

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 976 of 1994

Allahabad this the 20th day of August 1997

Hon'ble Dr. R.K. Saxena, Member(J)  
Hon'ble Mr. S. Dayal, Member (A)

Field Gun Factory, Kalpi Road, Kanpur through its  
General Manager.

Applicant

By Advocate Sri Ashok Mohiley

Vs.

1. With Additional District Judge, Kanpur.
2. Prescribed Authority under Payment of Wages Act for Kanpur City area, City Magistrate, Kanpur.
3. Shrish Chand Singh Gaur and 41 others through Shri G.M. Tripathi and Shri Rai Som Narain Sinha, Advocates, Legal Practitioners Civil Court, Kanpur.

Respondents.

By Advocate Sri G.M. Tripathi (for no.3)

ORDER ( Oral )

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

1. The present O.A. has been filed by the applicant challenging the judgment dated 29/4/94 whereby the findings recorded by the Prescribed Authority under the Payment of Wages Act, were confirmed.

2. The brief facts of the case are that the respondent no.3 alongwith 41 other persons were working in other units of Ordnance Factories and they came to work under the present applicant with certain terms and conditions. According to the facts as are disclosed in the order of Prescribed Authority as well as in the



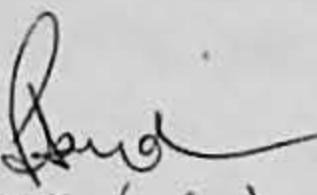
appellate order and that they were working for 51 hours in the earlier units and they were required to work for 60 hours under the applicant. Thus, these persons<sup>8</sup> were entitled to overtime payment but it was not done. It is stated that an amount of Rs. 92,388.90 was illegally deducted by the respondents from the wages of the respondents no.3 and 41 others. Feeling aggrieved, they expounded a case before the Prescribed Authority under the Payment of Wages Act, 1936 and also claimed 10 times compensation amounting Rs.10,16,277.90. The Prescribed Authority had given an award on 17.1.1991 directing the present applicant to make payment of ~~of~~ the salary which was illegally deducted from December, 1977 to October, 1979, and also the compensation. The total amount worked out was Rs.4,08,157-20. The applicant challenged this award by filing an appeal under Section 17 of the Act before the District Judge. It was heard and decided by the VIth Additional District Judge, Kanpur Nagar and confirmed the findings recorded in the award.

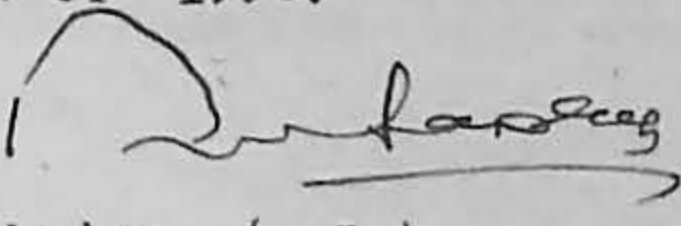
3. The applicant felt aggrieved by this order given in the appeal and therefore, this O.A. is preferred on 04/7/1994. It was listed before the Bench on 07/7/97 when the notices were ordered to be issued and the amount which was deposited with the respondent no.2, was stayed. In other words, the respondent no.3 was restrained from withdrawing the said amount till further orders. ~~He~~<sup>It</sup> It appears that this case remained pending at the stage of admission. However, the respondent no.3 filed the counter-reply, in reply of which, was filed a rejoinder by the applicant. Thus, the pleadings even at the stage of admission are complete.

4. We have heard Sri Ashok Mohiley counsel for the applicant and Sri G.M. Tripathi, counsel for the respondent no.3.

5. The main question which arises for consideration whether this O.A. is maintainable before the Tribunal. In the recent judgment of the Hon'ble Supreme Court in 'L.Chandra Kumar Vs. Union of India and Others 1997(1) S.C.S.L.J. 421' it was held that the powers under Article 227 are exerciseable by the High Court only. The appellate order under Section 17 of the Payment of Wages Act, can be scrutinised only under Article 226/227. Thus, it is clear that this Tribunal has got no jurisdiction and the present O.A. is not maintainable.

6. If the applicant ~~is~~<sup>be</sup> so advised, may still approach the proper forum. The order of restraining the respondent no.3 passed on 07/7/1994, however, stands vacated. The O.A. is disposed of accordingly. There is no necessity to dispose of M.A. 427 of 1996.

  
Member ( A )

  
Member ( J )

/M.M./