

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

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Allahabad this the 14 day of November 1996.

Original application No. 1654 of 1994.

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

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

..... Applicant.

C/A Sri G.P. Agarwal

Versus

1. Sri Bal Krishna, S/o Sri Kishun Lal,  
R/o House No. 568/Sipri Bazar, Jhansi.
2. Prescribed Authority under Payment of  
Wages Act, 1936, Jhansi.

..... Respondents.

C/R Sri H.P. Chakravarti

ORDER (ORAL)

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

This O.A. has been preferred challenging the award dated 22.7.94 whereby the respondent No. 1 was allowed to be paid an amount of Rs. 45253/- as salary and equal amount as compensation. Besides, an amount of Rs. 150/- was allowed to be paid as legal expenses.

2. The brief facts of the case are that respondent No. 1 was a Gangman which position has been disputed by the applicant. However respondent No. 1 filed P.W. case No. 5 of 89 Bal Krishna Vs. D.R.M., Central Railway, Jhansi claiming

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an amount of Rs. 45253/- as salary which was not paid to him for the period 19.3.86 to 19.3.89. He also claimed compensation for not paying the salary which was due to him. The matter was heard by respondent No. 2 who found truth in the case of respondent No. 1 and therefore the award dated 22.7.94 was given and the present applicant was directed to make payment of the amount which was disclosed earlier. Feeling aggrieved by this award, this O.A. has been preferred.

3. The respondent No. 1 filed counter reply justifying the award and challenging the jurisdiction of the Tribunal. The applicant filed a rejoinder thereto.

4. We have heard Sh. G.P. Agarwal counsel for the applicant and Sh. A.K. Dave counsel for the respondents No. 1 and have perused the record.

5. The main question in the case is whether the O.A. in the present form is maintainable here. It is a admitted fact that the the applicant did not prefer any appeal before the appellate authority though the appeal is provided under Section 17 of Payment of Wages Act. It has been clarified by their Lordships of Supreme Court in K.P. Gupta Vs. Controller of Printing and Stationery AIR 1996 SC 408 that Section 28 of Administrative Tribunals Act 1985 <sup>2</sup> did not take away the power of the appellate authority under Section 17 of payment of Wages Act. It is well settled law that unless all the remedies are exhausted a person feeling aggrieved by any order, cannot approach the Tribunal. In such a situation, this O.A. no more

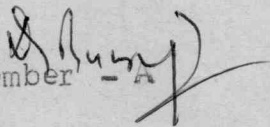
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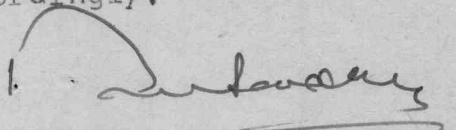




remains maintainable here. The applicant, if so advised, may still prefer an appeal before the appellate authority under Section 17 of Payment of Wages Act.

6. The stay which was granted on 22.11.94 stands vacated. The O.A. is disposed of accordingly.

  
Member - A

  
Member - J

Arvind.