

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

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Allahabad this the 4 day of November 1996.

Original application No. 1282 of 1994.

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

The General Manager, Eastern Railway,  
17 Netaji Subhash Road, Calcutta.

2. The Divisional Railway Manager,  
Eastern Railway, Mughalsarai, Dist.  
Varanasi.

3. The Senior Divisional personnel  
Officer, Eastern Railway, Mughalsarai,  
Dist. Varanasi.

4. The Divisional Accounts Officer,  
Eastern Railway, Mughalsarai, Dist.  
Varanasi.

.... Applicants.

C/A Sri A. Sthalkar

Versus

1. Syed Ali Imam, S/o Late Sri S.A. Raseed,  
Station Master, Eastern Railway, Gaya, C/o  
Divisional Railway Manager, Eastern Railway,  
Mughalsarai, Varanasi.

2. Prescribed Authority, under the payment  
of Wages Act/Assistant Labour Commissioner,  
Varanasi.

..... Respondents.

C/A Sri U.S. Dwivedi  
Sri S.S. Sharma

ORDER (ORAL)

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

This O.A. has been filed challenging the  
award dated 27.10.93. Briefly stated the facts of the  
case are that respondent No. 1 was working as Assistant  
Station Master (Platform) and he was denied the grade  
Cont d...2...

which was given to his juniors who were made Assistant Station Master, (Cabin). It is contended that the pay scale of Assistant Station Master (Cabin) was higher than that of Assistant Station Master (Platform). He therefore approached the Prescribed Authority under the Payment of Wages Act with the prayer that his salary should have been fixed in the grade which was given to his juniors but because the salary has not been fixed nor the payment made <sup>if</sup> ~~but~~ did amount deduction of salary. Hence the amount of Rs. 34223.75 was claimed as salary which was deducted and 10 times of compensation was also prayed. The Prescribed Authority upheld the contention of the applicant as regards the deduction of salary and directed the present applicant to make payment of Rs. 34223.75 as salary <sup>and</sup> ~~an~~ equal amount of Rs. 34223.75 was further directed to be paid as compensation. Besides, the amount of Rs. 100/- was ordered to be paid as expenses of the case. Feeling aggrieved of this order, this O.A. has been filed.

2. The notices were issued to the respondents for which respondent No. 1 filed counter-reply and also moved a application that stay be vacated. The RA has not been filed.

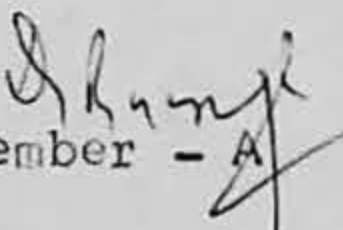
3. Sh. A. Sthalkar appears on behalf of applicant but none is present for the respondents. We have heard Sh. A. Sthalkar and have perused the record.

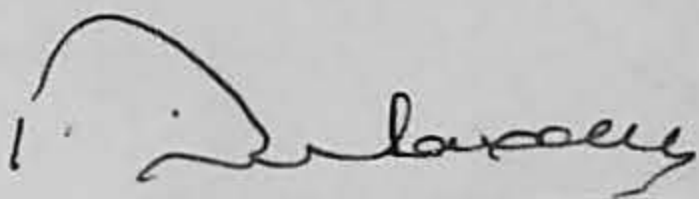
4. The main question in this case is if the applicant can directly approach the Tribunal without filing an appeal under Section 17 of Payment of Wages Act. To file an appeal is to avail the remedy available to the



aggrieved party. It appears that the applicant was under the impression that the right of filing of appeal under Section 17 was taken away by Section 28 of Administrative Tribunals Act, 1985. This apprehension or impression has now <sup>been negated</sup> ~~be negated~~ by their lordships of Supreme Court in the case K.P. Gupta Vs. Controller of Printing and Stationery AIR 1996 SC 608. In view of these facts and the legal position, the applicant should have filed an appeal under Section 17 of the said Act. Because the remedy of appeal has not been availed of, the O.A. does not remain maintainable. In case the applicant ~~is~~ <sup>is</sup> so advised, ~~it~~ <sup>he</sup> may still file appeal before the competent authority.

5. The O.A. is, therefore, dismissed. The stay order which was granted on 1.9.94 stands vacated. The amount which was deposited by the applicant in compliance of stay <sup>order</sup> ~~order~~ may be withdrawn by him.

  
Member - A

  
Member - J

Arvind.