

(1995) 07 RAJ CK 0004
In the Rajasthan High Court
Case No : C.R.P. No. 149 of 1995

Rajasthan Co-operative Dairy Federation Ltd. and Another APPELLANT
Vs
Amar Chand Jat and Another RESPONDENT

Date of Decision : 25-07-1995

Acts Referred:

Payment of Wages Act, 1936 — Section 17(1), 17(1A)

Citation : (1995) 71 FLR 1124 : (1997) 3 LLJ 64 : (1995) 2 RLW 544 : (1995) 3 WLC 630

Hon'ble Judges : R.S. Kejriwal, J

Bench : Single Bench

Advocate : Resham Bhargava, for the Appellant; N.K. Maloo, for the Respondent

Final Decision : Allowed

Judgement

R.S. Kejriwal, J.—The Authority under the Payment of Wages Act, 1936 (hereinafter called as the "Act"), vide its order dated December 5, 1991, awarded Rs. 31,418.65 only as compensation to the Non-petitioner No. 1 (Workman). Against the said order, petitioners who are employers, filed an appeal before the learned District Judge, Ajmer. The appeal was accompanied with a certificate dated February 5, 1992, issued by the Authority to the effect that the petitioners had deposited the amount payable to the Non-Petitioner No. 1. An objection was raised on behalf of the Non-petitioner No. 1, before the District Judge, Ajmer, that as the amount was not deposited by the petitioners within 30 days from the date of order as directed by the Authority, as such, the appeal was not maintainable. The learned District Judge, Ajmer vide his order dated September 14, 1994, dismissed the appeal only on the ground that the petitioners did not deposit the amount awarded by the Authority within a period of 30 days from the date of order. Being aggrieved with the said order, petitioners filed this revision.

2. Submission of counsel for the petitioners is that the learned District Judge in arbitrary manner dismissed the appeal only on the ground that the amount was

not deposited within 30 days from the date of order. He submits that Section 17(1)(A) of the Act does not provide that the amount should be deposited within 30 days from the date of order. It only provides that memo of appeal should be accompanied by a certificate issued by the Authority to the effect that the appellant has deposited the amount payable to the Workman as directed by the Authority. It is not the case of the Non-petitioner No. 1, that the amount was not deposited or that the Certificate was not accompanied with the Memo of Appeal. In support of his argument, counsel for the petitioners placed reliance on *Marudhar Kshetriya Gramin Bank v. Bhagwan Ram* 1995 DNJ (Raj) 28.

3. Mr. Maloo, counsel for the Non-Petitioner No. 1, submits that admittedly, petitioner did not deposit the amount as directed by the Authority within 30 days from the date of order and as such the District Judge, Ajmer, was justified in dismissing the appeal of the petitioners. In support of his argument, Mr. Maloo placed reliance on a decision of this Court delivered in *State of Rajasthan v. Jai Prakash Sharma* (Civil Writ Petition No. 2347/1991) decided in May 17, 1991.

4. I have given my careful consideration to the submissions made by learned counsel for the parties and also gone through the impugned order and the judgments placed before me by them. In order to appreciate the arguments of counsel for the parties, it is necessary to reproduce the relevant provisions of the Act, which are as under :

"17. Appeal (1) An appeal against an order dismissing either wholly or in part an application made under Sub-section (2) of Section 15, or against a direction made under Sub-section (3) or Sub-section (4) of that Section may be preferred, within thirty days of the date on which the order or direction was made, in a Presidency-town before the Court of Small Causes and elsewhere before the District Court-

(1-A) No appeal under Clause (a) of Sub-section (1) shall lie unless the memorandum of appeal is accompanied by certificate by the authority to the effect that the appellant has deposited the amount payable under the direction appealed against."

5. Section 17(1) of the Act speaks that an appeal against the order passed by the Authority under the Act can be preferred within 30 days from the date of order. Section 12 of the Indian Limitation Act excludes the day on which the order was passed and the time taken in obtaining certified copy of the order. Section 17(1-A) of the Act provides that the Memorandum of appeal should be accompanied with a certificate of the Authority to the effect that the appellant has deposited the amount payable under the direction appealed against. The aforesaid Sections do not provide that the amount should be deposited within 30 days from the date of order. There is no provision in the Act which empowers the Authority to fix a particular time for depositing the amount determined by it as compensation.

6. Section 15(3) of the Act, only empowers the Authority to direct the employer

to make payment of compensation to the workman as determined by it. The limitation is prescribed only for filing the appeal and not for depositing the amount awarded by the Authority. The appellant can deposit the amount on or before filing of the appeal. The only condition is that he has to enclose alongwith appeal a certificate of payment of amount awarded by the Authority. This is also the view taken by this Court in Marudhar Kshetriya Gramin Bank (Supra). Counsel for the non-petitioners misconstrued the judgment of this Court passed in State of Rajasthan v. Jai prakash (Supra). This Court did not decide that the amount should be deposited within 30 days of the order and in case it is not deposited, the appeal should be dismissed. This aspect can be considered from another angle. Suppose an Authority directs an employer to make the payment within 15 days from the date of order and the Employer files an appeal on the 30th day from the date of order accompanied with a Certificate showing that the amount has been deposited with the Authority, whether the appeal can be dismissed on the ground that the amount as directed by the Authority has not been deposited within 15 days ?

In my opinion, the appeal cannot be rejected as the appellant has a statutory right to file appeal within 30 days from the date of order, which cannot be curtailed. The rejection of appeal of the petitioners by learned District Judge, Ajmer, vide his order dated September 14, 1994, is perverse and deserves to be set aside.

7. Consequently, I allow the revision, set-aside the order dated September 14, 1994, passed by learned District Judge, Ajmer, and direct him to decide the appeal of the petitioners on merits in accordance with law.

Parties to bear their own costs.