

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 4 day of November 1996.

Original application No. 379 of 1990.

Hon'ble Dr. R.K. Saxena, JM
Hon'ble Mr. D.S. Baweja, AM

1. Union of India, through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional personnel Officer, Northern Railway, Allahabad.
3. Senior Divisional Electrical Engineer, Northern Railway, Office of Divisional Railway Manager, Allahabad.
4. Divisional Train Lighting Inspector, Northern Railway Office of Divisional Railway Manager, Allahabad.

..... Applicants.

C/A Sri D.C. Saxena,

Versus

1. Prescribed Authority, under payment of Wages Act, Allahabad.
2. Shashi Bhushan Singh, S/o Baij Nath Singh, C/o Santosh Kumar (S/o Sunder Lal), 18 Newada Road, Allahabad.
3. Bans Narain, S/o Balram, C/o Santosh Kumar, (S/o Sunder Lal), 18 Newada Road, Allahabad.
4. Santosh Kumar, S/o Sunder Lal, 18 Newada Road, Allahabad.

..... Respondents.

C/R Sri R.K. Pandey

ORDER (ORAL)

Hon'ble Dr. R.K. Saxena, JM

The applicants have filed this O.A. challenging the award dated 30.12.89 whereby the prescribed

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Authority had directed the present applicants to make payment of the salary which was deducted and also to make payment of compensation.

2. Briefly stated the facts of the case are that S/Sh. Shashi Bhushan Singh, Bans Narain, Santosh Kumar had jointly instituted the P.W. case No. 100/86 before the Prescribed Authority under Payment of Wages Act that their salary for the period of 1.1.85 to 19.11.86, 1.10.85 to 19.11.86 and 1.10.85 to 19.11.86 respectively (Shashi Bhushan Singh, Bans Narain, Santosh Kumar) was illegally deducted. The prescribed Authority was satisfied with the contention of those three employees and directed the present applicants to make payment of an amount of Rs. 12,970/- to Sh. Shashi Bhushan Singh and Rs. 8116/- each to Bans Narain and Santosh Kumar towards the salary and an amount of Rs. 38,910/- to Shashi Bhushan Singh and Rs. 24,348 to other two persons towards compensation. Feeling aggrieved by this award, this O.A. was filed with the prayer that the award be quashed.

3. The respondent No. 2 to 4 contested the case on several grounds including the ground that the applicants should not have approached the Tribunal without availing the relief of appeal provided under Section 17 of Payment of Wages Act.

4. We have heard Sh. D.C. Saxena learned counsel for the applicant and Sh. R.K. Pandey contesting respondents, and have perused the record.

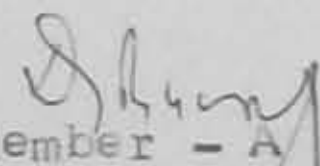
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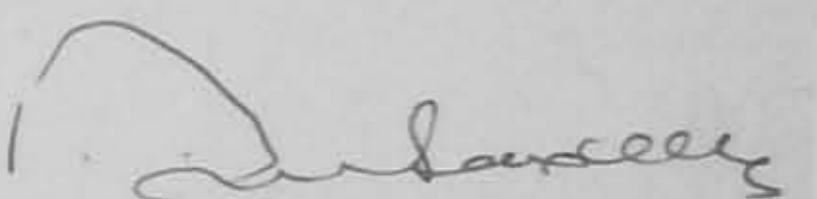
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5. It is now well settled law that the remedy of appeal which is provided under Section 17 of Payment of Wages Act, has not been taken away by Section 28 of Administrative Tribunals Act 1985. Their Lordships of Supreme Court had taken the same view in K.P. Gupta Vs. Controller of Printing and Stationery AIR 1996 SC 608. It is admitted fact that the applicants have not approached the appellate authority and thus the remedy which was available to them, was not exhausted. In such a situation the applicants could not ~~be~~ ^{& Tribunal} approached directly to invoke jurisdiction under Article 226. The O.A. is, therefore, not maintainable.

6. If the applicants are so advised, they may still prefer an appeal before the appellate authority.

7. In this case the stay was granted on 4.5.90 which stands vacated. The applicant may withdraw the amount which was deposited in compliance with the order dated 4.5.90.


Member - A


Member - J

Arvind.