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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD

ALLAHABAD: This the 26th Day of August, 1996

ORIGINAL APPLICATION NO. 644 OF 1990

Hon'ble Dr R.K.Saxena, J.M.

Hon'ble Mr S.Dayal, AM

Union of India through the Divisional
Railway Manager, Central Railway,

Jhansi - Petitioner
C/A Sri G.P.Agrawal
Versus

Sri Munna Lal son of Sri Sarman Lal,
resident of 30, Premganj, Sipri Bazar,

Jhansi - Respondent
C/R Sri M.P.Gupta

JUDGEMENT

Hon'ble Dr R.K.Saxena, JM

This O.A. has been filed by the Union of India challenging the award of the Prescribed Authority under ²Payment of Wages Act. It has been pleaded that the prescribed Authority had heard the matter against the applicant ex-parte and without giving any opportunity. It is admitted that the provision of Appeal under section 17 of the Payment of Wages Act is given but no Appeal was preferred. Sri G.P.Agrawal, Counsel for applicant contends that the O.A. was directly instituted before the Tribunal because the prescribed Authority had exercised the jurisdiction, *which was not vested in it.*

2. The O.A. has been opposed on several grounds. Sri M.P.Gupta contends that it has been decided by their Lordships of the Supreme Court in case of K.P.Gupta ⁴⁰⁸Versus Controller Printing Press A.I.R. 1996 Supreme Court Page/

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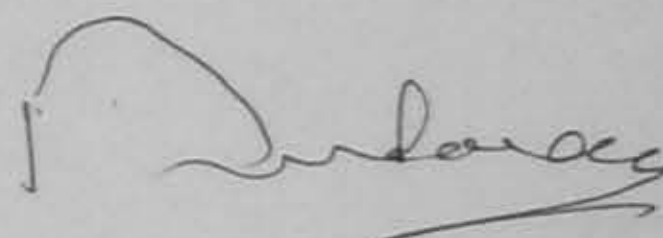
in which it was held that the matter cannot be entertained directly by the Tribunal ignoring the provisions of Appeal. In other words, the Tribunal can not be substituted ~~to~~ ^{the} Appellate jurisdiction as provided under the said Act.

3. Sri G.P.Agrawal, however, contends that the prescribed Authority had since decided the matter ex-parte and in such a situation the case may be remanded. If we accept this contention, we shall be exercising the Appellate jurisdiction. The remedy will be still opened to the applicant and this submission can be made before the Appellate Authority as well.

4. In view of the decision of the Hon'ble Supreme Court in case of K.P. Gupta, we hold the view that the Tribunal has no jurisdiction at this stage unless the applicant has exhausted the remedy of Appeal available to him under the said Act. The O.A. is disposed of accordingly. Copy of the judgement be given to the parties within a month.



AM



JM

RJ