
(1966) 07 AHC CK 0017
In the Allahabad High Court
Case No : Civil Revision No"s. 755 of 1962

The General Manager, North Eastern Railway and Others	APPELLANT
Vs	
Paras Nath Tewari	RESPONDENT

Date of Decision : 14-07-1966

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Payment of Wages Act, 1936 — Section 15(1), 17, 22

Citation : AIR 1967 All 576 : (1967) 14 FLR 226 : (1967) 2 LLJ 77

Hon'ble Judges : D.D. Seth, J;B. Dayal, J

Bench : Division Bench

Advocate : D. Sanval, for the Appellant; V.B. Khare and Satish Chandra Khare, for the Respondent

Final Decision : Dismissed

Judgement

B. Dayal, J.—These are two connected references by a single Judge of the Court
The only question to be answered is:

"Does the District Court hearing the appeal u/s 17 of the Payment of Wages Act act as a civil court subordinate to the High Court or function as a persona designate?"

The question, as it is framed, confines the answer only to the effect whether the District Court hearing an appeal u/s 17 is a civil court subordinate to the High Court or is a persona designate Section 15 of the said Act provides as follows:

"The State Government may, by notification in the Official Gazette appoint any Com- missioner for Workmen"s Compensation or other officer with experience as a Judge of a civil court or as a stipendiary Magistrate to be the authority to hear and decide for any specified area all claims arising out of deductions from the wages or delay in payment of the wages, of persons employed or paid in that area."

By Section 17, an order, either dismissing an application under Sub-section (1) of

Section 15 or making directions under Sub-section (3) of Section 15 on that application is made appealable to the District Judge in District Court other than the Presidency towns By Clauses (a) and (b) limit of pecuniary valuation is also provided below which an appeal does not lie and by Sub-section (2) orders passed u/s 15 have been declared to be final except as mentioned in Section 17 What has to be noted in these sections is that under Sub-section (1) of Section 15, the authority which is to receive the application for compensation is "to hear and decide" the dispute raised in that application. It is also to be noted that when an appeal is to be filed before the District Judge, no procedure is provided for hearing of such appeals and the intention apparently is that the District Judge, who is already a civil court empowered to hear civil appeals is authorised to hear these kinds of appeals also in the course of its ordinary jurisdiction as a civil court Our attention was also drawn to Section 22 of the Act by which the jurisdiction of the civil court is barred and it is provided that no suit shall lie for the recovery of any wages or any deductions from the wages in so far as such sums can be claimed u/s 15 To our mind. Section 22 has no bearing on the question referred to us. The bar of a regular civil suit would not affect the nature of powers under which the District Judge hears an appeal when it comes before him u/s 17.

2. In order to constitute a Tribunal a persona designate what has to be seen is whether the powers given to that Tribunal are merely an extenuation of the powers which it had already possessed, if the power is given to a regularly established court, or whether that particular work has been given to an individual Judge holding that office in his personal capacity and not in his capacity as a court. The question as to when the Tribunal constituted a persona designate came up for consideration before their Lordships of the Supreme Court in *The Central Talkies Ltd., Kanpur Vs. Dwarka Prasad*, . That was a case under the U P (Temporary) Control of Rent and Eviction Act The landlord made an application to the District Magistrate for permission to file a suit for ejectment of the tenant The permission was granted by the Addl. District Magistrate to whom that duty had been delegated by the District Magistrate and a suit for ejectment of the tenant was filed in the civil court In an appeal before the High Court against the decree for ejectment a question was raised that the permission granted by the Addl. District Magistrate was not valid as the District Magistrate who, had been authorised to grant the permission was a persona designate and he, therefore, could not delegate that power to the Addl. District Magistrate. This plea was repelled by this Court and the matter was raised again in as appeal before the Supreme Court and in this connection their Lordships of the Supreme Court observed as follows:

"Learned counsel for the appellants con tended that the definition of "District Magistrate" clearly showed that in addition to the District Magistrate, only an officer specially authorised by him could act under the Eviction Act. The argument was that the special Jurisdiction created by the Eviction Act was not affected by Section 19(2) of the Code, in view of the provisions of this Sub-

section ... The argument that the District Magistrate was a persona designate cannot be accepted. Under the definition of "District Magistrate", the special authorisation by the District Magistrate had the effect of creating officers exercising the powers of a District Magistrate under the Eviction Act. . .A persona designate "is a person who is pointed out or described as an individual, as opposed to a person ascertained as a member of a class or as filling a particular character "

Their Lordships of the Supreme Court quoted with approval the following from K. Parthasarathi Naidu Garu Vs. C. Koteswara Rao Garu and Another, :

"Persons selected to act in their private. capacity and not in their capacity as Judges."

In the present case therefore, when the power to hear an appeal is given to the District Judge as such and not to any individual, it must be assumed as power given to the court of the District Judge and not as a persona designate to any particular Judge.

A similar matter was also considered by their Lordships of the Supreme Court in National Sewing Thread Co. Ltd. Vs. James Chadwick and Bros. Ltd. (J. and P. Coats Ltd., Assignee), This was an appeal in a trade mark matter. Orders passed by the Registrar under the Act were appealable to the High Court and a decision given by a learned single Judge of the High Court was sought to be appealed under the Letters Patent. The question arose whether the appeal under the Letters Patent was entertainable and their Lordships held that it did be. It was observed that the Trade Marks Act did not provide for any procedure to be followed in the conduct of appeals and consequently it was held that after the appeal had reached the High Court it had to be determined according to the rules of practice and procedure of that Court and in accordance with the provisions of the charter under which that Court is constituted and which confers on it power in respect to the method and manner of exercising that jurisdiction.

Their Lordships quoted with approval the remarks of the House of Lords in National Telephone Co. Ltd. v. His Majesty's Postmaster General 1913 AC 546.

"When a question is stated to be referred to an established Court without more, it, in my opinion, imports that the ordinary incidents of the procedure of that Court are to attach, and also that any general rights of appeal from its decisions likewise attaches."

3. As against this, learned counsellor the other side relied upon the case of Hanskumar Kishanchand Vs. The Union of India (UOI), . That was a case under the Defence of India Act. An arbitrator had been appointed to determine the amount payable to the claimant. This determined amount was called an award u/s 19(1)(f) of the Act. An appeal was provided against that award to the High Court. Against such a decision of the High Court an appeal was filed before the Federal Court and in that connection it was held that the High Court was hearing

a civil appeal against an award and the decision of the High Court also partook of the nature of the award and, therefore, no further appeal lay under the Constitution to the Federal Court or to the Supreme Court. Their Lordships summed up the law on the subject in the following words.

"Where the dispute is referred to the Court for determination by way of arbitration as in *Rangoon Botatoung Co. Ltd. v. Collector, Rangoon* (1912) 39 I A 197 (PC) or where it comes by way of appeal against what is statedly an award then the decision is not a judgment, decree or order under either the CPC or the Letters Patent".

Their Lordships then proceeded to distinguish the cases like 1913 AC 546 where the matter was referred to an established Court and held that in those cases the consideration could be different. We, therefore, think that the principle laid down by the Supreme Court in this case is not applicable to the facts of the present case. The question which is now referred to us, was the precise question which was raised before the Madhya Bharat High Court in *Rajkumar Mills Ltd. v. Inspector Payment of Wages*. AIR 1955 MP 60 and the learned Judges held as follows:

"When an appeal is provided for u/s 17 to the District Court, that Court is appealed to as one of the ordinary courts of the country, consequently its orders and decrees will be governed by the rules of C.P. Code. Therefore a revision is competent against the decision of the District Court u/s 115 C.P.C."

While coming to this conclusion, the learned Judges reviewed a large number of cases. A learned single Judge of this Court also came to the same conclusion on exactly the same point which is now before us

4. In *Divisional Accounts Officer E. I. Railway, Lucknow v. Satpal Singh* AIR 1955 NUC 2751. a Full Bench decision of this Court also points to the same conclusion. In *Chatur Mohan and Others Vs. Ram Behari Dixit*, where the question for consideration was whether the Munsif to whom powers had been given u/s 7E of the U P (Temporary) Control of Rent and Eviction Act decided these matters as a person designate or as a court and whether a revision lay against the orders passed by the Munsif under those powers. It was held that the powers were given to the Munsif as an established Court and not as a person designate and a revision was held entertainable.

5. On a consideration of these authorities, we answer the question referred to us as follows:

"The District Court hearing an appeal u/s 17 of the Payment of Wages Act acts as a civil court subordinate to the High Court and not as a person designate."

6. Let the papers be returned to the learned single Judge with the above answer on the question referred to us.