

(1999) 11 AHC CK 0059
In the Allahabad High Court
Case No : C.M.W.P. No. 307 of 1998

Union of India and another	Vs	APPELLANT
Central Administrative Tribunal, Allahabad Bench and others		RESPONDENT

Date of Decision : 22-11-1999

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 10, 11, 15, 17(2)

Citation : (2000) 2 AWC 1051 : (2000) 2 LLJ 629 : (2000) 1 UPLBEC 417

Hon'ble Judges : M. Katju, J;D.R. Chaudhary, J

Bench : Division Bench

Advocate : A.K. Gaur, for the Appellant;

Judgement

M. Katju and D.R. Chaudhary, JJ.—This writ petition has been filed against the impugned order of the Central Administrative Tribunal dated 3.10.1997 Annexure-4 to the petition, and against the award of the Central Government Industrial Tribunal-cum-Labour Court. Kanpur dated 18.6.1993 Annexure-3 to the petition.

2. It appears that a reference was made by the Central Government to the Central Government Industrial Tribunal-cum-Labour Court. Kanpur, regarding the termination of service of respondent No. 2. and the Tribunal gave an award dated 18.6.1993 in favour of the workman. Against that award of the Central Government Industrial Tribunal-cum-Labour Court, it appears that the petitioner approached the Central Administrative Tribunal and the Central Administrative Tribunal passed the impugned order dated 3.10.1997.

3. In our opinion, the petition before the Central Administrative Tribunal was wholly misconceived. It may be mentioned that u/s 17(2) of the Industrial Disputes Act. the award of the Industrial Tribunal is final. This means that the award of the Industrial Tribunal or Labour Court cannot be challenged by way of any statutory remedy. It can only be challenged by means of the constitutional remedy under Article 226 of the Constitution. The Central Administrative Tribunal

has been created by the Administrative Tribunal Act which is a statutory enactment and not a constitutional enactment. Hence the award of the Industrial Tribunal can only be challenged in this Court by means of a writ petition under Article 226 of the Constitution and it cannot be challenged before the Central Administrative Tribunal. The decision of the Supreme Court in *The United India Insurance Co. Ltd. Vs. M.K.J. Corporation*, , in our opinion has no relevance in this case. In that case, the Supreme Court only held that the Payment of Wages Authority will continue to have Jurisdiction to decide claims u/s 15 of the Act even after establishment of the Central Administrative Tribunal. This has nothing to do with the question whether any petition can be filed before the Central Administrative Tribunal against an award of the Industrial Tribunal or Labour Court. In our opinion it cannot, in view of the bar of Section 17(2) of the Industrial Disputes Act.

4. However, since the petitioner has also challenged the award of the Central Government Industrial Tribunal-cum-Labour Court, we have carefully perused the award and find no illegality in the same. The respondent No. 2 was alleged to be absent unauthorisedly for certain periods, but the Industrial Tribunal has held that there is no evidence to show that the workman was absenting himself unauthorisedly for the periods in question. Moreover, even if the respondent was absenting, the remedy of the petitioner was to charge-sheet him and hold disciplinary proceeding but the service could not be terminated straightaway of a regular employee without giving him an opportunity of hearing. Thus, there is no illegality in the award of the Industrial Tribunal. There is no force in this petition and it is accordingly dismissed.