

(1987) 02 AHC CK 0025
In the Allahabad High Court

General Manager, N.E. Rly. and Others

APPELLANT

Vs

Shri Pat and Others

RESPONDENT

Date of Decision : 02-02-1987

Acts Referred:

Administrative Tribunals Act, 1985 — Section 14, 2, 28, 29, 3
Civil Procedure Code, 1908 (CPC) — Section 151, 18, 5
Constitution of India, 1950 — Article 136, 226, 323A
Contempt of Courts Act, 1971 — Section 2
Criminal Procedure Code, 1973 (CrPC) — Section 115, 195
Government of India Act, 1935 — Section 241
Industrial Disputes Act, 1947 — Section 33C
Payment of Wages Act, 1936 — Section 1, 10, 11, 12, 12A
Penal Code, 1860 (IPC) — Section 17, 193, 219, 228
Administrative Tribunals Act, 1985 — Section 14, 2, 28, 29, 3
Civil Procedure Code, 1908 (CPC) — Section 151, 18, 5
Constitution of India, 1950 — Article 136, 226, 323A
Contempt of Courts Act, 1971 — Section 2
Administrative Tribunals Act, 1985 — Section 14, 2, 28, 29, 3
Criminal Procedure Code, 1973 (CrPC) — Section 115, 195
Civil Procedure Code, 1908 (CPC) — Section 151, 18, 5
Government of India Act, 1935 — Section 241
Constitution of India, 1950 — Article 136, 226, 323A
Industrial Disputes Act, 1947 — Section 33C
Contempt of Courts Act, 1971 — Section 2
Payment of Wages Act, 1936 — Section 1, 10, 11, 12, 12A
Criminal Procedure Code, 1973 (CrPC) — Section 115, 195
Penal Code, 1860 (IPC) — Section 17, 193, 219, 228
Government of India Act, 1935 — Section 241
Industrial Disputes Act, 1947 — Section 33C
Payment of Wages Act, 1936 — Section 1, 10, 11, 12, 12A
Penal Code, 1860 (IPC) — Section 17, 193, 219, 228

Citation : (1987) 2 LLJ 377

Hon'ble Judges : R.S. Davan, J;B.D. Agarwal, J

Bench : Division Bench

Judgement

B.D. Agarwal, J.—Common question which these petitions under Article 226 of the Constitution give rise is whether subsequent to the enforcement of the

Administrative Tribunals Act, 1985, the jurisdiction of the Prescribed Authority, constituted under the Payment of Wages Act, 1936, in respect of the remuneration relating to persons employed in connection with the affairs of the Union of India, stands ousted. Respondent No. 1 in Writ Petition No. 13344 of 1986 brought Original Suit No. 13 of 1982 in the civil court disputing the retrenchment directed against him with effect from August 19, 1981, and seeking declaration to the effect that he continued in service. The suit was contested by the petitioners, who pleaded, inter alia, that the respondent had not put in 240 days' continuous service and the retrenchment could not be invalid. The trial court decreed the suit on May 5, 1983. The appeal filed by the petitioners in the District Court was dismissed on May 1, 1985. Second appeal remains pending in this Court. Meanwhile Respondent No. 1 made an application u/s 15 of the Payment of Wages Act to the Prescribed Authority claiming wages for the period of August 19, 1981, to November 30, 1985, and in addition compensation at the rate of ten times of the wages unpaid. The petitioners raised a plea before the Prescribed Authority to the effect that, in view of Section 28 of the Administrative Tribunals Act, 1985 the application may not be maintainable. This has been turned down by the Prescribed Authority in the impugned order made on June 5, 1986. It is not necessary to refer to the facts giving rise to the other writ petitions which are parallel in nature, some of them arising from applications u/s 15 of Payment of Wages Act made before November 1, 1985 (when the Administrative Tribunals Act came into force) and some made subsequent thereto. Aggrieved against the orders made by the Prescribed Authority declining to uphold the preliminary objection raised from the petitioners' side, they approached this Court seeking writ of certiorari to quash the proceedings pending before the Prescribed Authority and also mandamus for direction to the Prescribed Authority to transfer such pending matters to the Administrative Tribunal for adjudication.

2. We have heard Sri Lalji Sinha, learned Counsel appearing for the petitioners, and Sarvasri K.P. Agarwal, Shyam Narain, and V.K. Goel, appearing for the respondents.

3. The provisions of the Administrative Tribunals Act, 1985, so far as they relate to the Central Administrative Tribunals, have come into force on November 1, 1985. The Act has, for its object, to provide, inter alia, for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union in pursuance of Article 323A of the Constitution. Article 323A was brought in the Constitution by the Constitution (Forty Second) Amendment Act. From the Statement of Objects and Reasons accompanying the Bill of that Act, it would appear that the proposal was to reduce the mounting arrears in High Courts and to secure speedy disposal of service matters. The Bill which resulted into the Administrative Tribunals Act, 1985 provides, as appearing from Statement of Objects and Reasons, for:

- (a) the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each Tribunal;
- (b) the procedure (including provision as to limitation and rules of evidence) to be followed by the State Tribunals;
- (c) exclusion of the jurisdiction of all courts, except that of the Supreme Court, under Article 136 of the Constitution relating to service matters;
- (d) the transfer to each Administrative Tribunal of any suit or other proceedings pending before any court or other authority immediately before the establishment of such Tribunal as would have been within the jurisdiction of such Tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment.

4. Section 2(b) of the Administrative Tribunals Act, 1985, provides that this Act shall not apply to "any person governed by the Industrial Disputes Act, 1947, in regard to such matters in respect of which he is so governed." This clause has been deleted by the Administrative Tribunals (Amendment) Act, 1986. The reasons appear to be that the right conferred on a workman by the Industrial Disputes Act can be enforced only through the machinery provided by that Act and only on a reference made by the appropriate Government to the Industrial Tribunal or Labour Court, as the case may be. The rights and obligations under the Industrial Disputes Act could not be enforced by the Tribunal created under this Act even if any specific provision had been made as contained in this clause. Section 14 deals with jurisdiction, powers and authority of the Central Administrative Tribunal. In terms of Clause (c) of Sub-section (1) of Section 14, from the appointed day the Tribunal shall exercise all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court) in relation to all service matters pertaining to service in connection with the affairs of the Union. The expression "service matters" is defined in Section 3(1) as meaning all matters relating to the conditions of service in connection with the affairs of the Union, as respects remuneration (including allowances) pension and other retirement, benefits. Section 28 deals with exclusion of jurisdiction of courts except the Supreme Court under Article 136 of the Constitution. It is material for our purposes and is reproduced Under:

On and from the date from which any jurisdiction, powers and authority becomes exercisable under this Act by a Tribunal in relation to recruitment and matters concerning recruitment to any service or post or service matters concerning members of any service or persons appointed to any service or post, no court except-

- (a) the Supreme Court; or
- (b) any Industrial Tribunal, Labour Court or other authority constituted under the Industrial Disputes Act, 1947 or any other corresponding law for the time being in force, shall have or be entitled to exercise any jurisdiction, powers or authority

in relation to such recruitment or matters concerning such recruitment or such service matters.

5. Section 29 providing for transfer of pending cases lays down, inter alia, that every suit or other proceeding pending before any court or other authority immediately before the date of establishment of a Tribunal being a suit or proceeding the cause of action whereon it is based is such that it would have been, if it had arisen after such establishment, within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal. An appeal pending before the High Court is excluded from the purview of this provision for transfer.

6. Let us now have a glance to some of the salient features of the Payment of Wages Act, 1936 so far as relevant to the controversy before us. The object of this Act is to ensure payment of wages in particular form and at regular intervals without unauthorised deductions. It is not competent to the Authority under the Act to decide upon the validity of termination of service of the employees nor has the Authority right to decide about the amount claimed as retrenchment relief or benefit. The Authority is envisaged to adjudicate whether any earned wages are due to the employee. The Act applies to the payment of wages to persons employed in any factory and to persons employed upon any Railway by a Railway Administration. The State Government is empowered to extend the provisions of the Act to payment of wages to any class of persons employed in any industrial establishment, vide Section 1(4) and (5). The term "Wages" is defined in Section 2(vi). u/s 3, there is the general responsibility cast upon every employer for payment to persons by him of all wages required to be paid under this Act. Time Schedule for payment of wages is laid in Section 5. Section 7 enumerates the deductions which may be made from wages. The scope for imposition of fine on any employed person is specified in Section 8. Deductions for reason of absence from duty, for damages or loss for services rendered, for recovery of advances and loans are to be found specified in Sections 9, 10, 11, 12, and 12A respectively. Section 15 deals with constitution, jurisdiction, powers and authority of the Prescribed Authority. Provision for appeal is contained in Section 17 and 22 makes provision for the bar of suits.

7. Sri Lalji Sinha, learned Counsel for the petitioners, urged that the Prescribed Authority created under the Payment of Wages Act be construed to be a Court within the meaning of the expression used in the Administrative Tribunals Act, 1985. In this connection there is reference invited to Section 15(3) of the Payment of Wages Act in particular. The submission made is that there is a lis before the Prescribed Authority arising upon an application made by an employee complaining wrongful deduction or delay in the payment of wages. The Prescribed Authority is enjoined to accord opportunity to the parties of being heard and to make enquiry. In the course of enquiry the Authority may record such evidence as is relevant on both sides. The hearing is followed by an order wherein the Authority may direct refund to the employee of the amount deducted or the payment of the delayed wages together with compensation. An appeal lies

against the order of the Prescribed Authority before the District Court. Subject to the decision of such appeal, the order made by the Prescribed Authority is final. It is argued that keeping in view these provisions, the jurisdiction of the Prescribed Authority should be taken as excluded within the meaning of Section 28, reproduced above, with effect from November 1, 1985 when the Administrative Tribunal was set up.

8. For the respondents it has been submitted, on the contrary, that the Prescribed Authority is a forum competent to deal with specified matters only. It is not a civil court in the regular hierarchy and we do not find in the Administrative Tribunals Act certain provisions corresponding or parallel to those contained in the Payment of Wages Act. The exclusion under the Administrative Tribunal Act is, in respect of jurisdiction, powers or authority of regular civil courts alone, placed in hierarchy not of such special forums as constituted under the Payment of Wages Act.

9. It is not in dispute before us on either side that the Payment of Wages Act is not a corresponding law within the meaning of Section 28(b) of the Administrative Tribunals Act, 1985. The Industrial Disputes Act has for its object the settlement of industrial disputes through the medium of conciliation, arbitration or adjudication by Labour Court/Industrial Tribunal. The award given by the adjudicating machinery thereunder has a distinct sanctity; the settlement envisaged is new pattern not adopted in the ordinary judicial set up. The reference by use of the expression "corresponding" in Section 28(b) is evidently to the State enactments such as the U.P. Industrial Disputes Act, 1947 which substantially proceed along the same lines as the Central Act.

10. The crucial question is whether the Prescribed Authority created under the Payment of Wages Act is a "court" within the meaning of Section 28 of the Administrative Tribunals Act. u/s 14 the jurisdiction, powers and authority conferred on the Central Administrative Tribunal is that as was exercisable immediately before the relevant date "by all courts" (except the Supreme Court) in relation inter alia to all service matters pertaining to service in connection with the affairs of the Union. Correspondingly the exclusion provided u/s 28 is of the jurisdiction of "courts except the Supreme Court". To put this in other words, the Tribunal acquires the jurisdiction, power or authority if the service matter could otherwise lie in court (other than Supreme Court) and with effect from November 1, 1985 the corresponding jurisdiction ousted is of courts, except, of course, the Supreme Court. In case the Prescribed Authority is not a court, the jurisdiction in respect of matters cognizable by it is not conferred upon the Administrative Tribunal u/s 14 nor its jurisdiction excluded u/s 28. For the purpose of invoking Section 29 also the proceeding must be such in respect whereof there is jurisdiction conferred on Tribunal and correspondingly exclusion of jurisdiction u/s 28. The provisions contained in Sections 14, 28 and 29 are interlinked and must be read together. It is only if the cause of action upon which the claim pending before the Prescribed Authority is based is such that the Tribunal could

take cognizance thereof u/s 14 that the jurisdiction, power and authority of the Prescribed Authority shall, in view of Section 28, stand excluded and in that event such a pending case shall, according to Section 29, stand transferred to the Administrative Tribunal. The Payment of Wages Act being not a law corresponding to the Industrial Disputes Act, as discussed above, the exception contained in Clause(b) of Section 28 may not apply, but still the provisions of Section 28 itself would not be attracted to exclude the jurisdiction, authority or powers of the Prescribed Authority, unless we reach the finding that the Prescribed Authority is a court contemplated under Sections 14, 28 or 29. The basic idea behind these provisions would appear to be to create jurisdiction, power or authority in the Tribunal in respect of certain matters such as lay in the ordinary course before the civil court in the regular hierarchy giving rise thereafter to revisions or writ petitions before the High Court. The creation of new jurisdiction in this manner may serve to some extent to reduce the burden which lies otherwise in these matters upon such regularly constituted courts and the High Court. The trappings such as may appear from Section 15(3) relied upon by Sri Sinha should not by themselves lead us to conclude that the Prescribed Authority is a court as understood, though not defined, in the Administrative Tribunal Act.

11. The authorities are clear to show that there are tribunals with many of the trappings of a court which none-the-less are not Courts in the strict sense of exercising judicial power. In *Shell Co. of Australia Ltd. v. Federal Commissioner of Taxation* 1931 A.C. 275, Lord Sankey referred to certain attribution of Courts which he characterised as trappings indicating that the presence thereof would not make the Board a Court and would not lead to the inference that the judicial power exercised by tribunals was judicial power which Courts alone can exercise. It was pointed out in the above case that a tribunal is not necessarily a Court in the strict sense because it gives a final decision not because it hears witnesses on oath, nor because two or more contending parties appear before it between whom it has to decide, nor because it gives decisions which affect rights of subject, nor because it is a body to which a matter is referred by another body.

12. Kania C.J., In *Bharat Bank Ltd v. Employees* 1950 LLJ 921 observed in reference to Industrial Tribunal constituted under the Industrial Disputes Act, 1947 at p. 922:

The Tribunal is discharging functions very near those of a Court, although it is not a Court in the technical sense of the word.

Mahajan J. also speaking in support of the majority view in that case held at p. 929 of 1950 LLJ 921 that "industrial tribunals though they are not full fledged courts yet exercise quasi-judicial functions and are within the ambit of the word "Tribunal" in Article 136 of the Constitution." The majority view was adopted in *Durga Shankar Mehta Vs. Thakur Raghuraj Singh and Others*, , where Mukherjea, J. observes that that decision settles that "the expression Tribunal as used in Article 136 does not mean the same thing as "Court" but includes within

its ambit, all adjudicating bodies, provided they are constituted by the State and are invested with judicial as distinguished from purely administrative or executive functions."

13. To constitute a court in the strict sense of the term, an essential condition, according to Bhagwati J. in *Brajnandan Sinha Vs. Jyoti Narain*, , is that "the Court should have apart from having some of the trappings of a judicial tribunal, power to give a decision or a definitive judgment which has finality and authoritativeness which are essential tests of a judicial pronouncement." In *Shri Virindar Kumar Satyawadi Vs. The State of Punjab*, , Venkatarama Ayyar J. speaking for the Supreme Court observed-

What distinguishes a court from a quasi-judicial tribunal is that it is charged with a duty to decide disputes in a judicial manner and declare the rights of parties in a definitive judgment. To decide in a judicial manner involves that the parties are entitled as matter of right to be heard in support of their claim and to adduce evidence in support of it.

And it also imports an obligation on the part of the authority to decide the matter on a consideration of the evidence adduced and in accordance with law. When a question therefore arises as to whether an authority created by an Act is a court as distinguished from a quasi-judicial tribunal, what has to be decided is whether, having regard to the provisions of the Act, it possesses all the attributes of a court.

14. The presence of the trapping many ordinarily make the authority which is under a duty to act judicially, a "tribunal" but not a "court" vide *The Engineering Mazdoor Sabha Representing Workmen Employed Under the Hind Cycles Ltd. and Another Vs. The Hind Cycles Ltd., Bombay*, , *Jaswant Sugar Mills Ltd.* 1965 10 F.L.R. 53 In *Associated Cement Companies Ltd. Vs. P.N. Sharma and Another*, , *Gajendragadkar C.J.* at P. 447 of 1965 I LLJ 433 laid down-

...the consideration about the presence of all or some of the trappings of a Court is really not decisive.... The main and basic test, however, is whether the adjudicating power which a particular authority is empowered to exercise, has been conferred on it by a statute and can be described as a part of the State's inherent power exercised in discharging its judicial function.

15. The distinguishing features which were noticed in connection with the functioning of Registrar u/s 48 of the Bihar & Orissa Co-operative Societies Act, 1935, in *Thakur Jugal Kishore Sinha Vs. Sitamarhi Central Co-operative Bank Ltd. and Another*, were-

The Registrar has not merely the trappings of a Court but in many respects he is given the same powers as are given to ordinary Civil Courts of the land by the CPC including the power to summon and examine witnesses on oath, the power to order inspection of documents, to hear the parties after framing issues, to review his own order and even exercise the inherent jurisdiction of Courts

mentioned in Section 151 of the Code of Civil Procedure. In such a case there is no difficulty in holding that in adjudicating upon a dispute referred u/s 48 of the Act, the Registrar is to all intents and purposes, a Court discharging the same functions and duties in the same manner as a Court of law is expected to do.

16. The expression "judicial power of the State" has to be understood in contradistinction to executive power. In *Thakur Das (Dead) by Lrs. Vs. State of Madhya Pradesh and Another*, , the Supreme Court endorsed the view of the *Andhra Pradesh H.C.* in 1975 Cr. L.J. 144 (Full Bench) namely that-

When a judicial authority, like an officer who presides over a Court is appointed to perform the functions, to judge and decide in accordance with law, and as nothing has been mentioned about the finality or otherwise of the decisions made by that authority, it is an indication that the authority is to act as a Court in which case it is not necessary to mention whether they are final or not as all the incidents of exercising jurisdiction as a court would necessarily follow.

17. Article 136(1) of the Constitution refers to a tribunal as distinguished from a Court. The intention of the Constitution by the use of the word "tribunal" in Article 136 seems to have been to include within its scope tribunals adorned with similar trappings as Court but strictly not coming within that definition. Elucidating the expression "Court" in this context, it was held in *Associated Cement Companies Ltd.* (supra) at p. 438:

The expression "court" in the context denotes a tribunal constituted by the State as a part of the ordinary hierarchy of Courts which are invested with the State's inherent judicial powers. A sovereign State discharges legislative, executive and judicial functions and can legitimately claim corresponding powers which are described as legislative, executive and judicial powers. Under our Constitution, the judicial functions and powers of the State are primarily conferred on the ordinary Courts which have been constituted under its relevant provisions. The Constitution recognised a hierarchy of Courts and to their adjudication are normally entrusted all disputes between citizen and citizen as well as between the citizens and the State. These Courts can be described as ordinary Courts of Civil judicature. They are governed by their prescribed rules of procedure and they deal with questions of fact and law raised before them by adopting a process which is described as judicial process. The powers which these Courts exercise are judicial powers, the functions they discharge are judicial functions and the decisions they reach and pronounce are judicial decisions.

18. The Authority created u/s 15(1) of the Payment of Wages Act has for its object to ensure payment of wages in particular form and at regular intervals without any unauthorised deductions. Special matters and disputes are entrusted to the Authority for adjudication. It is not within the competence of the Authority under the Act to decide upon validity of termination of service of the employee nor does the Authority have the right to decide about the amount claimed as retrenchment relief or benefit. The Authority has right to adjudicate whether any

earned wages are due to employee. An officer with experience as a Judge of a Civil Court or as stipendiary Magistrate may constitute the Authority; the appointment, it may be noted, is not by designation; it is not that a Civil Judge as such is appointed the Prescribed Authority but an officer who has had this experience may be so appointed. Commissioner for Workmen's Compensation is also eligible to be appointed a Prescribed Authority; Section 20 of the Workmen's Compensation Act, 1924 shows that the Commissioner appointed thereunder may be any person not necessarily a person qualified or experienced in law. Under Sub-section (3) of Section 15 the Prescribed Authority is enjoined also to direct payment of compensation as it thinks fit not exceeding ten times the amount of wages deducted and not exceeding Rs. 25/- in case of delay in payment of wages but no such power would be exercisable by the Administrative Tribunal in adjudicating upon the remuneration payable to the employee as part of the service matters. Section 15(4B) of the Payment of Wages Act lays down that any inquiry u/s 15 shall be deemed to be judicial proceeding within the meaning of Sections 193, 219 and 228 Penal Code implying thereby that but for the deeming clause, it is not a judicial proceeding. In Section 17(2) we find a special provision made to the effect that subject to the result of appeal under Sub-section (1), the order of the Prescribed Authority dismissing or granting the application in whole or in part shall be final. This finality has had, thus to be statutorily conferred and not left over to inhere as in the case of a court strictly speaking as such. In view of Section 18 the procedure laid down in the CPC has been extended to the Prescribed Authority in respect only of specified purposes i.e. taking evidence, enforcing the attendance of witnesses and compelling the production of documents. The Code in its general terms or provisions is inapplicable nor does the Authority enjoy the power of review much less the inherent powers of the civil court u/s 151 of the Code. Again it is by virtue of deeming clause that the Authority is treated a civil court for purposes of Section 195 and Chapter 35 of Code of Criminal Procedure. If the Authority was a civil court there would be no need to create so many fictions. There would be no need to give it powers under the CPC for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents. The Authority has its own mode of recovery of the amount directed to be paid distinct from execution of an ordinary decree of a civil court the mode applied being of recovery of fine imposed by a Magistrate (vide Section 15(5)). Section 22 creates bar against any Court entertaining any suit for the recovery of wages or of any deduction from wages, which clearly is incongruous with the assertion that the Authority itself is a court.

19. The question arose in *H. C. D. Mathur, Secy. of the National Federation of Railway Vs. E.I. Rly. Administration*, , whether the Authority invested with jurisdiction under the Payment of Wages Act is a "Court" within the meaning of Section 115 CPC which permits the High Court to entertain an application in revision from the decision of any Court subordinate to the High Court. The Full Bench answered the point in negative. It was held that the Authority under the

Payment of Wages Act was undoubtedly an authority having power to decide disputed questions, but. it was not a court so as to be called a Civil Court subordinate to the High Court. The reasons it gave in support of this view appear as follows in paras 15 to 18 of the report-

Thereafter the person appointed is throughout referred to in the Act as the authority (and not as the "Court") vide in particular. Sections 19 and 21. But the conclusive test is provided by Section 22 which excludes the jurisdiction of "Courts (in respect of matters entrusted to the jurisdiction of the authority) u/s 15. If the Legislature intended to constitute that authority into a "Court" those words would lead to an impasse and the jurisdiction of the authority would also be excluded, which would make the whole Act absurd. In such a state of affairs, we would at least expect to find some such saving words as "except as otherwise provided by this Act" in Section 22 but such words are not to be found. Clearly, therefore, the Legislature intended that the authority constituted u/s 15 Payment of Wages Act should not be a Court.

The only provision of the Act upon which reliance could be placed for the proposition that the authority constituted u/s 15 of the Act is a Court is that Section 18 of the Act directs that it should have certain powers of civil Courts and that it should be treated as a Civil Court for the purpose of Section 195 and Chap. XXXV, Criminal P.C. Neither of these considerations, even when taken together, would lead to the inference that the authority is a Civil Court.

It is significant to note that all the powers of Civil Courts are not conferred on the authority nor is its procedure to be governed by the execution, the procedure is to be that of criminal Courts. Further, the mere fact that Legislature, instead of re-enacting the relevant provisions of the Code, simply incorporated them in the new law by reference could not mean that it was intended to constitute the authority into a Court. The CPC regulates the procedure not only of Civil Courts but of other authorities as well. Section 5, Civil P.C. contemplates that it might be made applicable to revenue Courts also and it has in fact been made so applicable, with certain modifications by the U.P. Tenancy Act, but for this reason the Courts constituted under that Act do not become civil courts.

With regard to Section 195 and Chap. XXXV, Criminal P.C. they deal with offences against Courts, and civil, revenue and criminal Courts are specifically mentioned. In order to give the authority constituted u/s 15, Payment of Wages Act, the privileges conferred upon Courts by these provisions of the Criminal P.C. it had to be included in one of the three categories and the most natural category in which to include it is that of Civil Courts but that does not make it a Civil Court.

20. This was followed by a Division Bench in *District Co-operative Federation Ltd. v. Rafiq and Ors.* 1971 Lab. I.C. 1348 (All.), *Satish Chandra J.* (as he then was) drawing a parallel between Section 22 of the Payment of Wages Act and Section 70 of the Co-operative Societies Act which are in *pari materia* observed that Section 70 also refers to the regular courts of law, and not to other special

authorities or tribunals constituted by various enactments for adjudicating rights or settling disputes or differences. We are in respectful agreement with this view.

21. A Full Bench in *Gh. Rasool v. Gh. Mohd. Wani* 1980 Lab. I C. 835 was of same view and said that the Authority under the Payment of Wages Act was not a Court and not amenable to a revisional jurisdiction of the High Court. The application of the CPC for limited purposes was indicative of the fact that the Authority was not clothed with the powers of a civil court amenable to the High Court's revisional jurisdiction. The same view is expressed in *District Transport Manager, State Transport Vs. Satrughana Guru and Another*, ; a contrary view has been taken in *Registrar, High Court, A.S., Bombay Vs. S.K. Irani and Another*, . The Lahore case is referred to in *H.C.D. Mathur*, (supra) by the Full Bench of this Court and expressly dissented (pages 83-84) with the observation that the bone of reasoning by which the conclusions arrived at is not clear and the eventual result is in contradiction to the findings given in an earlier part of the judgment and also that this did not find support from *Mt. Dirji Vs. Smt. Goalin*, sought to be relied upon.

22. In *Kundan Lal Vs. Union of India (UOI) and Another*, an employee of the Central Railway was proceeded against departmentally under the Railway Establishment Code framed u/s 241 of the Government of India Act, 1935. Penalty was imposed upon him and it was directed that the amount be recovered from his salary. The employee made application u/s 15 of the Payment of Wages Act. The argument advanced was that the employee could approach the Authority to set at naught the instructions contained in the Railway Establishment Code. This was negatived holding that it was a mistake to construe the Payment of Wages Act as a compendium of conditions of service of a certain class of employees. *Srivastava J.* speaking for Division Bench observed at p. 683:

The weakest link in this chain of argument appears to be the assumption that the Payment of Wages Act is an Act meant to regulate the conditions of service of persons serving the Union of India in a civil capacity. The rules in the Railway Establishment Code are undoubtedly rules regulating the conditions of service of railway employees. It is, however, difficult to accept the contention that the Payment of Wages Act was meant to regulate the conditions of service of this class of employees or of any of the other persons serving the State in a civil capacity.

The Payment of Wages Act appears to be of a much general application. It has certainly been made applicable to persons employed by the Indian Railways but applies equally to a larger number of other persons employed in industries which have no concern with the State at all. The Act does not deal with the conditions of service of any class of employees. It contains no provisions about the terms on which the employees can be engaged. It does not deal with the conditions on which they are expected to serve or with the manner in which their services can be terminated.

Its purpose appears to be a limited one viz. to regulate the payment of wages to the persons governed by the Act and to ensure that their wages were paid to them in full and with regularity. It is, therefore, nor possible to accept the suggestion that it was intended to override all the statutory rules and regulations framed by the State for the trial and punishment of that class of civil employees to whom the Act has been made applicable.

23. The question for consideration in *Nityananda, M. Joshi and Others Vs. Life Insurance Corporation of India and Others*, was whether the period of limitation for filing application as laid down by Article 137 of the Limitation Act 1963 would apply to application u/s 33C of the Industrial Disputes Act. The Supreme Court took the view that when such an application is filed before the labour court, it would not be governed by the period of limitation as prescribed by the Limitation Act as the labour court was not a court within the Limitation Act, 1963. A lull Bench of the Gujarat H.C. has recently in *Shaikh M Hussainbhai v. Manager, Chandrabhanu Cinema etc.* AIR 1986 Gu 209 expressed the view that Labour Court and industrial Tribunal are courts subordinate to the High Court within the meaning of Section 2(10) of the Contempt of Courts Act, 1971. In so far as the case before us is concerned, the special features of the Payment of Wages Act, as analysed above, leave no room to doubt, considered in the light of the accepted tests, that the Prescribed Authority is not court placed in the hierarchy of civil courts or amenable to the High Court's revisional jurisdiction.

24. Considered in the light of the discussion made above, we are clearly of opinion that the jurisdiction of the Prescribed Authority under the Payment of Wages Act is not ousted by the provisions made in the Administrative Tribunals Act, 1985, as amended. The petitioners are not right therefore in contending that the applications made from the other side u/s 15 of the 1936 Act were liable to be dismissed by the Prescribed Authority as being not maintainable subsequent to November 1, 1985.

25. The petitions are consequently dismissed. The interim stay shall stand vacated. There will be no order as to costs.