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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD

Allahabad: dated this 21 day of Oct 1996

CORAM: Hon'ble Dr. R.K.Saxena, J.M.
Hon'ble Mr. D.S.Baweja, A.M.

Original Application No. 1616 of 1993

Union of India through Sr.D.C.S.,
Central Railway, Jhansi.

C/A : Sri G.P.AgarwalApplicant

Versus

1. Sri Badam Singh a/a 33 years S/o Sri Nathoo Ram r/o village Naura Post Thouna, Distt. Tikamgarh (M.P.).
2. Prescribed Authority at Jhansi under Payment of Wages Act 1936.

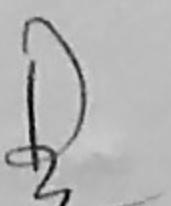
C/R: Sri R.C.Pathak.Respondents

O R D E R (ORAL)

(By Dr. R.K.Saxena, J.M.) (oral)

This O.A. has been filed challenging the award given by the Prescribed Authority under the Payment of wages Act. The grounds taken in O.A. ~~are~~ is that the Prescribed Authority has no jurisdiction. The relief claimed therefore is that the award dated 8-9-93 in P.W.D. in case No. 114/87 Badam Singh versus Commercial Superintendent be set aside.

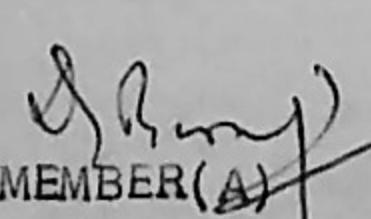
2. The respondents contested the case on the ground that the applicant had approached the Tribunal without exhausting the remedy available U/s 17 of Payment of Wages Act. It is, therefore, urged that the O.A. is not maintainable.

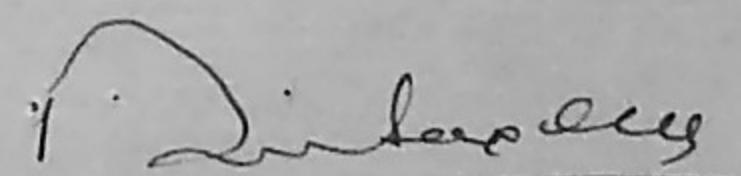


3. We have heard the learned counsel for the parties and have perused the record.

4. There is no dispute that the provision of appeal is ~~available~~ made U/s 17 of Payment of Wages Act and thus the applicant should have approached the Tribunal after exhausting the said remedy. Their Lordship of Supreme Court in case of K.P. Gupta vrs. Controller of Printing and Stationary A I R 1996 Supreme Court 408 clearly held the said view. The applicant admits that the appeal was not preferred and the reason given was that the applicant can approach the Tribunal to seek relief under ~~Article~~ 226. This Tribunal has taken the view that the jurisdiction under Article 226 can be invoked only when it is a rarest of rare cases in which jurisdictional question is involved. In our opinion, the present case does not fall in the said category. The applicant should have approached and may now approach, if advised, the appellate authority as provided under the Act. Accordingly, we dismiss the D.A. No order as to costs. The applicant may approach the appellate authority.

T S/


MEMBER(A)


MEMBER(J)