

PETITIONER:
UNION OF INDIA

Vs.

RESPONDENT:
SHRI PUNNILAL & ORS.

DATE OF JUDGMENT: 11/10/1996

BENCH:
K. RAMASWAMY, G.B. PATTANAIK

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Delay condoned.

Leave granted.

We have heard learned counsel on both sides.

This appeal by special leave arises from the order of the Central Administrative Tribunal, Allahabad made on March 2, 1995 in O.A. No.617 of 1990.

The admitted position is that while the respondent was working as a Shunter in 1980 he had filed a civil suit bearing No.329/83 in the court of Additional District Munsif, Allahabad for declaration that the defendants, their agents and servants be directed to consider his promotion to the category of Driver 'C' in the pay-scale of Rs. 330-560 from December 10, 1980 when his immediate juniors were promoted to that category of employees. The decree came to be passed by the trial Court on March 24, 1984. On appeal, the Additional District Judge Allahabad confirmed it on July 18, 1985. In compliance thereof, the respondent was promoted as Driver 'C' on June 10, 1986. Thereafter, the respondent filed the application under Section 15 of the Payment of Wages Act on July 8, 1986. The prescribed Authority directed by order dated December 7, 1988 payment of back-wages in a sum of Rs.30,220/- The Union of India filed an appeal before the Additional District judge which was dismissed. Thereafter, the O.A. was filed in Central Administrative Tribunal which has been dismissed by the impugned order when the matter had come up for hearing notice was directed subject to the appellant's depositing a sum of Rs.5,000/- towards the legal expenses incurred by the respondent Pursuant thereto the amount came to be deposited.

It is contended by Mr Dhruv Mehta learned counsel for the respondent, that since the prescribed Authority and the appellate Authority under the Payment of Wages act are not the authorities subordinate to the Administration Tribunal, the O.A. is not maintainable. We find force in the contention. But, nonetheless, the material question that arises for consideration is whether the authority under the Payment of Wages Act has the jurisdiction under Section 15 of the Act to compute back wages on promotion of the respondent as Driver 'C'. Admittedly, when the respondent

had the relief in the suit by way of declaration for promotion and the declaration having been given and become final there in the respondent had not sought any relief for payment of back-wages. Consequently, by operation of Order 2 Rule 2 of the Code of Civil Procedure the respondent is debarred to claim the relief of back-wages. The authority under the Payment of Wages Act, therefore, has no inherent jurisdiction in the matter to entertain the claim for payment of back-wages and for grant of the order.

The appeal is accordingly allowed. The order of the authority under the Payment of Wages Act stands set aside. No costs.

JUDIS