OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated :Allahabad this the 12th day of Dec.1996.

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

ORIGINAL APPLICATION NO. 1546 of 1994

Union of India through General Manager,
C.Rly, V.T.Bombay, D.R.M. C. Rly, Jhansi....applicant.

(Counsel for the applicant Sri G. P. Agarwal)

Versus

1. Shri Ambika Prasad S/o. Sri Kapoor Chandra
R/o. 26, Gares Phatak, Jhansi.

2. Sri Arvind Kumar son of Sri Ganga Prasad
r/o Village Takra P.O.Mawai, Distt.Allahabad.

3. Sri Rama Shanker son of Sri Dharam Pal
r/o. village Takra P.O.Mawai, Distt.Allahabad.

4. Prescribed Authority under the Payment of
Wages Act, 1936 at Jhansi.
.....Respondents

(THROUGH COUNSEL SRI R. C. SINHA)

CONNECTED WITH

Original Application No. 889 of 1993.

Union of India through Sr. D.E.(N)
Central Railway, Jhansi. .....Applicant.

(Through counsel Sri G. P. Agarwal)

Versus

1. Arvind Kumar son of Shri Gaya Prasad,
r/o. village Tikra P.O.Mabai, District Allahabad.

2. Rama Shanker son of Dharam Pal r/o. Tikra, P.O. Mabai, Distt. Allahabad.

3. Sri Ambika Prasad s/o. Kapoor Chand R/o. 32, Jamsher Pura, Jhansi.

4. Prescribed Authority under the Payment of Wages Act, 1936 at Jhansi(Deputy Labour Commissioner).

.....Respondents.

(Through counsel Sri R. C. Sinha)

CONNECTED WITH

ORIGINAL APPLICATION NO. 363 of 1995

Union of India through -

1.General Manager, Central Railway, V. T. Bombay,

2. Divisional Railway Manager, Central Railway, Jhansi.

.....applicants.

(Through counsel Sri G.P.Agarwal)

Versus

1. Ambika Prasad aged about 30 years, son of Sri Kapoor Chand, resident of 36, Gudripura, Garhia Phatak, Jhansi.

2. Arvind Kumar aged about 26 years son of Sri Ganga Prasad r/o. village Tikra, P.O. Mawai, District Allahabad.

3. Rama Shanker aged about 31 years, son of Sri Dharampal, resident of village Tikra, P.O.Mawai, District Allahabad.

4. The Prescribed Authority under the Payment of Wages Act, 1936 at Jhansi(D.L.C.)

....Respondents

(Through counsel Sri R. C. Sinha)

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CONNECTED WITH

ORIGINAL APPLICATION NO. 364 of 1995

1. Union of India through General Manager, Central Railway, V.T.Bombay and

2. through Divisional Railway Manager, C.Railway, Jhanti.

.....Applicants

(Through counsel Sri G. P. Agarwal)

Versus

1. Ambika Prasad aged about 30 years, son of Sri Kapoor Chand, resident of 36, Guoripura, Gebhia Phatak, Jhansi.

2. Arvind Kumar aged about 26 years, son of Shri Ganga Prasad r/o. village Tikra, P.O. Mawai, District Allahabad.

3. Rama Shanker aged about 31 years son of Shri Dharam Pal, resident of village Tikra, P.O.Mawai, District Allahabad.

4. The Prescribed Authority under the Payment of Wages Act, 1936 at Jhansi(D.L.C.)

....Respondents.

(Throughcounsel Sri R. C. Sinha)

A N D

C O N N E C T E D W I T H

ORIGINAL APPLICATION NO. 539 of 1995.

Union of India through the General Manager, C.Railway, V. T. Bombay, D.R.M. C. Rly, Jhansi.

.....Applicants.

(Through counsel Sri G. P. Agarwal)

Versus

1. Ambika Prasad, aged about 30 years son of Shri Kapoor Chand, resident of 36, Gudripura, Gebhia, Phatak, Jhansi.

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2. Arvind Kumar aged about 26 years son of Shri Ganga Prasad, r/o. village Takra, P.O. Mawai, District Allahabad.

3. Rama Shanker, aged about 31 years, son of Shri Dharampal, resident of village Takra, P.O. Mawai, District Allahabad.

4. The Prescribed Authority under the Payment of Wages Act, 1936 at Jhansi.

.....Respondents.

(Through counsel Sri R. C. Sinha)

_O_ _R_ _D_ _E_ _R_ (oral)

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

These are five cases which have been instituted by the Union of India and others challenging the awards given on different dates by the Prescribed Authority under the Payment of Wages Act, 1936. The brief facts of the cases are given below.

O.A.No. 1546/94 (Union of India Vs. Ambika Prasad & ors)

This O.A. is filed challenging the award dated 15.7.1994 passed by the respondent No.4 in P.W.Case No. 37 of 1992 (Ambika Prasad & others Vs. D.R.M. (Central Railway), Jhansi awarding wages of Rs. 16,200/- and compensation of Rs.32,400/- to each of them. Besides this amount, the present applicant was directed to pay an amount of Rs.150/- as cost. It appears that the salary of the Respondent Nos. 1 to 3 was deducted for the period 1.2.1991 to 31.1.1992 and, therefore, the respondent Nos. 1 to 3 had espoused cases before the Prescribed Authority

~~which the Prescribed Authority~~, respondent No.4 found favour with the respondent Nos. 1 to 3 and therefore, the said award was given. Feeling aggrieved, by the said award, this O.A. was preferred with the prayer that the same be quashed. It was listed before the bench on 20.10.1994 when the stay was also granted.

O.A.No. 889/93(UOI Vs. Arvind Kumar & others)

This O.A. is filed challenging the award dated 23.3.1993 passed by the respondent No.4 in P.W.Case Nos. 90, 91 and 92, Arvind Kumar, Rama Shanker and Ambika Prasad Vs. D.R.M. Central Railway Jhansi and another, awarding wages to the tune of Rs. 4236/-, Rs. 4236 and 4236/- and compensation to the tune of Rs. 8473.80, Rs. 8473.80 and Rs.8473.80. Besides this amount, the present applicant was directed to pay an amount of Rs.150/- as cost to each of the claimants. It appears that the salary of the applicants /respondent Nos. 1 to 3 was deducted for the period 6.2.1986 to 20.8.1986 and therefore, the respondent Nos. 1 to 3 had espoused cases before the Prescribed Authority which the Prescribed Authority, respondent No.4 found favour with the respondent Nos. 1 to 3 and therefore, the said award was given. Feeling aggrieved by the said award, this application was preferred with the

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prayer that the same be quashed. It was listed before the bench on ~~31.5.95~~ 22.6.95 & and the stay order was granted.

O.A.363/95 (UOI & ors. Vs. Ambika Prasad & others)

This O.A. is filed challenging the award dated 30.11.1994 & passed by the respondent No.4 in P.W.Case No. 74 of 1989 (Ambika Prasad & ors. Vs. D.R.M.Central Railway, Jhansi), awarding wages to the respondent Nos. 1 to 3 each to the tune of Rs. 17850/- and compensation to the tune of Rs. 35,700.00. Besides this amount, the present applicant was directed to pay an amount of Rs.200/- as costs & to each worker and also against the order dated 26.12.1990 condoning the delay in filing the application by the respondent No.1 to 3. It appears that the salary of the respondent Nos. 1 to 3 was deducted for the months from January,1988 to Feb.1989 amounting Rs.17850/- and therefore, the respondent Nos. 1 to 3 had espoused & cases before the Prescribed Authority which ~~the~~ & Prescribed Authority, respondent No.4 found favour with the respondent Nos. 1 to 3 and therefore, the said award was given. Feeling aggrieved by the said award, this application was preferred with the prayer that the same be quashed. It was listed before the bench on 29.5.1995 and the stay order was granted.

O.A.364/95 (UOI & another vs. Ambika Prasad & ors.)

This O.A. is filed challenging the award

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dated 30.11.1994 passed by the respondent No. 4 in P.W.Case No.8/88 S/S Ambika Prasad and others. Vs. D.R.M.C. Railway, Jhansi wherein ~~he~~ awarded Rs.12,600/- each as wages and compensation 2 times Rs.25,200/- and Rs.150/- costs to each respondent Nos. 1 to 3. It appears that the salary of the respondent Nos. 1 to 3 was not paid from the months of March, 1986 to December 1987 amounting to Rs.23,100. and therefore, the respondent Nos. 1 to 3 had espoused their cases before the Prescribed Authority which ~~the~~ Prescribed Authority, respondent No.4, found favour with the respondent Nos. 1 to 3 and therefore, the said award was given. Feeling aggrieved of the said award, this application was preferred with the prayer that the same be quashed. It was listed before the bench on 29.5.1995 and the stay order was granted.

O.A.No. 539/95 (UOI Vs. Ambika Prasad & others)

This O.A. is filed challenging the award dated 25.3.1995 passed by the respondent No.4 in P.W.Case No. 20 of 1990 (S/Shri Ambika Prasad & others Vs. D.R.M. C.Railway,) awarding Rs.12,150/- as wages , Rs.24,300/- as two times compensation and Rs.150/- as costs of each of the respondent Nos. 1 to 3. It appears that the wages of respondent Nos. 1 to 3 have not been paid since 1.6.1989 to 20.2.90 and therefore the said respondents espoused cases before the Prescribed Authority which ~~the~~ Prescribed

Authority , respondent No.4 found favour with the respondent Nos. 1 to 3, and therefore, the said award was given. Feeling aggrieved of the said award, this application was preferred with the prayer that the same be quashed. It was listed before the Bench on 08.6.1995 and the stay order was passed.

2. The provision of appeal against the award is given in Section 17 of the Payment of Wages Act. Admittedly the applicant in all the cases did not prefer any appeal and therefore, the objection was raised on behalf of the respondents about the jurisdiction of the Tribunal. In the case of K. P. Gupta Vs. Controller of Printing and Stationary, AIR 1996, S.C. page 408, it was held that the powers under Section 17 of the Payment of Wages Act were not taken away by Section 28 of the Administrative Tribunals Act, 1985. The result therefore, is that the applicant ought to have availed the remedy of appeal under Section 17 of the said Act before approaching the Tribunal. Since the applicant has not exhausted all the remedies and law has also been so declared by the Hon'ble Supreme Court, these O.As. donot remain maintainable before this Tribunal. If the applicant is so advised, it may still approach the Appellate Authority under the Act. All the O.A.Nos. 1543/94, 889 of 1993, 363 of 1995, 364 of 1995, and 539 of 1995 are dismissed. No order as to costs. The interim orders which were passed in the O.As. stand vacated.

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3. The copy of this judgement be placed in each and every file connected with it.

Member-A

Member-J

(pandey) 9/1/97