(27)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

NEW DELHI, THIS THE 16TH DAY OF MAY, 1996.

(1) OA No.1993/94

(2) OA No.1994/94

(3) OA No.1995/94

(4) OA No.1996/94

(5) OA No.1997/94

(6) OA No.1998/94

(7) OA No.2000/94

(8) OA No.2001/94

Coram: Hon'ble Mr.Justice A.P.Ravani,Chairman.
Hon'ble Mr. K.Muthukumar, Member(A)

1. Union of India,through
The General Manager,
Northern Railway,
Baroda House,
New Delhi

2. Divisional Personnel Officer
Northern Railway, Office of
Divisional Railway Manager,
State Entry Road,
New Delhi

....Applicants in all the cases.

vs.

1. Shri Jagdish
S/o Shri Ramesh
R/o H.No.224,Balu Pura,
Near SSD College,
Ghaziabad.

2. Prescribed Authority
Under Payment of Wages Act & also
City Magistrate, Ghaziabad.

3. Station House,PS Kotwali
Ghaziabad, U.P.

... Respondents in all the cases.

For the applicants: Shri Shyam Moorjani,counsel.

For the respondents: Mrs.Asha Madan Jain, Counsel.

ORDER(ORAL)

MR.JUSTICE A.P.RAVANI:

In all these applications, the Union of India

(28)

owning Northern Railway through its General Manager and another competent officer i.e.Divisional Personnel Officer, Northern Railway, have prayed to quash the order dated February 7,1994(Annexure A-1), order dated February 11, 1994(Annexure A-2), order dated May 21, 1994(Annexure A-11)and order dated June 9,1994(Annexure A-12). By order passed by the Payment of wages Authority - Ghaziabad - dated February 7,1994(Annexure A-1), the Payment of Wages Authority,Ghaziabad had allowed 8 different payment of wages claims made by the respondent- workman. The other orders under challenge are consequential in nature.

2. The respondent-workman was engaged as casual labour on April 15,1970 and he worked as such casual labour for a period of about 4 years. Thereafter, he became entitled to be absorbed in regular cadre, therefore, he filed Civil Suit No.248/75 in the court of Munsif, Ghaziabad praying that he be absored in the regular cadre on the basis of his seniority and he be paid regular wages accordingly. The Trial Court decreed the suit on September 23,1977. The railway took the matter in appeal. The appeal was dismissed. Thus the judgement and decree passed by the Payment of Wages Authority became final.

3. As the respondent-workman was not paid wages as per the judgement and decree passed by the civil court, he filed application claiming wages under the appropriate provisions of Payment of Wages Act. As the amount of wages was not being paid, he went on filing applications from time to time. Thus in all 9 applications were filed.

4. The details of the applications for claiming wages by the respondent-workman and the period covered by each one and the amount claimed is as under:

Sl. No.	Case No.	Wage claim for period	Amount
1	2	3	4
1.	3/87	1.1.76 to 23.6.79 1.5.84 to 31.12.85 1.1.86 to 30.4.87	69,519.00
2.	4/87	1.7.79 to 30.4.83	34,189.22

29

1.	2.	3.	4
3.	5/87	May 84 to April 85	15,044.30
4.	6/87	1.5.83 to 30.4.84	12,013.60
5.	1/88	1.5.87 to 31.5.88	28,845.00
6.	4/89	1.6.88 to 30.4.89	17,600.00
7.	2/90	1.5.89 to 31.7.90	24,000.00
8.	1/92	1.8.90 to 30.11.91	26,900.00
9.	1/93	1.12.91 to 31.12.92	22,800.00

Since case No.5/87 was pertaining to the period which was already covered in case No.3/87, it had been ordered to be dismissed by the Payment of Wages Authority. All other aforesaid cases have been allowed as per judgement dated February 7, 1994. The Payment of Wages Authority directed that the workman be paid the entire amount of wages claimed by him. The authority also directed that the workman be paid compensation to the extent of 10 times of the wages claimed. The authority also directed to make the payment of amount awarded within a period of one month from the date of decision failing which the defendant-railway was liable to pay Rs.30 per day as and by way of penalty.

5. It is against the aforesaid order that these applications have been filed by the Union of India and ~~the~~ owning Northern Railway. In view of the law laid down by the Hon'ble Supreme Court in the case of **Krishan Prasad Gupta V.Controller,Printing & Stationery** reported in **JT 1995(7) S.C.522**, these applications before the Central Administrative Tribunal are not maintainable. In the case of Krishan Gupta(supra), the Hon'ble Supreme Court has discussed the entire scheme of the provisions of Payment of Wages Act, 1936, the scheme of the Administrative Tribunals Act, 1985 and also ~~the other~~ relevant provisions of Industrial Disputes Act, 1947. After discussing the scheme of the Administrative Tribunals Act,1985, in para

(30)

22 of the reported decision, the Hon'ble Supreme Court, inter alia, held that in spite of Section 14 of the Administrative Tribunals Act, 1985, the jurisdiction of the Industrial Tribunal, Labour Courts or other authorities under the Industrial Disputes Acts or authorities created under any other "corresponding law" remains unaffected. The Supreme Court further held that the Payment of Wages Act and the authority created thereunder would be covered by the expression "Corresponding Law". In para 38 of the reported decision, the Hon'ble Supreme Court has observed that the Payment of Wages Act is positively covered by the connotation "Corresponding Law" used in Section 28 of the Administrative Tribunals Act, 1985. In para 42 of the reported decision, the Hon'ble Supreme Court observed that since on the original cause of action, a claim under Section 15 of the Payment of Wages Act could not have been made to the Tribunal, the appeal would not stand transferred to nor can appeal contemplated under Section 17 of the Payment of Wages Act be filed before it. The Appellate Authority is part of the Justice Delivery System constituted under Section 17 of the Payment of Wages Act. Its jurisdiction will not be affected by the establishment of the Administrative Tribunals particularly as appeal has always been treated to be a continuation of the original proceedings. Consequently, the two tier judicial system, original as well as appellate, constituted under the "Corresponding Law", like the Payment of Wages Act, are not affected by the constitution of the Tribunals and the system shall continue to function as before, with the result that if any case is decided under Section 15 of the Payment of Wages Act, it will not be obligatory to

AMB.

(21)

file an appeal before the Tribunal as required by Section 29A of the Administrative Tribunals Act but the appeal shall lie under Section 17 of the Payment of Wages Act before the District Judge.

6. In view of the aforesaid settled legal position, all these applications are liable to rejected as not maintainable.

7. The learned counsel for the railway submitted that the question as to whether the applications were maintainable was considered by this Tribunal and the Tribunal decided that the applications were maintainable as per order dated June 7,1995. This order was challeged before the Hon'ble Supreme Court by way of Special Leave to Appeal (Civil) Nos.24481-24488/95. The Supreme Court did not grant special leave to appeal and passed the following order on November 17,1995:

> " We have read the judgement and order under appeal and are satisfied that, upon the facts no interference under Article 136 is called for. It is made clear that, as provided in the impugned order itself, the petitioner will be entitled to contest the matter before the Central Administrative Tribunal, Delhi Bench. The Special Leave Petitions are dismissed."

In view of the aforesaid factual position, the learned counsel for the railway submitted that this Tribunal is required to hear and decide these applications on merits inasmuch as the Hon'ble Supreme Court has rejected the applications for Special Leave to Appeal. Therefore, it is submitted that the decision of this Tribunal dated June 7,1995 holding the applications maintainable has become final and it has been confirmed by the Hon'ble Supreme Court.

(32)

8. The aforesaid submission cannot be accepted. When the Hon'ble Supreme Court did not grant Special Leave to Appeal, all that has been done by the Supreme Court is that the Apex Court did not think it proper to interfere with the order passed by this Tribunal on June 7,1995. By no stretch of reasoning, it can be said that the Supreme Court confirmed the order passed by this Tribunal holding that the applications were maintainable. On the contrary, the Supreme Court clarified that it will be open to the respondent-workman to contest the matter before the Central Administrative Tribunal. When the Supreme Court does not admit any matter, it cannot be said that the Supreme Court confirms the impugned order challenged before it. All that can be said is that the Supreme Court has declined to interfere with such impugned order. In view of this position, the contention that the Supreme Court has held, by necessary implication, that the applications are maintainable, cannot be accepted.

9. Even otherwise on merits, we are broadly in agreement with the reasonings given and conclusions arrived at by the Payment of Wages Authority. It may be noted that all the issues raised in the claim cases have been decided in favour of the respondent-workman by the Payment of Wages Authority. While discussing Issue No.5 i.e. to what relief, the workman was entitled to, The Payment of Wages Authority has, inter-alia observed that the railway has dragged on the litigation and by doing so, it has not only wasted the valuable time of the court but also harassed the workman,financially,mentally and physically. The railway has not taken any interest in leading the evidence rather it has committed the contempt of other courts by not obeying their orders for which the workman, if he so chooses, may initiate proceedings in competent court. The Payment

(33)

of Wages Authority further observed that the railway has not only deliberately not taken the workman on duty but has also subjected him to harassment. In this background, the Payment of Wages Authority directed that the workman was entitled to compensation to the extent of 10 times of the wages claimed.

10. The learned counsel for the railway submitted that the matter may be remanded to the Payment of Wages Authority so as to give an opportunity to the railway to lead evidence. In his submissions, the learned counsel engaged by the railway had acted without instructions and had not made proper submissions. We see no merit in this submission. There is nothing on record to substantiate the submission that the Advocate engaged by the railway acted without jurisdiction and made submissions contrary to instructions.

12. It was contended that the workman has not established that he was entitled to claim wages. The submission is without merit inasmuch as the Payment of Wages Authority has come to the categorical finding ~~conclusion~~ that the workman had obtained decree in his favour and had established his right by the judgement and decree passed by a competent civil court.

13. The learned counsel for the applicants submitted that the order directing to pay compensation to the extent of 10 times of the wages claimed is unjust and arbitrary. This submission also cannot be accepted. The reason why this much compensation is awarded is stated by the Payment of Wages Authority while discussing Issue No.5.

(34)

14. It is contended that the workman was not entitled to claim any wages on the principle of 'No work No pay'. This principle has no application to the facts and circumstances of the case.

15. There is no substance in the applications. We may make it clear that this Tribunal has no jurisdiction to entertain these applications as per the law laid down by the Hon'ble Supreme Court in the case of Krishan Prasad Gupta(supra). We have made aforesaid discussion as the learned counsel for the applicants railway insisted that we should deal with each and every submission made by him. We see no substance in the applications. All these applications are rejected as not being maintainable. Interim relief, if any, granted earlier stands vacated.

(K.MUTHUKUMAR)
Member(A)

(A.P.RAVANI)
Chairman

sns

True Copy
Attested
16/12/96

PRITAM SINGH