

(1992) 11 RAJ CK 0012

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2515 of 1988

Union of India (UOI) and Others

APPELLANT

Vs

Karansingh and Another

RESPONDENT

Date of Decision : 12-11-1992

Acts Referred:

Administrative Tribunals Act, 1985 — Section 28, 3
Constitution of India, 1950 — Article 227
Payment of Wages Act, 1936 — Section 15, 17, 3

Citation : (1992) 2 RLW 705 : (1992) 2 WLN 296

Hon'ble Judges : A.K. Mathur, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

A.K. Mathur, J.—Both these writ petitions involve common questions of law and facts, as such they are disposed of by this common order.

2. For the convenient disposal of both these writ petitions, the facts given in the case of S.B. Civil Writ Petition No. 2515/1988: Union of India and Ors. v. Karansingh and Anr. are taken into consideration.

3. The petitioner, Union of India by this writ petition has prayed that by a writ of prohibito, the respondent No. 2 may be restrained from proceeding further in the Claim Case No. PW 190/87 in pursuance of the application filed by respondent No. 1 u/s 3 of the Payment of Wages Act.

4. Respondent No. 1 Karansingh is a Central Government employee and is working as Postal Assistant in the Head Post Office, Sikar under the control of the Superintendent of Post Offices, Sikar. The respondent No. 1 submitted an application before the Authority under the Payment of Wages Act for payment of wages u/s 3 of the Payment of Wages Act, 1936 (referred to hereinafter as "the Act"). The respondent No. 1 submitted the aforesaid application for payment of wages for the period from April 1987 to November, 1987 amounting to Rs.

11,047/- by moving an application which has been placed on the record as Annex. P. 1. The petitioners joined the issue before the Authority under the Act and raised an objection that the Authority under the Act has no jurisdiction to entertain the application as the service matters as defined in Section 3(q) of the Administrative Tribunals Act, 1985 (referred to hereinafter as "the Act of 1985") relating to Central Government employees will have to be heard and decided by the Tribunals created under the Act of 1985 and the Tribunals created under the Act of 1985 and the Authority under the Act cannot deal with such matters. It is further contended that by virtue of Section 28 of the Act of 1985 the jurisdiction of all the courts except the Hon"ble Supreme Court has been excluded. Therefore, the Authority under the Act cannot decide this matter.

5. A reply has been filed on behalf of the respondent No. 1 and the respondent No. 1 submitted that the Authority under the Act is not a court or Tribunal. Therefore, the jurisdiction of such authority constituted under a special Act is not barred. It is submitted that it is not a civil court in strict sense though it has trappings of a court.

6. I have heard both the learned Counsel and have also perused the record.

7. The Authority created under the Act is not a judicial court, but it is known as a quasi judicial authority/court and it has the trappings of the court. A Division Bench of this Court has occasion to examine this issue as to whether the authority under the Act is a court or not so as to be amenable to revisional jurisdiction of this Court. It has been held that the Authority created under the Act is not a court, but they are quasi judicial authorities and they are not civil courts so as to be amenable to the revisional jurisdiction of this Court. In the case of Mewar Textile Mills Ltd. Vs. Girdharisingh and Others, this Court observed as under:

The authority appointed by the State Government u/s 15 of the Payment of Wages Act is not a Civil Court and is not subject to the revisional jurisdiction of the High Court under Section 115,

8. Similarly, in the case of Shri Bijai Cotton Mills Ltd. Vs. The Inspector of Payment of Wages Act and Others, this Court reiterated the same position and it was observed as under:

Accepting the position that the Authorities under the Payment of Wages Act (namely, the authority hearing a petition u/s 15 of the Act and the appellate Court hearing an appeal u/s 17 of the Act) are quasi judicial tribunals and not Courts, a matter like this must be determined on the analogy of Order 3, rule 4, of Civil Procedure Code.

9. Therefore, by two successive decisions of the Division Benches, it is established beyond doubt that the Authority under the Act is not a court and they are quasi judicial tribunals and as such they are not civil courts. Once it is held that they are not civil courts then the jurisdiction of the Authority under the Act

is not barred by virtue of Section 28 of the Act of 1985. Therefore, this authority being not a civil court and a quasi judicial tribunal/authority, can hear and decide the matters arising out under the Act and such jurisdiction of the Authority cannot be excluded. Section 28 of the Act of 1985 only excludes the jurisdiction of the civil courts to decide the service matters of the Central Government employees. But this does not debar the special authorities created under the special enactments as they are authorities and they apply the provisions of the CPC to the extent it is made applicable to such quasi judicial authorities. Therefore so far as the question of payment of wages to such employees of the Central Government is concerned, there is no prohibition for them to approach the authority created under the Act.

10. A similar question also came up for consideration before the Allahabad High Court and their Lordships of the Allahabad High Court also answered this question in the case of General Manager, N.E. Railway, Gorakhpur and Ors. v. Sripat and Anr. 1988 Lab. I.C. 266, by holding that the authorities created under the Act is not a court and, therefore, the jurisdiction of such authority is not debarred. It was observed as under:

The special features of the Payment of Wages Act leave no room to doubt, considered in the light of the accepted tests, that the Prescribed Authority is not Court placed in the hierarchy of Civil Courts or amenable to the High Court's revision jurisdiction. The jurisdiction of the Prescribed Authority under the Payment of Wages Act is not ousted by the provisions made in the Administrative Tribunals Act, 1985, as amended. It is not correct to say that the applications made u/s 15 of the 1936 Act were liable to be dismissed by the Prescribed Authority as being not maintainable subsequent to Nov. 1, 1985 i.e. the day when the Administrative Tribunals Act came into force.

11. The same view was reiterated by another decision of a learned Single Judge of the Divisional Personnel Officer, Northern Railway, Allahabad v. Ambika Prasad and Ors. 1989 Lab. I.C. 362.

12. Mr. Choudhary, learned Counsel for the petitioner further submitted that Section 28 of the Act of 1985 was subsequently amended and as per the amended provisions of Section 28 of the Act of 1985 the jurisdiction of the Industrial Tribunal and the Labour Court and other authority constituted under the Industrial Disputes Act, 1947 has been restored. Therefore, the learned Counsel submitted that the Parliament, if wanted to restore the operations of the Tribunals constituted under the Industrial Disputes Act, 1947, they have so provided, but it did not include the authorities under the Act. Therefore, the operations of the Act cannot be made applicable. The amended Section 28 of the Act of 1985 reads as under:

28. On and from the date from which any Jurisdiction, powers and authority become exercisable under this Act by a Tribunal in relation to recruitment and matters concerning recruitment to any Service or post or service matters

concerning member 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.

13. It is true that Section 28 of the Act of 1985 has been amended and the Industrial Tribunals and Labour Courts and other authority constituted under the Industrial Disputes Act, 1947 or any other corresponding law for the time being in force, has been excluded from the exclusion provided u/s 28 of the Act of 1985. But the expression "no court except" only debars the jurisdiction of the civil courts including the High Court except Hon"ble Supreme Court amongst the heirarchy of civil courts but that does not exclude the authorities under the various statutes under which they have been constituted. Such authorities created under the various statutes including the authorities created under the Payment of Wages Act are the authorities which are supposed to adjudicate such matters which lie within their jurisdiction. Since they are not courts, therefore, the jurisdiction of such authorities can not be excluded. Since this Court has already taken the view that the authorities created under the Act are not subject to the revisional jurisdiction of this Court except amenable to superintendence jurisdiction of this Court vested under Article 227 of the Constitution of India. Therefore, the Authority under the Act is not a civil court and as such Section 28 of the Act of 1985 will not oust the jurisdiction of the authorities created u/s 15 of the Act to adjudicate the matters of this nature.

14. In this view of the matter, I am of the opinion that Section 28 of the Act of 1985 will not exclude the jurisdiction of the Authority constituted u/s 15 of the Payment of Wages Act to adjudicate the matters within its jurisdiction.

15. Hence, there is no merit in these writ petitions and the same are dismissed, without any orders as to costs.