IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH

Date of Order 7.12.95.

O.A. No. 6/1995.

Union of India ...Applicant

Vs.

Narsi Ram & others ...Respondents.

CORAM: HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN.

HON'BLE MS. USHA SEN, ADMINISTRATIVE MEMBER.

For the applicant - Mr. R.K. Soni, advocate.
For the resposndents- Mr. Shivavtar Singh, Brief holder of Mr. Bharat Singh, counsel for R. 1 to 10 and none for R. 11.

O R D E R (ORAL)

(Hon'ble Mr. Gopal Krishna, Vice Chairman)

Applicant, Union of India, in this Application under Section 19 read with Section 14 of the Administrative Tribunals Act, 1985 (for short the Act) has assailed the impugned order dated 15.9.93 at Annexure A/1 passed by the Payment of Wages Authority, Sri Ganganagar and has sought a declaration that the impugned order is illegal and is without jurisdiction. It has been prayed that the impugned order be quashed and the payment of Wages Authority, Sri Ganganagar, m be restrained from taking any action pursuant to the said order.

2. We have heard the learned counsel for the parties and have gone through the records of the cas carefully.

3. At the very outset it should be noted tha a recent judgment of Hon'ble Supreme Court in the c Kishan Prasad Gupta Vs. Controller, Printing & Stationery reported in JT 1995(7) S.C. 522, at page

it has been held as follows:-

> "38. Our conclusion, therefore, is irresistible that the "Authority", constituted under Section 15 and the Appellate Authority under Section 17 of the Payment of Wages Act, fall within the exception indicated in Section 28 of the Administrative Tribunals Act and this Act, namely, Payment of Wage Act, is positively covered by the connotation "Corresponding Law" used in that Section. Consequently, the jurisdiction of the Authority to entertain and decide claim cases under Section 15 of the Payment of Wages Act is not affected by the establishment of the Administrative Tribunals."

It has been further observed by the Hon'ble Supreme Court that:-

> "42. In this connection, we may, refers again to Section 29 and 29A as under both the Sections, the emphasis is on "cause of action". Under Section 29, an appeal shall stand transferred to, and under Section 29A, an appeal can be filed before, the Tribunal if the cause of action on which "suit or proceedings" were initiated would have been cognisable by the Tribunal. Since on the original cause of action, a claim under Section 15 of the Payment of Wages Act could not have been made to the Tribunal, the appeal would not stand transferred to nor can appeal contemplated under Section 17 of the Payment of Wages Act be filed before it. The Appellate Authority is part of the Justice Delivery System constituted under Section 17 of the Payment of Wages Act. Its jurisdiction will not be affected by the establishment of Administrative Tribunals particularly as appeal has always been treated to be a continuation of the original

proceedings. Consequently, the two tier judicial system, original as well as appellate, constituted under the "Corresponding Law", Like the Payment of Wages Act, are not affected by the constitution of the Tribunals and the system shall continue to function as before, with the result that if any case is decided under Section 15 of the Payment of Wages Act, it will not be obligatory to file an appeal before the Tribunal as required by Section 29A of the Act but the appeal shall lie under Section 17 of the Payment of Wages Act before the District Judge. The pending appeals shall also, therefore, not stand transferred to the Tribunal under Section 29 of the Act. If it were a mere matter under general or common law and an appeal arising from a suit in a service matter decided by the Trial Court and pending in the Court of the District Judge under Section 96 C.P.C. would have been the subject of controversy whether it would be transferred to the Tribunal or not, our answer would have been an instant "yes" but the matter involved before us is different as it relates to the exercise of special jurisdiction by the District Judge under Payment of Wages Act,which is protected jurisdiction."

4. In a Petition for Special Leave to Appeal (Civil No. 20141/95) from the judgment and order dated 15.4.94 of this Bench of the Tribunal in OA No. 345/92 -Divl. Personnel Officer **Vs. Central Indl. Tribunal, Jaipur & ors,** the Hon'ble Supreme Court on 6.11.95 made the following order:-

"This Court in Krishna Prasad Gupta **Vs Controller,Printing & Stationery** J.T.1995 (7) SC 522 has held that the Central Administrative Tribunal has no jurisdiction

to entertain an application under Section 19 of the Administrative Tribunals Act against the award/order of the Labour Courts. In this case the award of the industrial tribunal is in favour of the respondent -workman. The award has been upheld by the Tribunal. Although, the tribunal had no jurisdiction to entertain the application against the award of the industrial tribunal since the same has been upheld, we are not inclined to interfere. The SLP is dismissed."

5. In view of the decisions referred to above, we hold that this Tribunal has no jurisdiction to entertain this Application under Section 19 of the Act.

6. In the result this Application is rejected. We direct that the Application/papers shall be returned to the applicant for seeking remedy before an appropriate legal forum.

(USHA SEN)
ADMINISTRATIVE MEMBER

(GOPAL KRISHNA)
VICE CHAIRMAN

"MS"