

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration T.A. No.1686 of 1987

Union of India & Others Defendants-Appellants

Versus

R.S. Ojha Plaintiff-Respondent.

Hon.S.Zaheer Hasan, V.C.

Hon. Ajay Johri, A.M.

(By Hon.S.Zaheer Hasan, V.C.)

Civil Appeal No. 222 of 1984 pending in the Court of District Judge, Pratappgarh has been transferred to this Tribunal under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. The plaintiff, R.S. Ojha was working as Guard 'A'. He is claiming overtime allowance for 753 hours @ Rs. 5.50 per hour for the period 4.11.79 to 22.3.1980. He made various representations without any success. So he gave notice under Section 80, Code of Civil Procedure on 2.10.1982 and filed the present suit on 31.1.1983.

3. The defence is that vide order dated 26.3.83 the plaintiff was told that only 2448-10 ^{Rs.} were due to the plaintiff as overtime. The suit is barred by limitation and the Civil Court has no jurisdiction. ^{as} ~~since~~ the plaintiff should have gone to the authority

concerned under Payment of Wages Act. The suit was decreed. The defendants ~~have~~ filed an appeal which has been transferred as stated above.

4. The plaintiff led oral evidence to prove his claim. In rebuttal the defendants ^{have} could/filed documents which are in their possession to show that his entire claim is not correct. The defendants have failed to explain as to how an amount of Rs. 2448-10 is due to the plaintiff. So the learned Munsif was right in holding that Rs. 4141/- were due to the plaintiff as overtime.

5. The claims relates to the period 4.11.79 to 22.3.1980. Notice was given on 2.10.1982 under Section 80, Code of Civil Procedure and the suit was filed on 31.3.1983. The claim was partly admitted on 26.3.83. So the finding of the learned Munsif that the suit ^{not} is/time barred is ~~not~~ correct.

6. The plaintiff was drawing salary ^{more} ~~of~~ more than Rs.1000/-. His case is that he was drawing more than Rs.1000/- so the provisions of Payment of Wages Act do not apply. It is not a case in which a claim under Section 15 of the Payment of Wages Act is pending and inspite of that the plaintiff filed a Civil Suit. So under the circumstances mentioned above we do not find any force in this appeal and the same is dismissed with costs on parties.

अजय जीव
Member (A)

Vice Chairman

Dated the 24 March, 1988

RKM