

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

Review Petition No. 59/97 in OA 1323/95

Review Petition No. 58/97 in OA 1402/95

Tuesday the 15th day of July 1997.

CORAM: Hon'ble Shri B.S. Hegde, Member (J)
Hon'ble Shri M.R. Kolhatkar, Member(A)

Bandoo Shankar

... Applicant
in RP 59/97
OA 1323/95.

Manohar Suryabhan

... Applicant in
RP 58/97
OA 1402/95.

V/s.

Union of India and others.

Tribunal's order on Review Petition by Circulation.

(Per Shri B.S. Hegde, Member(J))

The applicants have filed these Review Petition seeking review of the order of the Tribunal dated 5.3.96 in respect of payment of wages. In view of the Apex Court decision in the case of Krishnakumar, the Tribunal had directed the applicants to approach the appropriate authority for payment of wages and on 15.3.97 it came to the conclusion that the powers to try matters in respect of oil fields, coal mines and Railways are given to Central Government as conferred to State Government. Thereby the Central Government became appropriate authority. There should be notification of Central Government appointing this authority to try the matters under payment of wages Act. For want of notification, this authority has no jurisdiction to entertain the application. Therefore, unless there is a notification by the Central Government this Tribunal cannot entertain

such matters after the decision of Krishnakumar's case. Besides the Review Petition filed by the applicant is belated one i.e. after a lapse of 9 months.

In the result, we see no merit in the Review Petition. The same is dismissed by circulation.

(M.R. Kolhatkar)
Member(A)

B.S. Hegde
(B.S. Hegde)
Member(J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

MUMBAI BENCH AT NAGPUR.

Review Petition No. 58/97

In

Original Application No. 1402/95 Decided on 5-8-96.

Title of the case :- In the matter of review of
judgement and order passed.

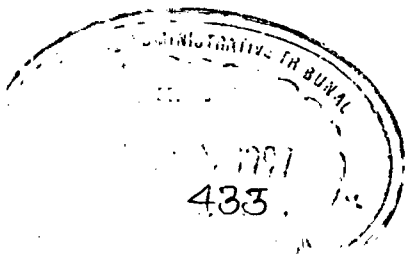
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Sr. No.	Annexure	Description of documents relied upon.	Date	Page No.
1.	-	Review petition duly affirmed.		1-5.
2.	-	List of enclosures	-	6.
3.	Annexure-I	Copy of judgement passed in O.A. No. 1402/95	5-8-96	7.
4.	Annexure-II	Copy of order passed by Authority under Payment of Wages Act, Chandrapur.	3-6-96	8.
5.	Annexure-III	True extract of Sections 1 and 2 of the Payment of Wages Act-1936.	-	9-10.

Nagpur.

Date:- 6.6.1997

फागोहर शर्मा
Petitioner.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, AT NAGPUR.

Review Petition No. 58 / 97

In

Original Application No. 1402 / 95 Decided on 5-8-96.

Petitioner :- Shri Manohar Suryabhan.

- Vs -

Respondents :- Union of India and others.

REVIEW PETITION UNDER RULE 17 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL (PROCEDURE) RULES-1987.

1. The petitioner respectfully submits as under:
2. That, the petitioner had filed O.A. No.1402/95 on 9-11-95 before this hon'ble Tribunal to be heard at Nagpur seeking reliefs to treat the applicant on duty and pay the consequential payment of salary as well as travelling allowance/daily allowance with interest thereon @18% per annum thereon etc.
3. That, the O.A. was heard at the admission stage on 5-8-96 and this hon'ble Tribunal had passed oral judgement as under :
 - * Heard Shri B.J.Kavade, Counsel for the applicant.
 - Smt. Anita Shinde, Counsel for the respondents.

In the OA, the applicant claims payment of wages.

The applicant is given liberty to approach the appropriate authority for payment of wages.

The OA is disposed of accordingly." A copy of the same is enclosed as Annexure-I.

Annex-I :

4. That, the applicant is working and residing at Nagri, in Chandrapur District and therefore approached appropriate authority, under the payment of wages Act, at Chandrapur on 15-3-97 by separate application. However, in the scrutiny of the case and before admission, it is noticed by him that, that authority for want of notification has no jurisdiction to entertain the application. A copy of the order passed in similar case in P.W.A. No.3/96 between Rajendra -Vs- Chief General Manager, WCL and others and decided on 3-6-96 is enclosed as Annexure-II to this R.P. A true extract of the order is reproduced below:

Annex-II :

" Heard both parties. Undisputedly Coal Fields is a Central Government undertaking. Now-non applicant came with a defence that this authority has no jurisdiction to entertain the application for want of notification. There is no notification issued by Central Government or by State Government conferring jurisdiction to this authority to try the matters of Central Undertaking. Hence, I find that there is no jurisdiction to entertain the present application.

2. Secondly learned advocate for non-applicant relied on Section 24 of P.W.Act. It reads as follows :-

" Application of Act, to railways, mines and oilfields - The powers by this Act conferred upon the State Government shall, in relation to (railways), (air transport services) mines and oil-fields, be powers of the Central Government. "

3. Upon reading of this Section, I came to conclusion that powers to try matters in respect of Oil fields, coal mines and railways are given to Central Government as conferred to State. Thus, Central Government became appropriate authority. Hence, there

should be notification of central Government appointing this authority to try the matters under P.W. Act. Thus for want of notification, this authority has no jurisdiction to entertain application. Therefore, application is returned to applicant for proper presentation."

5. That, the petitioner is working as a Bangman in the pay Scale of Rs. 775-1025 (RPS). His basic pay is Rs. 913/- P.M. and considering dearness allowance ~~entitlement~~ entitlement thereon @125%, his total monthly salary comes to Rs. 2054/- which is above the limit of Rs. 1600/- and therefore, the petitioner can not be governed by the Payment of Wages Act, 1936. In support of averment, the petitioner relies upon the legal provisions of the Payment of Wages Act, Section 1(6) read with Section 2 (vi), which is reproduced below:-

1. Short title, extent, commencement and application :-

(6) Nothing in this Act shall apply to wages payable in respect of a wage period which, over such wage-period, average (one thousand six hundred rupees) a month or more.

2. Defination :- In this Act, unless there is anything repugnant in the subject or context :-

(vi) "Wages" means all remuneration (Whether by way of salary, allowance or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or ~~ax~~ implied, were fulfilled, be payable to a person employed in ~~respect~~ respect of his employment or of work done in such employment and includes :-

- (a) any remuneration payable under any award or settlement between the parties or order of a Court;
- (b) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;
- (c) any additional remuneration payable under the terms of employment whether called a bonus or by any other name;
- (d) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum whether with or without deductions, but does not provide for the time within which the payment is to be made;
- (e) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force;
but does not include-
 - (1) any bonus (whether under a scheme of profit-sharing or otherwise) which does not form part of the remuneration payable under the terms of employment, or which is not payable under any award or settlement between the parties or order of a Court;
 - (2) the value of any house accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the State Government;
 - (3) any contribution paid by the employer to any pension or provident fund and the interest which may have accrued thereon;

- (4) any travelling allowance or the value of any travelling concession;
- (5) any sum paid to the employed person to defray special expenses entitled on him by the nature of his employment; or
- (6) any gratuity payable on the termination of employment in cases other than specified in sub-clause (d).

Annex-III : A true copy of these rules is enclosed as Annexure-III to this petition. Thus the claim of the petitioner is not covered by the Payment of Wages Act. The relief No.8.2 sought for inadvertently in O.A. is not insisted upon except the payment of salary.

6. That, the instant petition is delayed by a period of 6 months ²and ~~days~~ excluding the period of 30 days allowed. Necessary M.P. seeking condonation of delay is filed.

7. Prayer :- It is, therefore, prayed that this hon'ble Tribunal be pleased;
- (1) to pass an order ^{allowing} ~~solving~~ the M.P.;
- (2) to set aside the order passed;
- (3) to restore the O.A. for admission and hearing etc., in the interest of fair play and justice.

Nagpur.

Date:- 6.6.1997

मनोहर सुर्याभान नरान्जे -
Petitioner.

SOLEMN AFFIRMATION

I Manohar S/O Suryabhan Naranje, aged about 37 years, resident of Chickniroad, district Chandrapur and presently at Nagpur do hereby take an oath and states on solemn affirmation that the contents of paras 1 to 7 are true. Hence verified and signed at Nagpur on the 6th day of June, 1997.

I know & identify deponent.
Atul
(B. J. Kanyade)
Advocate.

मनोहर सुर्याभान नरान्जे
Deponent.