

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

D.A.647/92.

Dt. of Order: 22nd Sept 1992.

Divisional Personnel Officer,
S.E.Railway, Dondaperthy,
Visakhapatnam-530 004
(Waltair)

... Applicant/Appellant

Vs.

1. Ch.Mohan Rao,
S/o Ch.Sanyasinaidu,
Office Superintendent, Steam Loco
Shed, S.E.Railway, Waltair,
Visakhapatnam-530 004.
2. Authority under Payment of Wages
Act/Visakhapatnam (Asst.Commissioner
of Labour/Visakhapatnam).

... Respondents



--- -- ---
Counsel for the Applicant : Sri M.R.Devraj, SC for Rlys

Counsel for the Respondents : Sri N.Ram Mohan Rao for R-1

--- -- ---
CORAM:

THE HON'BLE SHRI R.BALASUBRAMANIAN : MEMBER (A)

THE HON'BLE SHRI C.J.ROY : MEMBER (J)

(Order of the Division Bench dictated by Hon'ble
Sri C.J.Roy, Member (J)).

--- -- ---
After hearing the arguments on 14-9-92, we have
also heard Sri N.Ram Mohan Rao, counsel for the Respondents
and Sri N.R.Devraj, counsel for the applicant, on 16-9-92, on
preliminary points.

2. The docket order dt.14-9-92 is extracted below
for the sake of convenience :-

Whether this Tribunal can entertain this O.A. without complying with the condition of depositing the disputed amount and tapping the doors of this Tribunal ^{was} ~~is~~ seriously debated on 16-9-92 and orders reserved on this point. In addition to section 33 of A.T.Act, 1985, which is a non-obstante clause, ~~varies~~ ^{no} where it is stated that under section 19 of the A.T.Act, 1985, that an application should be followed by payment of disputed amount not only in wages Act but of any other conditions contained in any other Acts. The requirement of section 19 of the A.T.Act, 1985, that there should be an order ~~and~~ resulting in a grievance for redressal of the same. That it is ^a fit case for adjudication and trial ~~under~~ section 19 of the A.T.Act, 1985. No doubt this Tribunal is substitute of the High Court and any case of service nature after coming into operation of this Act, 1985, pending in any court except the Hon'ble Supreme Court shall stand transferred to this Tribunal. Section 29 provides that pending appeals before the Courts need not be transferred. On a careful perusal of section 14, 19, 28 and 29, ^{do} ~~no~~ where ^{we} find that any conditions other than that are laid down in these sections are prescribed for filing or transferring an application into this Tribunal. Section 22 says that this Tribunal shall not be bound by the procedure laid down in Civil Procedure Code but shall be guided by the Principles of Natural Justice and subject to the other provisions of this Act

"Rate of interest charges by banking companies not to be subject to scrutiny by courts-Notwithstanding anything contained in the Usurious Loans Act, 1918 (10 of 1918) or any other law relating to indebtedness in force in any State, a transaction between a banking company and its debtor shall be reopened by any Court on the ground that the rate of interest charged by the banking company in respect of such transaction is excessive."

It means the bankers rights and the rate of interest can - not be questioned by the creditors on the ground that they are Agriculturists and that interest is excess under the Agriculturists Relief Act, 1938, The Agriculturists Relief Act, 1938, restricts interest to a particular percentage, which is lesser than the interest imposed by the bankers. That shows that the Agriculturists Relief Act provisions are superseded by virtue of section 21-A of Banking Regulation Act. This was upheld by the Supreme Court in Bank of India Vs. Vijaya Transport. In view of this section 33 of the A.T. Act, 1985, has to be properly understood.

appeal to a District Judge, the disputed amount has to be deposited and a certificate to that effect has to be obtained as stated in Payments of Wages Act, 1936, which is enacted long prior to the coming into force of the A.T. Act, 1985, ~~the~~ parties for depositing the amount, they have to follow certain procedure laid down in Civil Procedure Code like paying by a challan and filing the same in the court with a memo. All this procedure mostly meant to be followed under Civil Procedure Code, which ^Nconsumes time. Therefore the Legislature in its wisdom separated service matters and created this Tribunal for speedy disposal and omitted all cumbersome procedure, which consumes time. That is the reason why section 22 states that this Tribunal shall not be bound by C.P.C. But the same section under sub-section-3 provides that C.F.C. could be followed under circumstances stated from (a) to (i). This shows to invoke the procedure of Civil Procedure Code in the matters mentioned from (a) to (i) of sub section-3 of section 22 of A.T. Act, 1985, are meant only to enable this Tribunal to decide the case if necessary by using the provisions of C.F.C. like summoning of witnesses, receiving evidence on affidavit, requisition of public record issue commission for examination of witnesses reviewing its decision, dismiss the case or set aside or to decide the case ex-parte. But other procedure is not borrowed from the Civil Procedure Code into this Act. Incidentally section 22 also says that this Tribunal is bound by principles of natural justice to regulate its own pro-

(emphasis added) and on the rules made by the Central Government. The Tribunal shall have the power to regulate its own procedure, including fixing of place etc., xx xx. Therefore if it is a service matter falling under 3(q) and that there is an order which resulted in a grievance, which requires redressal, such person can come by way of an Original Application to this Tribunal and that O.A. is not by way of an appeal. If the Law makers intention was to treat the Original Application also as an appeal, they would have specifically mentioned so. For instance in the High Court on the decision of the Writ Petition there would be a writ appeal from a single Bench to a Division Bench whereas there is no such appeal provided here. ~~Since~~ There is no lower Court to this Tribunal, the only appeal provided in this Act is by way of an S.L.F. to the Hon'ble Supreme Court. Therefore the non-obstante clause in section 33 as ~~non-obstante clause in section 33 as~~ cited supra will supersede all other provisions. If a case comes from a District Munsif or District Court this Tribunal will not act as District Munsif Court or District Court. In all aspects this Tribunal is a substitute of High Court. That shows that all the provisions contained in other Laws which are in-consistent with the provisions in the A.T. Act should not be made applicable to this Act. Supposing under section 17(1) of the payments of wages Act before preferring an

cedure. Therefore this Tribunal can entertain Original Applications and adjudicate the same without following other laws that are in-consistent with the provisions of this Act. So we hold that the doors open for coming to this Tribunal is by way of C.A. under section 19 of A.T. Act or under Section 29 of A.T. Act or by way of review or by way of 3rd party review. These are the ~~three~~ ways for the applicants to tap the doors of this Tribunal for justice. In these ~~three~~ ways we are not fettered with the Laws containing provisions in any Act which are in-consistent with the provisions of the A.T. Act, 1985. If after adjudication of the case, if we find that the Respondents are entitled for wages, at that time we may direct the applicant to pay the amount because section 17(3) also gives powers to pass orders withholding payments under certain circumstances. Therefore, it follows that the disputed amounts need not necessarily be deposited. So the preliminary objection taken by the Respondents cannot be accepted. Under these circumstances we over-rule the objection and direct that the stay granted earlier is further extended.

The Respondents are directed to file their counter within 4 weeks with an advance copy to the counsel for the applicant, who may file the rejoinder, if any within 2 weeks thereafter. List the case after the formalities are completed before the Bench.

CERTIFIED TO BE TRUE COPY

Date.....

Court Officer

Central Administrative Tribunal
Hyderabad Bench
Hyderabad

11/10/20

Copy to:-

1. Ch. Mohan Rao, Office, Superintendent, Steam Loco Shed, S.E.Railway, Waltair, Visakhapatnam-004.
2. Authority under Payment of Wages Act/Visakhapatnam (Asst. Commissioner of Labour/Visakhapatnam.
3. Divisional Personnel Officer, S.E.Railway, Dondaparthi, Visakhapatnam-004.
4. One copy to Sri. N.R.Devaraj, SC for Railways, CAT,Hyd.
5. One copy to Sri. N.Ram Mohan Rao for R-1, advocate, CAT,Hyd.
6. One spare copy.

Rsm/-

Case Number	PA 647/52
Date of Judgement	22-5-52
Copy made ready on	12-5-52
Section Officer (I)	