IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 18.12.95.

OA 95/95

Assistant Director (Insect), Central Integrated Pest Management Centre, Sriganganagar (Rajasthan)

... Applicant.

Versus

Shri Ramesh Chand and another

... Respondents

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

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

For the Applicant ... Mr. M. Rafiq

For Respondent No.1 ... Mr. Virendra Bandhu

O R D E R

PER HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

This application u/s 19 of the Administrative Tribunals Act, 1985 (for short the Act), is mainly directed against the impugned award dated 24.11.93 passed by the Central Industrial Tribunal, Kota, at Annexure A-1, by which the removal of respondent No.1, Shri Ram Kalyan, from service was set aside and the applicant was directed to reinstate him in service with 50% of the back wages.

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, 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 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

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Tribunal has been consitituted 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 :-

"38. 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 :-

"42. In this connection, we may, refer again to Section 29 and 29A as under both the Sections, the emphasis is on "cause of action". Under Section 29, an appeal shall stand transferred to, and under Section 29A, an appeal can be filed before, the Tribunal if the cause of action on which "suit or proceedings" were initiated would have been cognisable by the Tribunal. Since on the original cause of action, a claim under Section 15 of the Payment of Wages Act could not have been made to the Tribunal, the appeal would not stand transferred to nor can appeal contemplated under Section 17 of the Payment of Wages Act be filed before it. The Appellate Authority is part of the Justice Delivery System constituted under Section 17 of the Payment of Wages Act. Its jurisdiction will not be affected by the establishment of Administrative Tribunals particularly as appeal has always been treated to be a continuation of the original proceedings. Consequently, the two tier judicial system, original as well as appellate, constituted under the "Corresponding Law", like the Payment of Wages Act, are not

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affected by the constitution of the Tribunals and the system shall continue to function as before, with the result that if any case is decided under Section 15 of the Payment of Wages Act, it will not be obligatory to file an appeal before the Tribunal as required by Section 29A of the Act but the appeal shall lie under Section 17 of the Payment of Wages Act before the District Judge. The pending appeals shall also, therefore, not stand transferred to the Tribunal under Section 29 of the Act. If it were a mere matter under general or common law and an appeal arising from a suit in a service matter decided by the Trial Court and pending in the Court of the District Judge under Section 96 C.P.C. would have been the subject of controversy whether it would be transferred to the Tribunal or not, our answer would have been an instant "yes" but the matter involved before us is different as it relates to the exercise of special jurisdiction by the District Judge under Payment of Wages Act, which is protected jurisdiction."

4. In a Petition for Special Leave to Appeal (Civil No.20141/95) from the judgement and order dated 15.4.94 of this Bench of the Tribunal in OA No.345/92, Divl. Personnel Officer Vs. Central Indl. Tribunal, Jaipur & ors., the Hon'ble Supreme Court on 6.11.95 made the following order :-

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

(O.P. SHARMA)
MEMBER (A)

(GOPAL KRISHNA)
VICE CHAIRMAN

VK