

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Original Application no. 442/90.
Transfer Application no. _____

Date of Decision 23.12.96

UNION OF INDIA through Divisional
Railway Manager, Central Railway, Petitioner
Jhansi.

C/A Sri G.P.Agarwal.

Advocate for the
Petitioner

VERSUS

Sri Rakesh Narain Saxena, and Respondents.
another.

C/R: In person.

Advocate for the
Respondents.

C O R A M

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

Hon'ble Mr. D.S.Baweja. AM.,

1. Whether Reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordship wish to see the fair copy of the judgement ?
4. Whether to be circulated to all Bench ?

X60

SIGNATURE

PIYUSH/

Reserve.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

Dated This 23rd Day of December, 1996.

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

ORIGINAL APPLICATION NO: 442 OF 1990.

Union of India through Divisional Railway
Manager, Central Railway, Jhansi.

C/A: Sri G.P.Agrawal. .. Petitioner.

VS.

1. Sri Rakesh Narain Saxena, son of
Sri Rajendra Singh, resident of
63, Taksal, Jhansi.

2. The Prescribed Authority,
(Under the payment of wages Act, 1936),
Jhansi.

... Respondents.

C/R: In person.



ORDER

(By Hon'ble Dr. R. K. Saxena, J.M.).

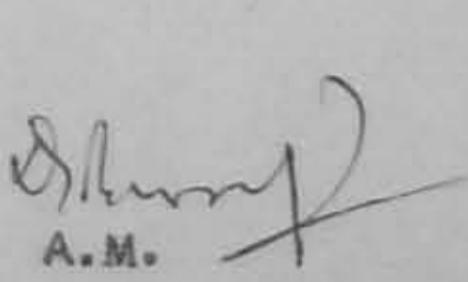
Union of India has filed this O.A. challenging the award which was given by the respondent No2, in P.W. Case No: 74 of 1987 on 5.3.1990. It appears that one Rakesh Narain Saxena, had brought P.W. No: 74 of 1987 before the prescribed Authority under the Payment of Wages Act, on the ground that the services of the said Rakesh Narain Saxena, respondent No1, were terminated on 6.2.1987, but he filed original application before the Central Administrative Tribunal in which the stay was granted on 19.2.1987. The O.A. was finally decided on 7.5.1987. The contention of the respondent No1, therefore, was that he should be deemed to have continued in service during the period of the stay order and he was entitled for bonus, D.A and Additional D.A. Since the present applicant did not make payment of Rs1000/- for the period with effect from 23.2.1987 to 10.9.1987 thus, it would be deemed as deduction of salary. The Prescribed Authority found force in the case of the respondent No1. The D.R.M. Central Railway, Jhansi was, therefore, directed to make payment of Rs6807/80 (P), which was deducted from the salary and equal amount of Rs 6807.80 (P) be paid as compensation besides the amount of Rs50/- was directed to be paid as expenses of the case.

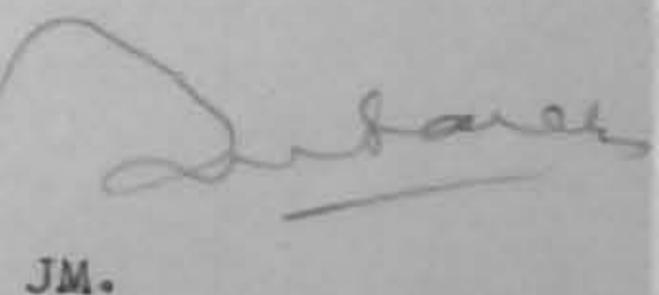
2. Feeling aggrieved by this award, the present O.A. has been preferred which has been objected to on behalf of the respondent No1, on various grounds including the grounds of jurisdiction of Tribunal.

3. We have heard the learned Counsel for the applicant. None appeared for the respondents and thus, the arguments could not be advanced.

3. The main contention of the counsel for the applicant is that the respondent No 2, lacked in jurisdiction because the matter related to the Administrative Tribunal. The main question in this case is that if the applicant has approached this Tribunal through this O.A. ^{without &} after exhausting ^{including} all the remedies, ~~and the~~ provisions of appeal under Section 17 of the Payment of Wages Act, as given ^{here}. Admittedly, no appeal was preferred by the applicant. In the case of ' K.P Gupta V/s Controller of Printing Stationary' AIR (1956) SC 408, it has been held by their Lordships of the Supreme Court that the powers under Section 17 of the Payment of Wages Act, are not taken away by ^{the} operation of Section 28 of the Administrative Tribunals Act, 1985. In view of this legal position, the applicant should have approached the Appellate Authority so, provided. Even on this issue, the Respondent No 2, had no jurisdiction to enter into the matter which was decided by the Central Administrative Tribunal, could ^{be} raised before the Appellate Authority. The applicant if so advised, can still go in appeal.

4. In view of this fact, We are of the view that the O.A. is not maintainable and therefore, it is dismissed. The interim order which was passed on 17.7.1990 stands vacated.


A.M.


JM.