

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH  
CAMP AT NAGPUR

(10)

Original Application No. 102/90

Director (Regional),  
Western Region,  
Bombay - 400 001.

... Applicant

V/s.

1. Shri Avinash V. Thulkar,  
Nagpur.

2. Presiding Officer,  
Central Govt. Industrial  
Tribunal, Bombay - 1.

... Respondents.

CORAM: Hon'ble Justice Shri U.C. Srivastava, Vice Chairman  
Hon'ble Member (A), Shri P.S. Chaudhuri.

Appearances:

Shri R.K. Shetty, Advocate  
for the applicant and  
Respondent No. 1 in person.

JUDGEMENT:

Dated: 12.7.1991

( Per Shri U.C. Srivastava, Vice Chairman)

The Director (Regional), Office of the Development Commissioner (Handicrafts), Bombay has approached this Tribunal praying that the proceedings in reference No. CGIT 4 of 1987 which led to the passing of award dated 28.3.1989 be set aside after considering its legality, propriety and validity. The grounds for challenge are that the Industrial Tribunal erred in holding that the establishment of the applicant was an industry and the respondent was a workman and that the Tribunal mis-interpreted and erroneously applied the decision of the Supreme Court in the case of Bangalore Water Supply and Sewerage Board V. A Gajappa AIR 1988 SC 548, and erred in applying the provisions of Section 25(E) of the Industrial Disputes Act to the facts of the case. Regarding maintainability of this

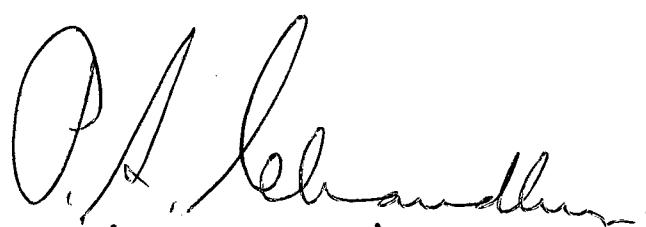
application it has been stated that the Tribunal is a substitute for the High Court which could entertain similar applications under Articles 226 and 227 of the Constitution. Thus no challenge has made regarding the maintainability of the proceedings by the Industrial Tribunal or its jurisdiction to adjudicate the matter which was referred to it and this application is more or less in the nature of appeal as a writ application against the award.

2. The respondent No.1 was appointed as a Helper on 16.4.1983 on a daily wages in the office of the Assistant Director, Marketing and Service Extension Centre which is a Unit Office of the Development Commissioner, Western Region, Bombay which is under the Ministry of Textiles. He was employed intermittently and his services were terminated on 31.8.84 on the ground that there was no work and his duties which have been mentioned were more or less in the nature of a Peon like delevering of letters, giving water, posting letters, cleaning and dusting furniture, attending to local phone calls, assisting the staff in filing papers and other similar office work of a casual nature which could be done by unskilled and uneducated persons and attending officers, supervisors, etc. during field work or demonstrations.

3. Admittedly the respondent worked for 441 days. He approached the Assistant Labour Commissioner against the termination order and the matter was reported to the Central Government and the Central Government made a reference under Section 10 of the Industrial Disputes Act to the Industrial Tribunal. The award given by the Industrial Court was published under the authority of the Central Government an Officer of which has now approached this Tribunal on the plea that it was not an

industry and the respondent was not a workman. It is contended that these pleas were also raised before the Industrial Tribunal but the same were rejected.

4. This Tribunal cannot sit in judgement on an award given by the Labour Court in reference to the proceeding which started before it by a reference made by the Central Government an official of which who was impleaded as a party and who has now challenged the said award before this Tribunal. This Tribunal has got no appellate power but undoubtedly the powers of Articles 226 and 227 of the Constitution have been conferred upon the Tribunal. But this matter has not been squarely covered under Section 19 of the Administrative Tribunals Act 1985 and an application for quashing of an award as such is not entertainable by this Tribunal more so as no plea whatsoever has been taken before this Tribunal that the proceedings before the Industrial Tribunal were without jurisdiction and in view of the Administrative Tribunals Act the matter which was referred to the Industrial Tribunal could not have been adjudicated by it. As such, this application is not maintainable and is being dismissed on this ground.



(P.S.CHAUDHURI)  
MEMBER(A)



(U.C. SRIVASTAVA)  
VICE CHAIRMAN

12/7/91  
order/Judgement despatched  
to Applicant/Respondent(s)  
on 30-7-91

*Done  
30/7/91*

R.P. No. 41/92 for  
order, by circulation.  
M.P. 10/3

PT Dtd 2/4/92 (13)  
list the AP 41/92  
for Preliminary hearing  
and orders on 8/4/92

*Done  
2/4/92*

(14)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Review Petition No. 41/92

Original Application No. 102/90

Director (Regional)  
Western Region  
Bombay

.... Applicant.

V/s.

Shri Avinash V. Thulkar  
Nagpur.

Presiding Officer  
Central Govt. Industrial  
Tribunal, Bombay-1.

... Respondents.

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

Tribunal's Order on Review Petition No. 41/92

Dated: 8.4.92

(i) Per Shri Justice U.C. Srivastava, Vice Chairman (i)

This Review application directed against the judgement and order dated 12.7.1991 has been filed by the Director (Regional) Western Region office of the Development Commissioner (Handicrafts) who was the Applicant to the Original Application. After hearing the counsels for the parties and going through the plea canvassed before us the original application was disposed of. The scope of review application is limited and but it does not go to the extent to rehearing the arguments or considering the same arguments even though worked differently. It also does not mean hearing of appeal against its judgement by the same Bench at the behest of any party. If some party is dissatisfied from a judgement which in its view of is erroneous, it can approach the higher court for the same. The plea that Shri R.K. Shetty was given two minutes time to argue apparently is incorrect. It may be because of some physical disability <sup>he</sup> may not advance lengthy

(15)

: 2 :

arguments in a case but for that such statements should not be made and be taken as a ground for review application. The plea of jurisdiction as raised or any plea as merits raised and canvassed has been considered by us and we do not find any error in the same much less ~~any~~ error apparent on the face of the record and accordingly there are no grounds to review the judgement. The application is dismissed summarily.

  
(M.Y. PRIOLKAR)  
MEMBER(A)

  
(U.C. SRIVASTAVA)  
VICE CHAIRMAN

NS/