

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 181 /1998

Date of Decision: 23/7/98

Shri S.B.Kalmankar & 170rs.

Petitioner/s

Shri N.P.Dalvi

Advocate for the
Petitioner/s

V/s.

Union of India & Ors.

Respondent/s

Shri V.S.Masurkar

Advocate for the
Respondent/s

CORAM:

Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman

Hon'ble Shri

- (1) To be referred to the Reporter or not ? *no*
- (2) Whether it needs to be circulated to other Benches of the Tribunal ? *no*

R.G.Vaidyanatha
(R.G.VAIDYANATHA)
VICE CHAIRMAN

abp.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG. NO. 6, PRESCOT RD, 4TH FLR, FORT,

MUMBAI - 400 001.

ORIGINAL APPLICATION NO. 181/98.

DATED THE 23RD DAY OF JULY, 1998.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

1. Shri S.B. Kalmankar
WTM/A, Malikpeth M/W.
2. Shri J.P. Shirsat,
WTM/A, Malikpeth M/W.
3. Shri Muilidhar Mahadeo
Khalashi, Malikpeth M/W.
4. Shri B.S. Ghavan
WTM/A, Varkute M/W.
5. Shri Gautam Bhujanga,
Khalashi, Malikpeth M/W.
6. Shri H.B. Ganu,
WTM/C, Malikpeth, M/W.
7. Shri A.U. Nanaware,
WTM/B, Varkute M/W.
8. Shri A.A. Sayyed,
WTM/B, Varkute M/W.
9. Shri L.S. Joshi,
WTM/A, Urali M/W.
10. Shri M.K. Gawade,
WTM/B, Urali M/W.
11. Shri D.D. Pardeshi,
WTM/C, Urali M/W.
12. Shri Salim Daud Shaikh,
WTM/A, Solapur M/W.
13. Shri V.R. Pathak,
WTM/A, Solapur M/W.
14. Shri Ismail Shaikh,
Khalashi, Urali M/W.
15. Shri Laxman Sarjerao,
Khalashi, Varkute, M/W.
16. Shri Khashaba Ballal
Khalashi Varkute, M/W.
17. Shri Kashinath S Chakre,
WTM/B, Urali M/W.
18. Shri A.Z. Shaikh,
WTM/C, Pune M/W,
All Adults, Occu Service,
R/at.C/o. Shri N.P. Dalvi,
Advocate, 24, Wani Co-operative Hsg. Soc,
Sector No.6, C.B.D., Belapur,
Navi Mumbai. (
... Applicants.

v/s.

1. Union of India,
owning and representing,
Central Railway through the
General Manager,
Central Railway, Bombay,
C.S.T., Bombay.
2. Divisional Railway Manager,
Central Railway,
Solapur Division, Solapur,
413 001.

... Respondents.

By Advocate Shri V.S. Masurkar.

I O R D E R I

[Per Shri R.G. Vaidyanatha, Vice Chairman]

1. This is an application filed by 18 applicants seeking overtime wages from 10/9/90 till today and also for direction to respondents to re-schedule the working hours as per the employment regulations.

The respondents have filed reply opposing the application. Among other pleas, the respondents have taken legal objection that this Tribunal has no jurisdiction to entertain this matter.

2. I have heard the Learned Counsels appearing on both sides regarding the question of jurisdiction.

The applicants/are workers in Central Railway. are demanding overtime wages in pursuance of the order by Central Government Labour Court No.2 (Industrial law), where, 8 of the applicants have already approached the Central Government Labour Court and/has passed an award in their favour in application No. LC-2/81 of 1992 dated 22/9/95. The preferred order shows that it was an application under section 33C(2) of the Industrial Disputes Act claiming overtime wages. Therefore, even in the present application, the applicants are claiming overtime wages under the provisions of Industrial Disputes Act and they want this Court to enforce the award passed by Labour Court, in favour of applicants in this case.

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3. The question is whether this Tribunal has a jurisdiction to entertain this proposal which pertains to Industrial Law?

Though at one stage there were differing views Central Administrative Tribunal whether it can entertain disputes of this kind, the question is no longer res-integra as decided by Supreme Court in K.P.Gupta's case reported in JT 1995(7)SC 522. That was a dispute under the payment of wages act. The Supreme Court observed that the claim under the payment of wages act cannot be entertained by the Tribunal on the original cause of action and consequently it cannot entertain appeal against the order of competent authority under the payment of wages act. It is pointed out that the Tribunal cannot exercise jurisdiction either ~~afresh over~~ ^{either} ~~Original or Appellate Authority in~~ ^{under} the corresponding law namely Industrial law under section-29 of the Administrative Tribunals Act.

4. Relying on the said judgement of the Apex Court, a Division Bench of this Tribunal, of which I was a Member in OA-1352/95 and other connected cases by judgement dated 14/1/98, held that the dispute regarding overtime allowance cannot be entertained by this Tribunal in view of K.P.Gupta's case.

In view of the above two decisions, I hold that the present OA filed in this case cannot be entertained by this Tribunal and ^{it} ~~should have been~~ before Industrial Court. Let me say that this finding is without prejudice to the rights of applicant to approach the appropriate forum under the Industrial Disputes Act to agitate whatever grievances they have either regarding overtime allowance or any other dispute under the Industrial Disputes Act.

5. In the result, OA is rejected at the time of admission. This order is without prejudice to the rights of the applicant to approach the appropriate forum under the Industrial Disputes Act. No costs. ^{Re�and}

app.

(R.G.VAIDYANATHA)
VICE CHAIRMAN