

(54)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT HYDERABAD

OA.786/91

decided on : June 4, 96

Between

1. The Divnl. Supdt.  
South Eastern Railway  
Waltair
2. The Divnl. Personnel Officer  
SE Rly., Waltair
3. The Asstt. Engr.(Con)II  
SE Rly., Visakhapatnam
4. Chief Admn. Officer (Con)  
SE Rly., Visakhapatnam
5. Admn. Officer viz. Dy. Chief Engr.(Con)  
SE Rly., Visakhapatnam : Applicants

and

1. Chintada Hymavathi
2. Chintada Rajewara Rao
3. Chintada Umarani
4. The Commissioner for Workmen's compensation  
Srikakulam &  
Asstt. Commissioner of Labour  
Srikakulam : Respondents

Counsel for the applicants : N.R. Devaraj  
SC for Railways

Counsel for the respondents : D. Ramalingaswamy  
Advocate for R-1 to 3

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HON. MR. JUSTICE M.G. CHAUDHARI, VICE CHAIRMAN *hll*

HON. MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

(154)

Judgement

Oral Order ( per Hon. Mr. Justice M.G. Chaudhari, VC )

Heard Mr. N.R. Devaraj for the applicants. None for the respondents 1 to 3. R-4 served.

2. We see no point in keeping this old OA pending awaiting decision of a Larger Bench of the Supreme Court pursuant to the reference made by their Lordships of the Supreme Court in the case of Regional Director, ESI Corporation and another Vs. Francis De Costa and another (1994 SCC(L&S) 195) as was directed earlier. Our reasons are as follows :

The Railway authorities of South Eastern Railways have filed this OA aggrieved by the order passed by the Commissioner for Workmen compensation and Assistant Commissioner of Labour, Srikakulam, in W.C.1/89 awarding a sum of Rs.63,537/- to the Respondents 1 to 3 jointly and severally as compensation under the provisions of Section 4(1)Ar.W.Sch.IV of the Workmen's Compensation Act, 1923 towards personal injury by accident suffered on 18-6-1986 by the deceased Chintada Laxmi Tulsi Rao, which proved fatal. Respondent 1 is the widow, Respondents 2 and 3 are Children of the deceased and they claim to be dependents of the deceased. The claim was resisted on behalf of the present applicants. Their contentions were negatived and the order was made.

The applicants have stated that the subject matter of the OA is within the jurisdiction of the Tribunal under Section 14 of the Administrative Tribunals Act.

Although the respondents are not present today, since the question of jurisdiction to entertain this application arises, we have examined the question and in our view in the light of the decision of the Hon. Supreme Court in Krishna Prasad Gupta vs. Controller, Printing and

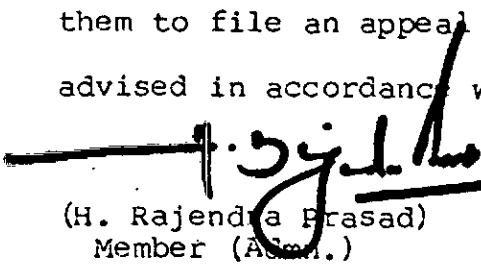
Stationery (1995(2)SC SLJ 467), the Tribunal does not have jurisdiction to entertain the application as it is covered by Clause (b) of Section 28 of the Administrative Tribunals Act. The proper remedy of the applicants was to file an appeal to the appropriate Court.


It is also doubtful as to whether the Tribunal can exercise jurisdiction in this matter as the claim for compensation for the accidental death of the deceased does not appear to be covered by the definition of "Service Matters" under Clause-Q of Section 3 of the Administrative Tribunals' Act. We are, however, inclined to hold that the Tribunal cannot exercise jurisdiction in this matter on the first of the aforesaid grounds and need not go into the latter question.

3. Mr. N.R. Devaraj, learned counsel for the applicants prays that the OA may be returned to the applicants with liberty to present an appeal to the appropriate Court.

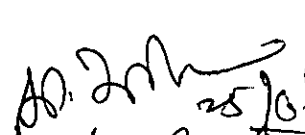
4. In the result, the following order is passed :

The OA is returned to the applicants with liberty to them to file an appeal to the appropriate Court if so advised in accordance with the law.

  
(H. Rajendra Prasad)  
Member (Adm.)

  
(M.G. Chaudhari)  
Vice Chairman

Dated : June 4, 96  
Dictated in Open Court

  
Deputy Registrar (C)