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OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 23d day of December, 1996

Original Application No. 1656 of 1993

District : Jhansi

CORAM:-

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

Union of India

through the Divisional Railway Manager (P)
Central Railway, Jhansi and Loco
Foreman, Central Railway,
Loco Shed (Steam) Jhansi.

(By Sri G.P. Agarwal, Advocate)

. Applicant

Versus

1. Arvind Saxena S/o Sri K.S. Saxena,
R/o 82/2, Kamta Sadan,
Dewan Ka Bagh, Datia, M.P.

2. Prescribed Authority under
Payment of Wages Act,
Jhansi (D.L.C.)

(By Sri SK Mishra, Advocate)

. Respondents

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ORDER (O r a l)

Hon'ble Mr. S. Das Gupta, A.M.

This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985, challenging the judgement and order dated 8-9-1993 passed by the prescribed Authority under the Payment of Wages Act, awarding a sum of Rs.93,520/- together with Rs,5,000/- as compensation to the respondent no.1.

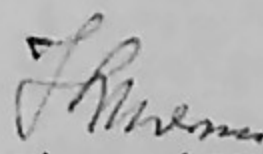
2. The applicant has challenged the award on the ground that the prescribed Authority had no jurisdiction to adjudicate the matter and award wages and compensation. It has further been stated that the application of the respondent no.1 being barred by time should have been rejected. A further plea is that the compensation awarded is excessive and against the provision of the Act.

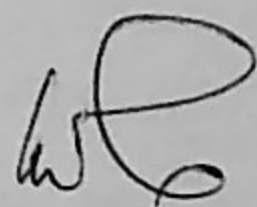
3. From the annexures of the counter affidavit filed by the respondent no.1, it appears that the basis of the claim for the wages filed before the learned Prescribed Authority was an order dated 24.4.1992, which was passed in OA No.472 of 1987 by which a Bench of this Tribunal had quashed the order dated 25-6-1983 removing the applicant from service. It also appears that subsequently the aforesaid order as well as the order passed in the review were challenged by the respondents before the Hon'ble Supreme Court and the Hon'ble Supreme Court quashed both the orders of the Tribunal and remanded the matter to the Tribunal for readjudication on consideration of other pleas raised by the applicant in the aforesaid OA. This order was passed by the Hon'ble Supreme Court on 29-4-1994 which is subsequent

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in point of time to the impugned award passed by the learned prescribed Authority. It would, therefore, appear that the basis of the claim of the respondent no.1 for back wages which was awarded by the learned Prescribed Authority does not subsist on the quashing of the Tribunal's orders by the Hon'ble Supreme Court. Therefore, the order of the learned Prescribed Authority is actually nonest.

4. Be that as it may, this Tribunal does not have any jurisdiction to declare the order of the learned Prescribed Authority as nonest in view of the recent decision given in the case of K.P. Gupta Vs. Controller or printings and Stationery, in which it has been held that the appellate jurisdiction of the District Judge under Section 17 of the Payment of Wages Act is not ousted by any of the provisions in the Administrative Tribunals Act, 1985.
5. Since the applicant has not exhausted the remedy of appeal provided under the Act, we dismiss the application with the observation that nothing in this order shall preclude the applicant from filing an appeal before the appropriate forum.
6. The parties shall, however, bear their own costs.


Member (J)


Member (A)

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