

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. OA 188/95
T.A. No.

199

DATE OF DECISION 12.1.96

— Union of India & Anr. **Petitioner**

— Mr. M. Rafiq **Advocate for the Petitioner (s)**

Versus

Rajendra Gupta and another **Respondent**

— Mr. G.C. Gupta **Advocate for the Respondent (s)**
(For respondent No.1)

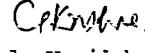
CORAM :

The Hon'ble Mr. Gopal Krishna, Vice Chairman

The Hon'ble Mr. O.P. Sharma, Member (A)

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)
Member (A)


(Gopal Krishna)
Vice Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 12.1.96.

OA 188/95

Union of India and another

... Applicants.

Versus

Rajendra Gupta and another

... Respondents.

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR. O.P. SHARMA, MEMBER (A)

For the Applicants

... Mr. M. Rafiq

For respondent No.1

... Mr. G.C. Gupta

O R D E R

PEF HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

Union of India through Deputy Director General, Geological Survey of India, and another have filed this application u/s 19 of the Administrative Tribunals Act, 1985, (for short, the Act), assailing the order dated 1.3.95, passed by the Workmen's Compensation Commissioner, by which respondent No.1 was awarded a sum of Rs.25481.25 with interest @ 6% per annum by way of compensation for the injury sustained by him while working as Junior Technical Assistant, Chemical Division in the Geological Survey of India (WR) at Jaipur.

2. We have heard the learned counsel for the applicants and the learned counsel for respondent No.1. We have gone through the records of the case carefully.

3. The learned counsel for the applicants has urged that the view taken by the Hon'ble Supreme Court while deciding a Petition for Special Leave to Appeal (Civil) No.30141/95 from the Judgement and Order dated 15.4.95 of the Jodhpur Bench of the Tribunal in OA 345/92, Divisional Personnel Officer v. Central Industrial Tribunal, Jaipur, and others, was with reference to the decision of the Hon'ble Supreme Court rendered in the case of Krishan Prasad Gupta v. Controller, Printing & Stationery, reported in JT 1995 (7) SC 522, in which their Lordships of the Hon'ble Supreme Court had held that this Tribunal has no jurisdiction to entertain an application u/s 19 of the Act in respect of the orders made under the Payment of Wages Authority.

~~Opposite~~ The main thrust of the arguments of the learned counsel for the

applicants is that Section 30 of the Workmen's Compensation Act, 1923, provides for an appeal to the High Court from an order of Workmen's Compensation Commissioner awarding a compensation to a workman and since this Tribunal is a substitute for the High Court, it has the authority/jurisdiction to hear this application for the reason that the High Court cannot exercise such a power after the establishment of the Central Administrative Tribunal.

4. In this context, it would be relevant to mention the provisions contained in Section 28 of the Act, which read as follows :-

"28. Exclusion of jurisdiction of courts except the Supreme Court under Article 136 of the Constitution - On and from the date from which any jurisdiction, powers and authority becomes exercisable under this Act by a Tribunal in relation to recruitment and matters concerning recruitment to any Service or post or service matters concerning members of any Service or persons appointed to any Service or post, [no court except -

(a) the Supreme Court; or

(b) any Industrial Tribunal, Labour Court or other authority constituted under the Industrial Disputes Act, 1947 or any other corresponding law for the time being in force,

shall have,] or be entitled to exercise any jurisdiction, powers or authority in relation to such recruitment or matters concerning such recruitment or such service matters."

These provisions provide exclusive jurisdiction to this Tribunal to entertain an application against a decision in relation to recruitment and matters concerning recruitment to any Service or post or service matters concerning members of any Service or persons appointed to any Service or post, but the jurisdiction of the Hon'ble Supreme Court or of any Industrial Tribunal, Labour Court or other authority constituted under the Industrial Disputes Act, 1947, or any other corresponding law for the time being in force is not taken away. The appointment of the Workmen's Compensation Commissioner is made under Section 20 of the Workmen's Compensation Act, 1923. In view of the decision

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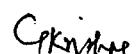
rendered by the Hon'ble Supreme Court in the case of Krishan Prasad Gupta v. Controller, Printing & Stationery, reported in JT 1995 (7) SC 522, we are of the view that the Court of Workmen's Compensation Commissioner which is an authority constituted under the Workmen's Compensation Act, 1923 is covered by the connotation of the expression "corresponding law" used in Section 28 of ~~the~~ Act. Appeal against an order passed by the Workmen's Compensation Commissioner is provided before the High Court. Thus, appeal before the High Court is also continuation of proceedings under the Workmen's Compensation Act., on the analogy of the observation of the Hon'ble Supreme Court in Krishan Prasad Gupta case (supra) that appeal before the District Judge against award of Authority under the Payment of Wages Act is continuation of proceedings before the Authority under the Payment of Wages Act. Therefore, the jurisdiction of the High Court is not ousted in regard to matters under the Workmen's Compensation Act. Hence this Tribunal cannot exercise jurisdiction against awards etc. of the Workmen's Compensation ~~Commissioner~~.

4. In view of the discussions made above, we find that this Tribunal has no jurisdiction to entertain this application. Application/papers shall be returned to the applicant for presentation before an appropriate legal forum.


(O.P. SHARMA)

MEMBER (A)

VK


(GOPAL KRISHNA)

VICE CHAIRMAN