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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD.

C.A.NO. 518/92

DATE OF JUDGMENT: 29.6.95

BETWEEN:

K.DHANALAKSHMI

.. APPLICANT

AND

1. The Sub Divisional Officer,
Telecom, Kothagudem-507101.
2. The Commissioner for Workman's
Compensation, Warangal-506001.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: SHRI C.Suryanarayana

COUNSEL FOR THE RESPONDENTS: SHRI NV. Ramana
Ex/Addl.CGSC.

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN

HON'BLE SHRI (A.B.GORTHI) MEMBER (ADMN.)

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O.A.NO.518/92.

JUDGMENT

Dt:29.6.95

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri C.Suryanarayana, learned counsel for the applicant and Shri N.V.Ramana, learned standing counsel for the respondents.

2. Late Shri K.Raghavulu, husband of the applicant was engaged on 21.8.1989 by R-I as casual labourer in the work of shifting ~~postoffice~~ telephone of the post office from one premises to another. It was unfortunate that when he was attending to his work, he had come in contact with a live wire and thereby he died. Thereupon the applicant filed W.C.No.122/90 on the file of R-2 praying for compensation. The latter held that the death of the husband of the applicant was by an accident arising out of and in the course of his employment under R-I.

3. While it was alleged for the applicant that he was offered Rs.30/- per day as wages, it was stated for R-I that during that period, casual labourers were paid @ Rs.15/- per day as is evident by the Exhibits R1 and R2. R-2 believed the version of R-I and quantified the amount of compensation as Rs.38,443/- by treating the monthly wages at Rs.450/-. The claim for interest and penalty was negatived.

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4. It is now contended for the applicant that as per the letter No.10-13/87-Rates, dated 23.2.1988, the daily wages have to be paid @ at 1/30th of the minimum of the pay scale applicable to Group 'D' staff plus DA and ADA and it was ~~amplified~~ clarified by the letter ERA-6048, dated 30.3.1988 that the wages at the above rate had to be paid even if the engagement of the casual labourers was only for one day. Basing on the same, it is pleaded for the applicant that the monthly wages have to be fixed at Rs.1050/- and thereby the total compensation amount comes to Rs.89,699/- and this OA was filed praying for direction to R-I to pay the balance and also the interest as prescribed by law from the date the compensation was due and 50% of the interest towards penal interest.

5. The two main contentions for R-I are:-

(i) that this Tribunal is not having any jurisdiction to consider the reliefs claimed in this OA; and

(ii) that it is barred by limitation.

6. We will refer to the second contention for R-I first. It is stated for the applicant that the copy of the order dated 31.5.1991 in WC 122/90 was received

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by the applicant on 27.6.1991 and that fact is not challenged for R-I. This OA was filed on 26.6.1992 and thus within one year from the date of delivery of the impugned order. Hence, the plea of R-I that this OA is barred by limitation has to be negated.//

Section 28 of the Administrative Tribunal Act states that from the date of commencement of the said Act, ~~there~~ no court except Supreme Court or any Industrial Tribunal, Labour Court or other authority constituted under Industrial Disputes Act, 1947 or any other corresponding law for the time being in force, shall have jurisdiction in regard to the service matters concerning members of any service or persons appointed to any service or posts. This Tribunal was constituted in regard to the service matters concerning the members of ^{or persons appointed in service} service under the Central Government. It is stated with

But that even the casual labourers come within the ambit of the same. The applicant was engaged by R-I ie., Telephone Department which is a part of the Central Government. Thus, it is clear that even the jurisdiction of the High Court by way of appeal under Workmens' Compensation Act is ^{taken away} ~~exonerated~~ in regard to the applicant who was engaged as Casual Labourer ^{and for the} by R-I ie., Telephone Department ^{and for the} was in the service of the Central Government. As such, even this contention of R-I does not merit consideration.

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7. The relevant portion of the letter dated 23.2.88 referred to supra is as under:-

"In compliance to Hon'ble Supreme Court of India decision dated October 27, 1987, in Writ Petition No.373 of 1986 regarding payment of wages to Casual Labourers at the minimum of pay in the pay scales of the regularly employed workers in the corresponding cadre, but without any increments with effect from the 5th February, 1986, the Directorate of Telecommunications has decided that:

i) all the casual labourers engaged on casual basis are to be paid wages worked out on the basis of the minimum pay in the pay scale of regularly employed workers in the corresponding cadre but without any increment, with effect from the 5th Feb., '86. The casual labour will also be entitled to DA and ADA, if any, on the minimum of the pay scale. No other allowances are to be paid."

It was even clarified by the letter dated 30.3.1988 that the rate of wage referred to in the letter dated 23.2.1988 is applicable even in a case where

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casual labourers were engaged for a single day. In fact the letter dated 23.2.1988 directs that the wages at the above rate were payable from 5.2.1986 and the arrears at the enhanced rate were directed to be paid before 23.2.1988. Thus even though the applicant's husband was offered only Rs. ^{15/-}~~50/-~~ per day at the time of his engagement on 21.8.1989, There is force in the contention for the applicant that for the purpose of quantifying the compensation, the rate at which he had to be paid has to be taken as the basis, ~~even~~ ^{even} for arrears were directed to be paid with effect from 5.2.1986.

8. It is true that the letters dated 23.2.1988 and 30.3.1988 were not placed before R-2. But in fact they ~~ought~~ ^{by R₁} to have been placed before R-1 ~~and R-2~~ as the applicant could not have known about the same. As such we feel that the applicant should not be deprived of the benefit ~~for~~ to which she is entitled to merely on the ground that the relevant letters of the Department were not placed before R-2.

9. As such, a direction has to be given to R-I to quantify the compensation by treating the monthly pay as the minimum of the pay of the pay scale applicable to Group 'D' plus DA and ADA payable at the relevant time and the difference between the said amount and the

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amount that was already paid as per the order of R-2 has to be deposited before R-2.

10. We were taken to the order dated 31.5.1991 of R-2. There is nothing to indicate to differ from the findings of R-2 that the applicant is not entitled to either interest or penalty. So, we have to confirm the same.

11. R-2 directed payment of interest at 6% per annum only from the date of the impugned order. The learned standing counsel for R-I submitted that when the enhanced compensation is being quantified now only, R-I cannot be directed to pay the interest on the difference from a date earlier to the date of this order. We feel that there would not have been any ~~delay~~^{need} for the applicant to approach this Tribunal if the relevant letters dated 23.2.1988 and 30.3.1988 were placed before R-2, and then itself this amount would have been quantified as per the daily wage referred to therein. It is ^{hence} just and proper to order the interest at 6% p.a. on the difference from 1.6.91, as the impugned order was passed on 31.5.1991.

12. In the result, this OA is disposed of as under:-

The difference in the compensation amount as referred to in para 9 above, and the interest at 6% p.a. on the ~~amount~~ same from 1.6.1991 has to be deposited

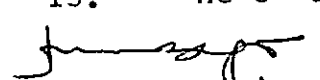
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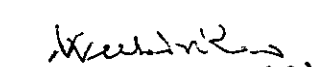
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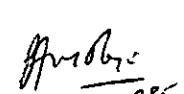
before R-2 by 29.9.1995 failing which the difference of compensation carries interest @ 12% p.a. from 4.10.1995. The amount ^{to be} deposited as per this order has to be apportioned ^{amongst} ~~between~~ the applicant and her son and two daughters in the same ratio in which the amount awarded by R-2 was apportioned. The difference in compensation and the interest thereon as per this order due to the daughters of the applicant has to be invested in the fixed deposits in the very bank in which the amount due to them as per the award of R-2 was deposited till they attain the age of 18 years or their marriage whichever is earlier. The share amount of the son of the applicant should also be fixed in a fixed deposit in the same bank in which his earlier share was deposited till he attains the age of 18 years. If any clarification is required in regard to the amount to be quantified as per this order, it is open to either party to move this Bench by way of a Miscellaneous Application.

13. The OA is ordered accordingly. No costs.//


(A.B. GORTHI)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 29th June, 1995.
Open court dictation.


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