

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

(13)

O.A. No. 575/93 199
T.A. No.

DATE OF DECISION 10.3.1998

Rajendra Prasad Vaishnav Petitioner

Mr. D. P. Gure Advocate for the Petitioner (s)

Versus

Union of India & Ors Respondent

Mr. K. N. Shrimal Advocate for the Respondent (s)

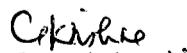
CORAM :

The Hon'ble Mr. Gopal Krishna, Vice Chairman

The Hon'ble Mr. O.P. Sharma, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? yes.
2. To be referred to the Reporter or not ? yes.
3. Whether their Lordships wish to see the fair copy of the Judgement ? No.
4. Whether it needs to be circulated to other Benches of the Tribunal ? No.


(O.P. Sharma)
Administrative Member


(Gopal Krishna)
Vice Chairman.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR PENCH, JAIPUR.

IL.575/93

Date of order: 10.3.1998

Rajendra Prasad Vaishnav : Applicant

Vs.

1. Union of India through the Secretary to the Govt of India, Ministry of Labour, New Delhi.
2. The Chief Engineer(NE), All India Radio and Doordarshan, New Delhi.
3. Assistant Engineer, All India Radio, Gagwana, Ajmer.
4. Union of India through Ministry of Broadcasting, Govt. of India, New Delhi.
5. Reconciliation Officer and Asstt. Regional Labour Commissioner (Central), Ministry of Labour, Govt of India, Ajmer.

...Respondents.

Mr.D.P.Gurg - Counsel for applicant

Mr.K.N.Shrimal - Counsel for respondents

CORAM:

Hon'ble Mr.Gopal Krishna, Vice Chairman

Hon'ble Mr.O.P.Sharma, Administrative Member

PER HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN.

Applicant Shri Rajendra Prasad Vaishnav in this application under Sec.19 of the Administrative Tribunals Act, 1985, has prayed for issuing an appropriate writ, direction, or order directing the Secretary, Ministry of Labour, Govt of India, New Delhi, to refer the dispute of retrenchment of the applicant to the Labour Court for adjudication.

2. We have heard the learned counsel for the parties and have carefully perused the material on record.
3. During the course of arguments the learned counsel for the applicant does not press for the relief claimed in regard to declaration that the retrenchment of the applicant by an oral order dated 7.8.87 is illegal, void and inoperative. The learned counsel for the applicant has urged that the applicant was serving as a Group-D employee in All India Radio & Doordarshan and his disengagement from service abruptly on 7.8.1987 being a service matter falling within the ambit of Section 3(g) of the Administrative Tribunals Act, 1985, this Tribunal has the jurisdiction to direct the concerned authority to make a reference to the Labour Court. On the contrary, the learned counsel for the respondents raised a preliminary objection that the dispute involves enforcement of a right or obligation created by the Industrial Disputes Act, 1947 (for short 'the Act') and therefore it is not within the competence of this Tribunal to adjudicate upon it.

~~Citation~~ The applicant had already moved an application before the Regional

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Labour Commissioner (Central) and Reconciliation Officer, Ajmer, praying that he may be pleased to intervene in the matter, call the employer for conciliation and in case these proceedings fail refer the matter to the Government of India for declaration through the Central Industrial Tribunal or any other appropriate forum. It is evident from the letter dated 25.11.87 (Annexure A6) addressed to the Secretary to the Govt, Ministry of Labour from the Conciliation Officer, that the applicant had raised an industrial dispute under Section 2-A of the Act over the termination of his employment whereupon the Conciliation Officer had suggested to the management that they may pay retrenchment compensation to the applicant but the conciliation had ended in failure. Now the applicant has approached this Tribunal seeking a direction to the Appropriate Government for making a reference to a Labour Court. The learned counsel for the respondents referred to an authority reported in (1995) 31 ATC 110, Rajasthan State Road Transport Corporation & Anr. Vs. Krishna Kant & Anr, wherein their Lordships of Hon'ble the Supreme Court in para 35, made the following observations:

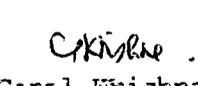
"(2) Where, however, the dispute involves recognition, observance or enforcement of any of the rights or obligations created by the Industrial Disputes Act, the only remedy is to approach the forums created by the said Act."

4. The applicant had admittedly aired his grievance before the Conciliation Officer, Ajmer. The communication at Annexure-A7 dated 1.3.89 shows that the Central Govt, which is the appropriate Government in this case had declined to make a reference of the dispute raised by the applicant to the concerned Labour Court. In view of the aforesaid decision of Hon'ble the Supreme Court, we hold that the direction to the Appropriate Government for making a reference to an appropriate Labour Court in terms of the provisions contained in Section 10 read with Section 12(5) of the Act cannot be issued by this Tribunal.

5. Accordingly, we reject this application. However, we direct that the application/papers shall be returned to the applicant for seeking remedy before an appropriate forum. No order as to costs.


(O.P.Sharma)

Administrative Member.


(Gopal Krishna)
Vice Chairman.