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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 724 of 1995
connected with
Original Application No. 840 of 1994

Allahabad this the 10th day of July, 1997

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

O.A. NO. 724 of 1995

Union of India through General Manager, N. Rly., Baroda House, New Delhi, 2. D.R.M. N. Rly, Allahabad, 3. Divisional Personnel Officer, N. Rly, Allahabad.

Applicants

By Advocate Sri G.P. Agrawal

Versus

1. Sri Ram Lal S/o Late Jai Karan through U.T. U.C. 119/75, Darshanpurwa, Kanpur.
2. The Prescribed Authority under the Payment of Wages Act, 1936 at Kanpur.

Respondents

By Advocate Sri Anand Kumar

O.A. No. 840 of 1994

Union of India through Divisional Railway Manager Central Railway, Jhansi.

Applicant

By Advocate Sri G.P. Agrawal

Versus

1. Raghubans Kumar Saxena, S/o Shri S.S. Saxena R/o H.No. 46/2, Gurudwara, Nagra, Jhansi.
2. Prescribed Authority under Payment of Wages Act/ Asstt. Labour Commissioner, Jhansi Range, Jhansi.

Respondents

By Advocate Sri Arvind Kumar

O R D E R (Oral)

By Hon'ble Dr. R.K. Saxena, Judicial Member

These two cases have been instituted by the Union of India challenging the award given

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under Section 15 of Payment of Wages Act. The facts of the two cases are given in brief separately.

2. In O.A. 724/95, it is transpired that one Ram Lal-respondent no.1 had moved to the Prescribed Authority under the Payment of Wages Act-respondent no.2 for directions of payment of an amount of Rs.10079-75 which was illegally deducted from his salary for the period from 23.1.78 to 25.10.84 when he had worked as Senior Clerk but by holding the post of Junior Clerk. He had also claimed the compensation. The Prescribed Authority came to the conclusion that the applicant had worked as Senior Clerk and he was entitled for the salary of the Senior Clerk. The difference of pay and amount of bonus were calculated at Rs.12,492-00. Four time ~~to~~ of this amount was also allowed as compensation. Besides, the amount of Rs.250-00 was awarded as cost of litigation. The said amount was ordered to be paid within 30 days.

3. The facts in the O.A. no. 840/94 are that one Raghubans Kumar Saxena - respondent no.1 had worked as casual labour during the period 03.7.78 to 18.3.81 but his services were terminated on 18.3.81 without showing any cause. The respondent no.1, therefore, instituted a case in the Court of Munsif, Jhansi but on the creation of Tribunal in the year 1985, the said case was transferred to the Tribunal. It appears that the case was decided on 13.7.1989 but no compliance was done, and, therefore, a case before respondent no.2 was instituted under the Payment of

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Wages Act. The respondent no.1 was found entitled for the salary of the said period. The amount which was calculated came to Rs.21,876-20. Two times compensation amounting to Rs.42,752-40 and amount of Rs.50/- as cost of litigation, was allowed.

4. Feeling aggrieved by these two orders, the applicants have preferred these two O.A.s separately but because the common question, if the Tribunal has got jurisdiction, was involved, they are taken up together. It may also be mentioned that the respondent no.1 of both the cases have opposed the O.A.s and have claimed that the Tribunal has got no jurisdiction.

5. We have heard Sri G.P. Agrawal counsel for the applicant in both the cases and Sri Anand Kumar, counsel for the applicant in O.A.no.724/95 and Sri Arvind Kumar counsel for the applicant in O.A. 840/95 and have perused the record.

6. It is now well settled proposition after the decision of the Hon'ble Supreme Court in the case of 'K.P.Gupta Vs. Controller of Printing and Stationery A.I.R. 1996 S.C. 408' that the appellate forum has been created under Section 17 of the Payment of Wages Act and a person who feels aggrieved of the order passed under Section 15 of the said Act, should approach the said appellate forum. It is further observed by their lordships of Supreme Court that Section 28 of Administrative Tribunals Act, 1985 does not take away the jurisdiction of the appellate forum created under

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the Payment of Wages Act. In view of this law laid down in K.P. Gupta's case(supra), we hold that these O.A.s are not maintainable before the Tribunal. They, therefore, stand dismissed.

7. If the applicants are so advised, they may approach the appellate forum even now. The stay order which was passed on 03.8.95 in O.A. 724/95 and the stay order dated 27.5.94 in O.A. 840/94, stand vacated.

MEMBER (A) MEMBER (J)

/M.M./