

Ajay D. Panalkar

Vs

Management of Pune Telecom Department

Civil Appeal No. 2212 of 1997

(CJI A. M. Ahmadi, K. S. Paripoornan JJ)

19.03.1997

ORDER

1. Special leave granted.

2. The facts giving rise to this appeal lie in a narrow compass. The appellant was working in the Pune Telecom Department in 1984 when his services were terminated. He contended that the Telecom Department being an industry the termination of his service amounted to retrenchment and, therefore, it was obligatory on the part of the Management to follow the provisions of Section 25-F of the Industrial Disputes Act, 1947. He had, therefore, moved the Industrial Tribunal for reinstatement and back wages. The Industrial Tribunal set aside his retrenchment and directed reinstatement with full back wages.

3. The Management then approached the Central Administrative Tribunal, Bombay Bench, by way of an application under the provisions of the Central Administrative Tribunals Act, 1985 without carrying the matter to the Forum which had superintendence over decisions of the Industrial Tribunal. Before the Central Administrative Tribunal, the employee raised the contention that the Industrial Tribunal had held that he was a workman and had been wrongly retrenched and was, therefore, entitled to compensation under Section 25-F of the ID Act and since that procedure was not followed his retrenchment was bad in law. The Central Administrative Tribunal without going into the question whether it had jurisdiction to entertain the application in view of the Award made by the Industrial Tribunal proceeded to dispose of the matter in the following terms :

"In view of the aforesaid observations, it is crystal clear, that even assuming without admitting that we do not have jurisdiction and even if the decision of the Supreme Court is per incuriam, it is not for this Tribunal to give its finding."

4. Reference was made to the decision in Nagaraj v. State of Karnataka¹. The Central Administrative Tribunal then referred to the decision of this Court in Sub-Divisional Inspector of Post V. Theyyam Joseph² and held that the Telecom Department was not an industry.

5. The principal question is whether the CAT could entertain the application particularly after the Industrial Tribunal had ruled that the respondent was a workman within the meaning of the Industrial Disputes Act and was entitled to retrenchment compensation under Section 25-F and since the same was not paid he was entitled to reinstatement with full back wages. That decision could be upset only by the Court within that hierarchy and could not have been brushed aside by invoking the jurisdiction of the Central Administrative Tribunal and having the said Tribunal decide that the Department was not an industry may be based on a judgment of this Court. The Central

Administrative Tribunal also skirted the issue whether it had jurisdiction in the circumstances of the case. The learned counsel appearing for the respondent-Department was not able to satisfy us as to how the Central Administrative Tribunal could assume jurisdiction so long as the decision of the Industrial Tribunal and the Award made by that body stood unaltered. In fact, the learned counsel for the respondent very fairly drew our attention to this Court's decision in *Krishan Prasad Gupta v. Controller, Printing & Stationery*³ which has taken the view that in such a situation the Central Administrative Tribunal has no jurisdiction.

6. Therefore, on the limited question that the Central Administrative Tribunal had no jurisdiction, which entertained the application filed by the respondent-Management we set aside that order of the Tribunal. The appeal will stand disposed of with no order as to costs.