



ARVIN GUPTA,

ARB CASE NO. 14-086

COMPLAINANT,

ALJ CASE NO. 2011-LCA-045

v.

DATE: September 23, 2014

COMPUNNEL SOFTWARE GROUP, INC.,

RESPONDENT.

ORDER CLOSING CASE

The Complainant Arvind Gupta filed a complaint with the Department of Labor's Wage and Hour Division alleging that Respondent Compunnel Software Group, Inc. violated the H-1B provisions of the Immigration and Nationality Act, as amended (INA).¹ After proceedings before a Department of Labor ALJ (ALJ No. 2011-LCA-045), Gupta petitioned the Administrative Review Board to review the case. The Board (ARB or Board) remanded that case to the Office of Administrative Law Judges (OALJ) for further findings on the merits of the whistleblower claim and for a recalculation of certain damages. *Gupta v. Compunnel Software Group, Inc.*, ARB No. 12-049, ALJ No. 2011-LCA-045 (ARB May 29, 2014).

Compunnel then sought review of the ARB's May 29, 2014 decision before the United States District Court for the Southern District of New York.² This case remains pending before the district court. *See Compunnel Software Group v. Gupta & Perez*, 14 Civ. 4790 (SAS).

¹ 8 U.S.C.A. §§ 1101-1537 (Thomson Reuters 2014), as implemented by 20 C.F.R. Part 655, Subparts H and I (2014).

² Judicial review of final agency action is available in the appropriate United States District Court. *See* 20 C.F.R. § 655.850. The regulation at 20 C.F.R. § 655.850 provides, "Upon receipt of a complaint seeking review of the final agency action in a United States District Court, the Chief Administrative Law Judge will certify the official record and shall transmit such record to the clerk of the court."

By Order dated July 22, 2014, an Administrative Law Judge (ALJ) granted Compunnel's motion requesting the ALJ to hold the remanded case (ALJ No. 2011-LCA-045) in abeyance pending a decision by the district court.³ The ALJ subsequently denied Gupta's motion for reconsideration of the Order.⁴

Gupta then requested the Board to summarily reverse the ALJ's abeyance order or, alternatively, he petitioned for review.⁵ Compunnel filed an opposition.⁶ Gupta filed a reply, again urging the ARB to grant his motion for summary reversal of the ALJ's order holding in abeyance the remanded case in ALJ No. 2011-LCA-045.⁷

The ARB divested itself of jurisdiction of the case when it remanded the case to the OALJ. Consequently, the appeal before the Board, ARB No. 14-086, is **CLOSED**.

FOR THE ADMINISTRATIVE REVIEW BOARD:

Janet R. Dunlop
General Counsel

³ Order Holding Matter in Abeyance Pending Appeal (July 22, 2014).

⁴ Order Denying Complainant's Request for Reconsideration (Aug. 4, 2014).

⁵ ARB Complainant's Motion for Summary Reversal: Alternatively, Petition for Review and Opening Brief (Aug. 8, 2014).

⁶ Respondent's Opposition to Motion for Summary Reversal: Alternatively, Petition For Review and Opening Brief (Aug. 12, 2014).

⁷ Prosecuting Party's Reply to Compunnel's Opposition to Motion for Summary Reversal (Aug. 18, 2014).