

4  
A-2  
1402

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

Registration O.A. No. 620 of 1990

Union of India and others ... .. Applicants

Versus

Baisakhu ... .. Respondent.

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. K. Obayya, Member (A)

( Hon. Mr. Justice U.C. Srivastava, V.C.)

The Union of India has challenged the order dated 31.3.1990 passed by the Authority under Payment of Wages Act. It appears that the Respondent moved an application before the authority under Payment of Wages Act making a complaint that he was serving under the Respondents and after the Pay Commissioner Report, he was entitled to higher report but no higher wages was paid to him w.e.f. 1.1.1984.

2. The respondents, in their return have stated that the applicant has been unauthorisedly absent with effect from that day and there was no question for paying any wages, salary or allowance to him. Moreover, as it was not a case of deduction of wages, as such, the authority is not competent to entertain the application. Later on, on the evidence stage, no evidence has been recorded on behalf of the State and the prescribed authority has relied on the presumption which has been drawn by the Allahabad High Court on the case reported in the year 1977 in which it has been stated that no action having been taken for unauthorised absence

Contd ...2p/-

and it presumed that they will continue to remain in duty and that is why he was entitled to the wages as well as compensation etc. If it was a case of deduction of wages, obviously, the authority should have been recorded on the point as to whether on a particular date, the employee infact worked or he did not work or he was restrained by the respondents not to work, but the said enquiry but the said enquiry has not taken effect to without recording a finding. It was only after recording a finding, the prescribed authority could have also decided as to whether he has jurisdiction to proceed with the matter or it is the matter beyond its competence.

3. Accordingly, this application is allowed and the order dated 31.3.1990 is quashed and the authority under the Payment of Wages Act is directed to record a finding on this point after giving opportunity of hearing to the parties. Let it be done within a period of three months from the date of communication of this order. The application is disposed of with the above terms. No order as to costs.

Member (A)  
Dt. 15.1.1993  
(n.u.)

Vice-Chairman