

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

O.A.NO. 946 of 1992.

Between

Dated: 23.7.1992.

The Chief Mechanical Engineer ... Applicant
South Central Railway, Sec-bad. And.

1. Mirza Hyder Baig S/o M.Osman Baigh, Clerk O/O Chief Mechanical Engineer, S.C.Railway, Sec-bad.
2. Chief Judge, City Civil Court, Hyderabad.

... Respondents.

Counsel for the Applicant : Sri. N.R. Devaraj, SC for Railways
Counsel for the Respondent No.1 : Sri. G. Bikshapatny
No.2 : ...

CORAM:

Hon'ble Mr. R. Balasubramanian, Administrative Member
Hon'ble Mr. C.J. Roy, Judicial Member.

(Judgement of the Bench as per Hon'ble Mr.C.J.Roy, Judicial Member).

This application is filed under sec. 19 of the Administrative Tribunals Act, 1985 by the applicant who is the Chief Mechanical Engineer, S.C.Railway, Secunderabad claiming a relief to call for the entire file of papers relating to CMA 144/90 and 145/90 on the file of the 2nd respondent and P.W. Case No.37/85 and 135/85 Authority under Payment of Wages Act, Assistant Commissioner of Labour, Hyderabad and to setaside the common order dated 19.7.1991 passed by the second respondent by delcaring that as illegal, arbitrary and against law.

2. The 1st respondent herein had filed claim petitions bearing P.W. 37/85 and P.W. 139/85 in the Court of Authority under Payment of Wages Act, Hyderabad and Incharge Assistant Commissioner of Labour, Hyderabad stating that he was a clerk in the office of Chief Mechanical Engineer, S.C.Railway, Secunderabad. It is alleged that the Respondent in the said P.Ws is responsible for payment of wages under sec.3 of the Act and a sum of Rs.3,564/- was deducted from his wages during the period from Nov. 94 to October, 1985 @ Rs.295/- p.m. without giving any notice. It is stated that the 1st respondent filed the said P.W.s viz P.W.37/85 for refund of Rs. 3333 -oo with ten times compensation and P.W.No. 139/85 for Rs. 3,564/- with ten times compensation before the Authority under payment of Wages Act, Hyderabad. The said Authority partly allowed the said P.Ws by orders dated 20.4.1990.

3. Subsequently, the 1st respondent herein carried the matter in appeal on the file of learned Chief Judge, City Civil Court

authority under Sec. 15 of P.W. Act shall lie before Tribunal and not to District Judge.

The Hon'ble Member also held in para 10:

"To sum up, therefore, an Authority constituted under Sec. 15 of the P.W. Act as also the Commissioner for Workmen's Compensation are only special Tribunals, but not courts. So they can exercise the jurisdiction and powers and authority in respect of "service matters" of Central Government employees in respect of which it has jurisdiction, powers and authority by virtue of Sec. 14(1) of the Act. Further the Tribunal is competent to grant relief to the aggrieved employee/Workman as the case may be in accordance with the provisions of P.W. Act and W.C. Act. Moreover, this Tribunal shall also have also all the appellate powers of the Court of Small causes in a Presidency-town and the District Court elsewhere under Sec. 17 of the P.W. Act as also of the High Court under Sec. 30 of the W.C. Act, as the case may be. Lastly this Tribunal is also vested with the extraordinary writ jurisdiction of the High Court under Articles 226 and 227 of the Constitution in respect of matters falling under Sec. 14(1) of the Act."

Accordingly, we follow the views taken by the Chandigarh Bench of this Tribunal. Therefore, in our opinion, the orders passed by the 2nd respondent herein are now est, in view of the legal position stated supra. The appeal has to be made to this Tribunal.

9. In the result, the orders passed by the Chief Judge, City Civil Court, Hyderabad in C.M.A. Nos. 144/90 and 145/90 dated 19.7.91 are set aside. The O.A. is disposed-of accordingly with the observations supra. No order as to costs.

Sd/-
Deputy Registrar (Judl.)

CERTIFIED TO BE TRUE COPY

.....
.....

Date.....

17/02/.....

Court Officer,
Central Administrative Tribunal
Hyderabad Bench, Hyderabad.

Copy to:-

1. The Chief Mechanical Engineer, South Central Railway, Sec-bad.
2. The Chief Judge, City Civil Court, Hyderabad.
3. One copy to Sri. N.R. Devaraj, SC for Rlys, CAT, Hyd.

Contd:...5/-

7. In Union of India Vs. Sarup Chand Singla, Chandigarh Bench of this Tribunal (Full Bench Judgements (CAT) 1983 Vol.I had extensively considered the above aspects and delivered the judgement dated 17.10.1988 in O.A. 524-PB of 1986 and O.A. 673/PB/1987. While deciding the said matter, the Hon'ble Members also considered the cases of Sri. S.P. Sampeth Kumar Vs. Union of India and others (1987 (1) SLJ 1 (SC); S.K. Sisodia Vs. Union of India (ATR 1988 (1) CAT 630) Premier Automobiles Vs. K.S. Wadke (AIR 1975 SC 2238) and Rohtas Industries Ltd. Vs. Rohtas Industries Staff Union (AIR 1976 SC 425) besides other cases. In the said judgement, they had also considered Sections 14, 28, 29 and 3(q) of A.T. Act with reference to Sec. 17 of the Payment of Wages Act besides other cases cited supra.

8. This Tribunal exercises its Jurisdiction over service matters under Sec. 14 of the A.T. Act as defined in Sec-3(q) of All Courts except the Hon'ble Supreme Court and other excepted forums as stipulated in Sec.28 and Sec.14 confers jurisdiction, powers and the authority of the C.A.T. on service matters as defined in Sec. 3(q) and from the appointed date as aforesaid in para-6. It can be seen from the Judgement of the Full Bench of this Tribunal cited supra, that they have considered all the above aspects and extensively discussed all the sections, the reproduction of which is redundant. In paras-7, 8 and 9 it was held-

"Para-7: Administrative Tribunals Act- Sec.28 and PW act - Sec17
Question whether District Judge before whom appeal under sec.17 lies is a Court- Case law Discussed- Held Dist. Judge is a court under Sec.28 of the A.T. Act (Para-6).
Further held since 'no court' has jurisdiction after appointed day, the Dist. Judge shall have no authority under sec.28 of the A.T. Act.

"Para-8: Administrative Tribunals Act Vs. P.W. Act - Question
whether a matter covered by PW Act as well as Sec. 3(q) of the A.T. Act could be entertained by the Tribunal- Case law discussed- Found it is not uncommon to give simultaneous jurisdiction to more than one forum in any matter Held, employee could elect to come to CAT and it could entertain the matter.

Para-9: Tribunal as appellate authority- Question whether Tribunal substitutes a District Judge under Sec. 17 of P.W. Act as an appellate authority under Sec.28 of the A.T. Act- Held Sec. 28 bars any other court (which includes a District Judge), hence as per secs.14(1) and 28 of A.T. Act appeals in the form of application, against order of

4. One copy to Sri. G.Bikshapathy, advocate, CAT, Hyd.
5. One copy to Hon'ble Mr. C.J.Roy, Judicial Member, CAT, Hyd.
6. One copy to Deputy Registrar(Judl.) CAT, Hyd.
7. Copy to All reporters as per standard list of CAT, Hyd.
8. One spare copy

Rsm/-



Hyderabad in C.M.A. Nos. 145 of 1990 and 144 of 1990. The said appeals were partly allowed by orders dated 19.7.1991 as under -

"In the result, both the appeals are partly allowed modifying the order of the payment of Wages Authority and it is directed that the amount to be refunded should be paid to the appellant with compensation of 36% thereof in lieu of interest lost on the said amount. The appeals are ordered accordingly".

Against the said Common Judgement in the above appeals, the present O.A. is filed by the applicant herein with relief cited supra.

4. We heard Sri. N.R. Devaraj, learned counsel for applicant and Sri. G.Bikshapathy, learned counsel for 1st respondent and perused the records carefully.

5. It may be noted that the penalty of 36% by way of compensation was awarded by the learned Chief Judge, City Civil Court, Hyderabad. This Tribunal by orders dated 20.3.1992 stayed the operation of the Common Judgement passed by the learned Chief Judge, City Civil Court in M.M.As No.144 and 145 of 1990. Now, it has to be seen whether after coming into force of the Administrative Tribunals Act, 1985 the District Judge/Chief Judge, City Civil Court is competent to decide the matter by virtue of operation of law as per secs 3(q), 14, 22,28 & 29 of the A.T. Act. It is no doubt we heard this case under writ jurisdiction under Sec.19(1) of the A.T. Act.

6. Sec 3(q) defines Service matters, Sec.14 confers jurisdiction, power and authority of the Central Administrative Tribunal, Sec 22 defines the procedures and powers of the Tribunals, Sec. 28 says exclusion of jurisdiction of courts except the Supreme Court Viz: (a) the Supreme Court; or (b) any Industrial Tribunal, Labour Court or other authority constituted under the I.D. Act, 1947 or any other corresponding law for the time being in force"; and as per Sec.29 every suit or other proceeding pending before any court or other authority immediately before the date of establishment of a Tribunal under this Act, being a suit or proceeding the cause of action wherein it is based is such that it would have been, if it had arisen after such establishment, within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal". So, by virtue of law, after coming into force of the Administrative Tribunals Act, 1985, this Tribunal has jurisdiction to entertain appeal against the orders passed by the Authority under payment of Wages Act. This is abundantly clear though necessary changes have not been made under the Payment of Wages Act of 1936 long prior to the Administrative Tribunals Act, 1985.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

O.A.NO. 946 of 1992.

Between

Dated: 23.7.1992.

The Chief Mechanical Engineer ... Applicant
South Central Railway, Sec-bad. And

1. Mirza Hyder Baig S/o M.Osman Baigh, Clerk O/O Chief Mechanical Engineer, S.C.Railway, Sec-bad.
2. Chief Judge, City Civil Court, Hyderabad.

... Respondents.

Counsel for the Applicant : Sri. N.R.Devaraj, SC for Railways

Counsel for the Respondent No.1 : Sri. G.Bikshapatny

No.2 : ...

CORAM:

Hon'ble Mr. R.Balasubramanian, Administrative Member

Hon'ble Mr. C.J.Roy, Judicial Member.

(Judgement of the Bench as per Hon'ble Mr.C.J.Roy, Judicial Member).

This application is filed under sec. 19 of the Administrative Tribunals Act, 1985 by the applicant who is the Chief Mechanical Engineer, S.C.Railway, Secunderabad claiming a relief to call for the entire file of papers relating to CMA 144/90 and 145/90 on the file of the 2nd respondent and P.W. Case No.37/85 and 135/85 Authority under Payment of Wages Act, Assistant Commissioner of Labour, Hyderabad and to setaside the common order dated 19.7.1991 passed by the second respondent by declaring that as illegal, arbitrary and against law.

2. The 1st respondent herein had filed claim petitions bearing P.W. 37/85 and P.W. 139/85 in the Court of Authority under Payment of Wages Act, Hyderabad and Incharge Assistant Commissioner of Labour, Hyderabad stating that he was a clerk in the office of Chief Mechanical Engineer, S.C.Railway, Secunderabad. It is alleged that the Respondent in the said P.Ws is responsible for payment of wages under sec.3 of the Act and a sum of Rs.3,564/- was deducted from his wages during the period from Nov. 84 to October, 1985 @ Rs.295/- p.m. without giving any notice. It is stated that the 1st respondent filed the said P.W.s viz P.W.37/85 for refund of Rs. 3333 -oo with ten times compensation and P.W.No. 139/85 for Rs. 3,564/- with ten times compensation before the Authority under payment of Wages Act, Hyderabad. The said Authority partly allowed the said P.Ws by orders dated 20.4.1990.

3. Subsequently, the 1st respondent herein carried the matter in appeal on the file of learned Chief Judge, City Civil Court

authority under Sec. 15 of P.W. Act shall lie before Tribunal and not to District Judge.

The Hon'ble Member also held in para 10:

"To sum up, therefore, an Authority constituted under Sec.15 of the P.W. Act as also the Commissioner for Workmen's Compensation are only special Tribunals, but not courts. So they can exercise the jurisdiction and powers and authority in respect of "service matters" of Central Government employees in respect of which it has jurisdiction, powers and authority by virtue of Sec.14(1) of the Act. Further the Tribunal is competent to grant relief to the aggrieved employee/Workman as the case may be in accordance with the provisions of P.W. Act and W.C. Act. Moreover, this Tribunal shall also have also all the appellate powers of the Court of Small causes in a Presidency-town and the District Court elsewhere under Sec. 17 of the P.W. Act as also of the High Court under sec. 30 of the W.C. Act, as the case may be. Lastly this Tribunal is also vested with the extraordinary writ jurisdiction of the High Court under Articles 226 and 227 of the Constitution in respect of matters falling under Sec.14(1) of the Act."

Accordingly, we follow the views taken by the Chandigarh Bench of this Tribunal. Therefore, in our opinion, the orders passed by the 2nd respondent herein are non est, in view of the legal position stated supra. The appeal has to be made to this Tribunal.

9. In the result, the orders passed by the Chief Judge, City Civil Court, Hyderabad in C.M.A. Nos.144/90 and 145/90 dated 19.7.91 are set aside. The O.A. is disposed-of accordingly with the observations supra. No order as to costs.

Sd/-
Deputy Registrar(Judl.).

CERTIFIED TO BE TRUE COPY

Date..... 27/7/92

Court Officer,
Central Administrative Tribunal
Hyderabad Bench, Hyderabad.

Copy to:-

1. The Chief Mechanical Engineer, South Central Railway, Sec-bad.
2. The Chief Judge, City Civil Court, Hyderabad.
3. One copy to Sri. N.R.Devaraj, SC for Rlys, CAT, Hyd.

Contd:...5/-

7. In Union of India Vs. Sarup Chand Singla, Chandigarh Bench of this Tribunal [Full Bench Judgements (CAT) 1983 Vol.I had extensively considered the above aspects and delivered the judgement dated 17.10.1988 in O.A. 524-PB of 1986 and O.A.673/PB/1987. While deciding the said matter, the Hon'ble Members also considered the cases of Sri. S.P.Sampeth kumar Vs. Union of India and others (1987 (1) SLJ 1 (SC); S.K. Sisodia Vs. Union of India [ATR 1988 (1) CAT 680] Premier Automobiles Vs. K.S.Wadke (AIR 1975 SC 2238) and Rohtas Industries Ltd. Vs. Rohtas Industries Staff Union [AIR 1976 SC 425] besides other cases. In the said judgement, they had also considered Sections 14, 28, 29 and 3(q) of A.T. Act with reference to Sec. 17 of the Payment of Wages Act besides other cases cited supra.

8. This Tribunal exercises its Jurisdiction over service matters under Sec. 14 of the A.T. Act as defined in Sec-3(q) of All Courts except the Hon'ble Supreme Court and other excepted forums as stipulated in Sec.28 and Sec.14 confers jurisdiction, powers and the authority of the C.A.T. on service matters as defined in Sec. 3(q) and from the appointed date as aforesaid in para-6 . It can be seen from the Judgement of the Full Bench of this Tribunal cited supra, that they have considered all the above aspects and extensively discussed all the sections, the reproduction of which is redundant. In paras-7,8 and 9 it was held-

"Para-7: Administrative Tribunals Act- Sec.28 and PW act - Sec17 Question whether District Judge before whom appeal under sec.17 lies is a Court- Case law Discussed- Held Dist. Judge is a court under Sec.28 of the A.T. Act (Para-6) . Further held since 'no court' has jurisdiction after appointed day, the Dist. Judge shall have no authority under sec.28 of the A.T. Act.

"Para-8: Administrative Tribunals Act Vs. P.W. Act - Question whether a matter covered by PW Act as well as Sec. 3(q) of the A.T. Act could be entertained by the Tribunal- Case law discussed- Found it is not uncommon to give simultaneous jurisdiction to more than one forum in any matter Held, employee could elect to come to CAT and it could entertain the matter.

Para-9: Tribunal as appellate authority- Question whether Tribunal substitutes a District Judge under Sec. 17 of P.W. Act as an appellate authority under Sec.28 of the A.T. Act- Held Sec. 28 bars any other court (which includes a District Judge) hence as per secs 14(1) and 28 of A.T. Act appeals in the form of application, against order o

4. One copy to Sri. G.Bikshapathy, advocate, CAT, Hyd.
5. One copy to Hon'ble Mr. C.J.Roy, Judicial Member, CAT, Hyd.
6. One copy to Deputy Registrar(Judl.) CAT, Hyd.
7. Copy to All reporters as per standard list of CAT, Hyd.
8. One spare copy.

Rsm/-

