

(1999) 03 DEL CK 0057
In the Delhi High Court
Case No : C.W. No. 933 of 1999

Shiv Dutt

APPELLANT

Vs

The Presiding Officer Central Govt. Industrial Tribunal and
Another

RESPONDENT

Date of Decision : 11-03-1999

Acts Referred:

Constitution of India, 1950 — Article 227
Industrial Disputes Act, 1947 — Section 2

Citation : (1999) 4 AD 859

Hon'ble Judges : Mukul Mudgal, J

Bench : Single Bench

Advocate : Ms. Savita Malhotra, for the Appellant; Mr. Dinesh Agnani, for the Respondent

Judgement

Mukul Mudgal, J.—This writ petition challenges the award of the Industrial Tribunal dated 1st December, 1997 by which the Presiding Officer of the Central Government Industrial Tribunal had rejected the reference made to it at the behest of the Petitioner herein on the ground that the telecom department of the Government is not an "industry". For this purpose reliance was placed on the judgment of the Hon'ble Supreme Court reported in 1996 (8) SCC 488 Sub Divisional Inspector of Post Vs. Theyyam Joseph and Others. The Tribunal had relied upon the said judgment of the Hon'ble Supreme Court in the Sub Divisional Inspector of Post case (supra) in preference to the judgment of the Supreme Court in Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and Others, . The learned counsel for the petitioner submitted that since then the view taken in the judgment of the Sub Divisional Inspector of Post has been overruled by a judgment of 3 Hon'ble Judges of the Hon'ble Supreme Court reported as General Manager, Telecom Vs. A. Srinivasa Rao and Others, where it has been held that it is not permissible for a Bench of three or four that matter any Bench of lesser strength to take a view contrary to that in the Bangalore Water Supply case. In the said judgment of General Manager Telecom (supra) it

was held that the telecom department of the Union of India was an Industry within the meaning of industry as per Section 2(j) of the Industrial Disputes Act.

2. Accordingly the writ petition is allowed and the impugned order dated 1st December, 1997 is set aside and the matter is remanded to the Central Government Industrial Tribunal for disposal in accordance with law.

3. Learned counsel for the respondent states that the impugned award was of 1st December 1997 whereas the writ petition was preferred in February 1999 and accordingly the question of laches would arise. The laches would have a bearing on the question of backwages if awarded by the Tribunal. In case the Tribunal holds in favor of the workmen the date of award on 1st December, 1997 and the date of the filing of the writ petition i.e. February 1999 would be kept in mind while computing backwages.

4. With these observations, the writ petition is allowed. There shall be no order as to costs.