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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..
O.A.No. 1228/1995.

Date: August 7, 1996.

Between:

Divisional Railway Manager,
(Broad Gauge),
South Central Railway,
Secunderabad.

Applicant.

And

1. Khatal Hussain.

2. The Chairman, Industrial Tribunal-I,
Chandra Vihar, (First Floor),
M.J.Road, Hyderabad.

Respondents.

Counsel for the Applicant: Sri J.R.GopalaRao

Counsel for the Respondents: Mr. V.Narasimha Goud for
Respondent No.1.

None for Respondent No.2.

CORAM:

HON'BLE SHRI M.G.CHAUDHARI, VICE-CHAIRMAN. *u*

HON'BLE SHRI H.RAJENDRA PRASAD, MEMBER (A)

O.A.1228/95.

Date: August 7, 1996.

ORDER:

(AS PER HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE-CHAIRMAN.)

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Mr. J.R. Gopala Rao for the applicants. Mr. V.Narasimha Goud for Respondent No.1. None for Respondent No.2

2. The O.A., is filed ^{for} challenging the Award passed by the Industrial Tribunal-I, Hyderabad in Industrial Dispute No.32/93 between Respondent No.1 and the present applicant. The Award is dated 13.6.1994. The dispute related to the punishment awarded to Respondent ^{No.1 of} ~~for~~ removal from service of the South Central Railway as Fireman. The Industrial Tribunal-I, Hyderabad adjudicated upon the dispute and held that the punishment awarded to Respondent No.1 was not justified and directed his re-instatement as Fireman-B with full back wages, continuity of service and all other attendant benefits.

3. The applicant has stated in para 4 of the O.A., that as the subject matter of the case pertains to service conditions of Central Government (Railways) Employee, this Tribunal has got jurisdiction to adjudicate the matter under Sec.14 of the Administrative Tribunals Act.

4. We noticed while considering the application for interim stay of the Execution Proceedings of the Award on 25--7--1996 that the question of jurisdiction of this Tribunal to entertain the O.A., needs to be examined.

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We are inclined to take ^{the} ~~that~~ view in the light of the ^{decisions} ~~precedence~~ of the Hon'ble Supreme Court rendered in the case of Sh. SURAJ RAM V. UNION OF INDIA & ANOTHER (Civil Appeal No.3370/96 dated 12-2-1996) and the earlier decision of the Supreme Court in the case of KRISHAN PRASAD GUPTA V. CONTROLLER, PRINTING AND STATIONERY (1996(1)SCC 69) wherein it has been laid down by the Hon'ble Supreme Court that in spite of Sec.14 of the Administrative Tribunals Act the jurisdiction of the Industrial Tribunal, Labour Courts or other Authorities under the Industrial Disputes Act or authority created under any other corresponding law remains unaffected, *that this Tribunal lacks jurisdiction to deal with this OA.*

5. Under Section 2-A of the Industrial Disputes Act 1947, any disputes arising between the Workman and his Employer relating to the dismissal or termination of service of the workman is an industrial dispute. However, such dispute relates to an individual workman. The only exception is carved out in Section 2(s) of the Industrial Disputes Act, ~~but it does not include workman~~ *In Cl. (iv) thereof which provides that where the employee is employed in a supervisory capacity, then if he draws wages exceeding Rs.1,600/- per mensem or he is a person who exercises either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature, ^{he} ~~but~~ will not be a workman under the Act.*

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It is, therefore, clear that the Industrial Tribunal has got jurisdiction to adjudicate upon a dispute arising out of dismissal or termination of an individual ^{workman} ~~workman~~ from service where such workman is not covered by the exception.

6. It is not disputed that Respondent No.1 who was working as Fireman-B was not an employee in a supervisory capacity nor was discharging functions of managerial nature. Hence, the question of the quantum of wages does not arise and even otherwise it is stated that his wages on the material date did not exceed Rs.1600/- per mensem.

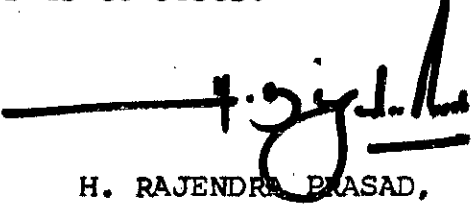
✓ This,
7. ~~It is~~, therefore, being a case of "Workman" who had raised an Industrial dispute which could be entertained by the Industrial Tribunal under the Industrial Disputes Act resulting to termination of service of Respondent No.1 and not relating to any other service condition, there does not arise any conflict between the jurisdiction exercisable by this Tribunal under the Administrative Tribunals Act and jurisdiction exercisable by the Industrial Tribunals ~~Act~~ under the Industrial Disputes Act. Thus having regard to the decisions of the Supreme Court ^(supra) ~~rendered hereinabove~~, we hold that this Tribunal has no jurisdiction to entertain or hear the instant Application. The same is liable to be dismissed on the ground of lack of jurisdiction in the Tribunal


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with liberty to the applicant to approach the appropriate forum for redressal of his grievance against the award in accordance with law. We are of the opinion that the O.A., was filed under mis-conception as the position of jurisdiction was not clear until the decisions mentioned above were rendered by the Hon'ble Supreme Court. ^{we would not} ~~We do not~~ therefore regard ~~open~~ the period spent in pursuing this O.A., to be unjustified.

8. The O.A., is accordingly dismissed.

No order as to costs.


H. RAJENDRA PRASAD,
MEMBER (A)


M.G. CHAUDHARY, J
VICE-CHAIRMAN.

Date: August 7, 1996.

Pronounced in open Court. Deputy Registrar ^{13/8/96} O.C.

sss.

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O.A.1228/95

To

1. The Divisional Railway Manager, (BG)
S.C.Rly, Secunderabad.
2. One copy to Mr.V.Narasimha Goud, Advocate, 3-4-206/2
Lingampally, Kachiguda, Raghavendraswamy temple lane, Hyd.
3. One copy to The Chairman, Industrial Tribunal-I
Chandravihar, (First Floor) M.J.Road, Hyderabad.
4. One copy to Mr. Library, CAT.Hyd.
5. One copy to Mr.J.R.Gopal Rao, SC for Rlys, CAT.Hyd.
6. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 7-8-1996

~~ORDER~~ / JUDGMENT

M.A./R.A./C.A. No.

in

O.A.No. 1228/95

T.A.No. (w.p.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

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