

Director, Government of India

Vs

General Secretary, Central Government Small-Scale Industries Organisation Employees' Union and
Another

Civil Appeals Nos. 5028-29 of 1993

(S. C. Agarwal, S. P. Bharucha, M. K. Mukherjee JJ)

16.04.1998

ORDER

1. These appeals have been filed against the judgment of the Division Bench of the Kerala High Court dated 25-11-1991 whereby Writ Appeal No. 532 of 1991 filed by the appellant has been dismissed as belated and the delay in the filing of the appeal has not been condoned by the order dated 3-3-1992 passed by the Central Administrative Tribunal, Ernakulam in RA No. 72 of 1991.

2. Briefly stated the facts are as follows :

An industrial dispute was referred for adjudication to the Industrial Tribunal at Quilon. The Industrial Tribunal gave its award on 12-12-1988. Feeling aggrieved by the said award, the appellant filed a writ petition (OP No. 2721 of 1989-Y) under Article 227 of the Constitution in the Kerala High Court. The said writ petition was dismissed by a learned Single Judge of the High Court by judgment dated 21-12-1989 on the ground that the writ petition was not maintainable in view of Section 28 of the Administrative Tribunals Act, 1985. Thereafter, the appellant filed an application (OA No. 94 of 1990) before the Central Administrative Tribunal, Ernakulam Bench. The respondent-workmen also filed an application (OA No. 403 of 1989) before the Central Administrative Tribunal. Both these applications were decided by the Central Administrative Tribunal by its judgment dated 31-8-1990. The appellant filed a special leave petition [SLP (C) No. 4946 of 1991] against the said judgment of the Central Administrative Tribunal which was dismissed as withdrawn by order dated 11-3-1991. Thereafter, the appellant, on 25-5-1991, filed Writ Appeal No. 532 of 1991 against the judgment of the learned Single Judge of the High Court of Kerala dated 21-2-1989. The said writ appeal was dismissed by the impugned judgment dated 25-11-1991. In the meanwhile, the appellant had filed a review petition (RA No. 72 of 1991) before the Central Administrative Tribunal for review of the judgment dated 31-8-1990. The said review petition was dismissed by the Central Administrative Tribunal by order dated 3-3-1992 on the ground of limitation as well as on merits.

3. We have heard Shri V. C. Mahajan, the learned Senior Counsel appearing for the appellant, in support of the appeals, and we have perused the order of the Division Bench of the Kerala High Court dated 25-11-1991 dismissing the writ appeal as well as the order dated 3-3-1992 passed by the Central Administrative Tribunal dismissing the review petition.

4. We will first take up the appeal which is directed against the order of the Central Administrative Tribunal dated 3-3-1992 dismissing the review petition. A perusal of the said order of the Central Administrative Tribunal shows that while observing that there was delay in the filing of the review petition, the Tribunal has proceeded on the basis that the Tribunal would have been inclined to condone the long delay but since the review petition is devoid of substance it did not feel inclined to do so. The Tribunal has considered the matter on merits as to the jurisdiction of the Tribunal to deal with the application under Section 19 of the Administrative Tribunals Act and has held that the Tribunal had jurisdiction to entertain the application against the award made by the Industrial Tribunal. The said view of the Central Administrative Tribunal is not in consonance with the law laid down by this Court in *Ajay D. Panalkar v. Pune Telecom Deptt.* (1997) 11 SCC 469 wherein it has been laid down that the Administrative Tribunal constituted under the Administrative Tribunals Act, 1985 has no jurisdiction to adjudicate upon the finding of the Industrial Tribunal. In view of the said decision, the order dated 3-3-1992 passed by the Central Administrative Tribunal rejecting the review application cannot be upheld and the said review application must be allowed. The order dated 3-3-1992 passed by the Central Administrative Tribunal is, therefore, set aside, the delay in the filing of the review application is condoned and the said review application is allowed and the judgment of the Central Administrative Tribunal dated 31-8-1990 passed in OAs Nos. 403 of 1989 and 94 of 1990 is set aside.

5. As regards the order dated 25-11-1991 passed by the Division Bench of the Kerala High Court, we are of the view that having regard to the facts and circumstances of the case, it was a fit case in which the High Court should have condoned the delay in the filing of the writ appeal and the matter should have been heard on merits. The order of the Division Bench of the High Court dated 25-11-1991 dismissing Writ Appeal No. 532 of 1991 is, therefore, set aside, the delay in the filing of the said writ appeal is condoned and the said writ appeal is remitted to the High Court for considering on merits. Since the matter relates to the year 1991, the High Court is requested to take up and dispose of the writ appeal at an early date, preferably within a period of six months. The appeals are disposed of accordingly. No order as to costs.