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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 7 day of January 1997.

Original application No. 768 of 1992.

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

1. Divisional Railway Manager,
N.E. Rly. Varanasi.
2. Divisional Personnel Officer,
N.E. Rly. Varanasi.
3. Divisional Commercial Supdt,
N.E. Rly. Varanasi.

..... applicants.

C/R Sri Lalji Sinha

Versus

Chotu Ram, Chief Ticket Collector,
Mau Nath Bhanjan, Mau.

2. Prescribed Authority, Payment of
Wages Act, Mau Nath Bhanjan, Mau

..... Respondents.

C/R Sri V.K. Srivastava

O R D E R (ORAL)

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

This O.A. has been filed by Divisional Railway Manager, ~~NE~~ Railway, Varanasi, Divisional Personnel Officer, ~~NE~~ Railway, Varanasi, and Divisional Commercial Superintendent, ~~NE~~ Railway, Varanasi with the relief that the award given by the prescribed authority under payment of wages Act, on 11.2.92 and the order dated 11.12.89 condoning the delay in the application, be quashed.

2. The brief facts of the case are that the
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respondent No. 1 Chotu Ram was working under the present applicants as Chief Ticket Collector at Neu Junction. It is stated that the present applicants deducted an amount of Rs. 3,772/- towards the payment of BII-OT, for the period from 1.6.78 to 1.1.80. The respondent No. 1 therefore espoused a case before the Prescribed Authority respondent No. 2 under Payment of Wages Act. The Prescribed Authority came to the conclusion that an amount of Rs. 3,772/- was illegally deducted by the applicants. Therefore it was ordered that the applicants should pay said amount of Rs. 3,722/- towards deducted amount and equal amount of Rs. 3,722/- as compensation and Rs. 100/- as expenses of the case. Feeling aggrieved by this award, the present O.M. has been filed.

3. The respondents No. 1 has filed counter-affidavit in which it has been averred that the award was rightly given by respondent No. 2. It is also pointed out that previously the applicant had preferred an appeal before the District Judge challenging the order but on 7.1.89 ~~but~~ the case was remanded and therefore this impugned award was passed. It is also pointed out that this Tribunal has got no jurisdiction.

4. The applicants have filed the rejoinder reiterating the facts which were mentioned in the O.M.

5. We have heard Sh. Lalji Sinha counsel for the applicant and Sh. V.K. Srivastava counsel for the respondent No. 1. We have also perused the record.

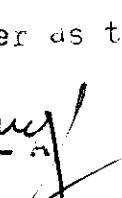
6. The main question for consideration in this case is whether applicants may approach the Tribunal without

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filings an appeal under Section 17 of Payment of Wages Act. It is quite clear that these applicants had exercised this option earlier and the case was remanded by the Addl. District Judge vide order dated 7.1.89. The applicants did not point out the reasons as to why the appellate forum was not approached this time. Anyway, the legal position has been made clear by their Lordships of Supreme Court in the case K.P. Gupta Vs. Controller Printing and Stationery AIR 1996 SC 408 and it was laid down that the appellate jurisdiction under Section 17 of Payment of Wages Act, has not been taken away by Section 23 of Administrative Tribunals Act. Besides, the applicants are also required to exhaust all the remedies available before approaching the Tribunal. It is quite clear that the applicants have not exhausted the remedy of appeal under the Act available before approaching the Tribunal. In view of these facts and legal position, the present O.A. does not remain maintainable here. The applicants, if so advised, may approach the appellate authority in this connection even at this stage. The interim stay which was granted on 1.6.92 stands vacated. The O.A. is disposed of accordingly. No order as to costs.


Member - A


Member - J

Arvind.