

(1951) 08 CAL CK 0012
In the Calcutta High Court
Case No : Civil Rule No. 256 of 1951

Rajendranath Karmakar and Others

APPELLANT

Vs

Manager, French Motor Car Co., Ltd.

RESPONDENT

Date of Decision : 06-08-1951

Acts Referred:

Payment of Wages Act, 1936 — Section 15, 15(3), 15(4), 17

Citation : AIR 1952 Cal 928

Hon'ble Judges : S.N. Guha Ray, J;Guha, J

Bench : Division Bench

Advocate : Phanindra Kumar Sanyal, for the Appellant;Rabiranjan Das Gupta, for the Respondent

Judgement

Guha, J.—This Rule was obtained by certain employees of Messrs. French Motor Car Co, Ltd. They filed an application before the authority under the Payment of Wages Act, 1930, praying for certain reliefs. The application was dismissed in toto. Against that decision an appeal was preferred before a Small Causes Court Judge Mr. Lahiri. The learned Judge, however, dismissed the appeal on a preliminary point holding that it was not maintainable on the ground that the authority appointed under the Payment of Wages Act did not give any direction under sub-section 3 or 4 of Section 15 of the Act. It is against this decision that the present Rule has been obtained.

2. It is contended on behalf of the petitioners that the learned Judge was entirely in error in holding that no appeal lay in the circumstances of the present case. u/ s 17 of the Act an appeal against a direction made under sub-section (3) or sub-section (4) of Section 15 may be preferred amongst others by any employed person if the total amount of wages claimed to have been withheld from him or from the unpaid group to which he belongs, exceeds Rs. 50. The learned Judge has held that as there was such direction within the meaning of sub-section (3) or (4) of Section 15, of the appeal before him was incompetent.

It is argued before us on behalf of the petitioners that the learned Judge has

taken too narrow a view of the scope of Section 17, and it has been contended that if that section is liberally construed, it means that an employed person is entitled to prefer an appeal even if his original application is dismissed in toto by the authority. It is argued in effect that an order of such dismissal amounts to a direction u/s 15 and as such an appeal is maintainable. In this connection our attention has been drawn to R. 9, Bengal Payment of Wages (Procedure) Rules, 1940, and Form F as prescribed by those Rules. We find nothing either in the Act itself or in the Rules or the Form to which our attention has been drawn which would go to indicate that the word "appeal" which occurs in Section 17 of the Act can be construed in such a broad sense as to embrace within its scope all kinds of orders including those rejecting an application filed by an employee before the authority. Sub-Section (3) of Section 17 lays down that the authority may direct the refund to the employed person of the amount deducted for the payment of delayed wages. Sub-Section (4) lays down that if the authority is satisfied that the application was either malicious or vexatious, it may direct the payment of a penalty not exceeding Rs. 50. Now these are the directions against which an appeal may lie under the provisions of Section 17. An appeal cannot be preferred under the Act against other kinds of orders unless they come precisely within the scope of the directions mentioned above.

3. It has been urged before us, on behalf of the petitioners, that to construe Section 17 narrowly will be going against the intention of the legislature and would in certain cases lead to absurdity. We have to construe, an Act as it stands, and reading the plain meaning of the Act, it appears to us that an appeal by an employed person is permissible only in a very limited number of cases as mentioned before. It may be that the legislature considered it desirable that no appeal by an employee would be "permitted if the application for refund of certain amounts be thrown out in toto being wholly untenable. This might have been done with the object of limiting the number of appeals or with the object of discouraging frivolous appeals. Whatever that may be, as the statute stands, we must hold that it should not be stretched in the way in which we have been invited to do by the learned Advocates for the petitioners. We are of opinion therefore that the decision of the learned Judge is correct.

4. The Rule is accordingly discharged. But there will be no order as to costs.

S.N. Guha Ray, J.

5. I agree.

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