

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 689 of 1992

Allahabad this the 10th day of October 1996

Hon'ble Dr. R.K. Saxena, Member (Jud.)
Hon'ble Mr. D.S. Baweja, Member (Admh.)

1. General Manager, North Eastern Railway, Gorakhpur.
2. F.A. & C.A.O., North Eastern Railway, Gorakhpur.

APPLICANTS.

By Advocate Sri A.V. Srivastava

Versus

1. Lal Chand S/o Late Sri Subhag Singh presently posted as Chief Mechanical Draftsman, C.M.E., Drawing Office, North Eastern Railway, Gorakhpur.
2. Prescribed Authority, under the Payment of Wages Act 1936, 2 Police Line Road, Gorakhpur.

RESPONDENTS.

By Advocate Sri O.P. Gupta.

O R D E R (Oral)

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

This O.A. has been filed by General Manager, North Eastern Railway, Gorakhpur, Financial Advisor and Chief-Accounts-Officer, North Eastern Railway, Gorakhpur, challenging the award given on 10.2.1992 by the Prescribed Authority under the Payment of Wages Act in P.W. 8 of 1989 Lal Chand Singh. Vs. General Manager, N.E. Railway, Gorakhpur and Others.

2. The brief facts of the case are that the applicant - Lal Chand Singh had approached the Prescribed Authority, respondent no.2 with the plea that the Civil Court in Civil Suit No. 7 of 72 had directed the

present applicants to pay the salary for the period between 02.4.64 to 25.10.80 amounting Rs.35,937-90. Since the payment was not made, it amounted^e to the deduction of salary. The Prescribed Authority upheld the contention of the applicant and directed the present applicants to pay the amount of Rs.35,937-90 as deducted wages and further amount of Rs.71,875-80 was awarded as compensation. Feeling aggrieved by this award, this O.A. was preferred in the year 1992 with the relief that the award be quashed. It was admitted and interim stay was granted on the condition that an amount of Rs.1,07,812-70 ~~was~~^l be deposited.

3. The respondent no.1 contested the case on several grounds including the ground that the applicants had not filed the appeal which is provided under Section 17 of Payments of Wages Act. It is, therefore, urged that the O.A. is liable to be dismissed.

4. Heard, Sri A.V. Srivastava, counsel for the applicant and Sri O.P. Gupta, counsel for the respondents.

5. There is no dispute that the provision of appeal does exist in Payment of Wages Act. By filing this O.A., the applicants wanted to invoke the jurisdiction under Article 226 of the Constitution. This aspect was considered by their Lordships of Supreme Court in the case 'K.P.Gupta Vs. Controller, Printing and Stationery, A.I.R.1996 S.C.408'

and it was held that the provisions of Administrative Tribunals Act have not taken away the powers of Appellate Authority under Section 17 of Payment of Wages Act. As a matter of fact, the applicant should have approached the Tribunal after exhausting the remedy of appeal under the Payment of Wages Act. We are of the view that the O.A., as it is, is not maintainable and the applicants, if so advised, may seek the relief before the Appellate Authority under the Payment of Wages Act.

6. The applicants were directed to deposit the amount of Rs.1,07,812-70 at the time when the stay was granted. Learned counsel for the applicants submit that the same amount was deposited. If, it was so deposited, it may be refunded to the applicants.

7. The O.A. is disposed of accordingly. No order as to costs.

Member (A)

Member (J)

/M.M./