

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, (B)

JAIPUR

Date of decision: 21-12-1995

OA No. 118/95

Director, Small Industrial Service Institute, Jaipur
and another

.. Applicants

VERSUS

Kanhaiya Lal and another

.. Respondents

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR. O.P. SHARMA, ADMINISTRATIVE MEMBER

For the Applicants

.. Mr. M. Rafiq

For the Respondent No.1

.. Mr. S.A. Singh

ORDER

PER HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

Applicants Director, Small Industrial Service Institute and Assistant Director (Administration), Small Industrial Service Institute have filed this application under section 19 of the Administrative Tribunals Act, 1985, (for short, the Act) challenging the award dated 6-6-94 of the Central Industrial Tribunal, Rajasthan, Jaipur, by which the removal of respondent No.1 was set aside and the applicants were directed to reinstate him in service with full back wages and the benefit of continuity in service.

2. We have heard the learned counsel for the parties and have carefully perused the records.

3. The learned counsel for the applicant has urged that the view taken by the Hon'ble Supreme Court while deciding the Petition for Special Leave to Appeal (Civil No. 20141/95) from the judgement and order dated 15-4-94 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 Krishan Prasad Gupta V. Controller,

C/KM Printing & Stationery, reported in JT 1995 (7) SC, 522.

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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 orders made by the Payment of Wages Authority. The learned counsel for the applicant has referred to para 45 of the judgement in the case Krishan Prasad Gupta V. Controller, Printing & Stationery, (cited supra), in which it was observed, as follows:-

"45. We wind up this discussion with the last words that though the Tribunal has been constituted as a substitute for the High Court under Article 323A, the Labour Courts and Industrial Tribunals etc. over which the High Court exercises supervisory jurisdiction continue to function with the incongruous result that though the High Court cannot quash their judgement, it must continue to supervise their functioning. Let us await the decision of the Constitution Bench."

The learned counsel for the applicant has argued that in view of the observations made by the Hon'ble Supreme Court in para 45 of the aforesaid judgement and the provisions contained in Article 323A of the Constitution, this Tribunal has the authority/jurisdiction to hear this application since the High Court cannot exercise such a power. It should be noted that the Hon'ble Supreme Court in the case of Krishan Prasad Gupta V. Controller, Printing & Stationery, stated above, has held as follows:-

"39. Our conclusion, therefore, is irresistible that the "Authority", constituted under Section 15 and the Appellate Authority under Section 17 of the Payment of Wages Act, fall within the exception indicated in Section 28 of the Administrative Tribunals Act and this Act, namely, Payment of Wages Act, is positively covered by the connotation "Corresponding Law" used in that Section. Consequently, the jurisdiction of the Authority to entertain and decide claim cases under Section 15 of the establishment of the Administrative Tribunals."

It has been further observed by the Hon'ble Supreme Court that :-

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* This Court in Krishan Prasad Gupta Vs Controller, Printing & Stationery J.T. 1995 (7) SC 522 has held that the Central

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Administrative Tribunal has no jurisdiction to entertain an application under Section 19 of the Administrative Tribunals Act against the award/order of the Labour Courts. In this case the award of the Industrial Tribunal is in favour of the respondent-workman. The award has been upheld by the Tribunal. Although, the Tribunal had no jurisdiction to entertain the application against the award of the Industrial Tribunal since the same has been upheld, we are not inclined to interfere. The SLP is dismissed."

4. In view of the decisions, referred to above, we hold that this Tribunal has no jurisdiction to entertain this application u/s 19 of the Administrative Tribunals Act, 1985. In the result, this application is rejected. We direct that the application/papers shall be returned to the applicant for seeking remedy before an appropriate legal forum. The stay order granted on 15-5-95 stands vacated.

(O.P.Sharma)
Member (A)

G.Krishna
(Gopal Krishna)
Vice-Chairman