it is confined only to those

who work with the industrial or manufacturing process.

Obviously we do not find any merit in this application

which is rejected. However, ~~as~~ the applicant can claim

benefit elsewhere, our order will not stand in her way.



(M.Y. PRIOLKAR)  
Member(A)



(U.C. SRIVASTAVA)  
Vice-Chairman