
(2003) 10 AHC CK 0169

In the Allahabad High Court

Case No : C.M.W.P. No"s. 12183, 12184 and 12185 of 1983

U.P. State Road Transport Corporation	APPELLANT
Vs	
District Judge and Others	RESPONDENT

Date of Decision : 22-10-2003

Acts Referred:

Payment of Wages Act, 1936 — Section 10, 15

Citation : (2004) 1 AWC 643 : (2004) 1 LLJ 930

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : Sameer Sharma, for the Appellant; A.C. Dutt and S.C., for the Respondent

Final Decision : Allowed

Judgement

Anjani Kumar, J.—These three writ petitions are heard and disposed of together, as they raises common questions of law.

2. Heard the petition in the revised list. Learned counsel for the petitioner is present. Learned counsel for the respondent is not present.

3. The petitioner by means of this writ petition, challenged the order passed by the appellate authority under the provisions of Payment of Wages Act, 1936, dated 8.7.1983. The facts giving rise to the present writ petitions are as under :

"That admittedly the contesting respondent was employee of the petitioner-corporation and he has been punished by the order dated 29th November, 1980 by which punishment has been imposed for realisation of a sum of Rs. 2,977.40 from the contesting respondent in instalments. The contesting respondent preferred a claim petition before the prescribed authority under the provision of Payment of Wages Act, 1936 that the amount sought to be recovered in instalments pursuant to the impugned order dated 29th November, 1980 is illegal deduction which cannot be done and, therefore, a suitable direction be Issued by the prescribed authority under the provisions of Payment of Wages Act, not to

recover the aforesaid amount. The petitioner-employer has raised objection that the Payment of Wages Authority has no jurisdiction to entertain the application of the contesting workman because it is admitted case of the petitioner that the amount is deducted pursuant to the order dated 29th November, 1980. The prescribed authority rejected the objection raised by the employer and directed by order dated 14th November, 1982 that the amount sought to be recovered amounts to deduction in wages which is unauthorised and directed not to recover the aforesaid amount. Aggrieved thereby the petitioner preferred appeal which was barred by 18 days and, therefore, an objection was raised that it should be dismissed as barred by limitation. The petitioner was directed to explain the delay by filing an affidavit which has been complied with. The appellate authority rejected the application submitted by the petitioner and dismissed the appeal as time barred."

4. I have gone through the order of the appellate authority which is not in consonant with the law laid down by the Apex Court. The delay has been sufficiently explained in filing the appeal. Thus, the order of the appellate authority deserves to be quashed.

5. Since the matter is very old and interest of justice demands that at this state the matter should not be remanded back to the appellate authority, particularly in view of the admitted fact that the deductions are made pursuant to the order of the prescribed authority which cannot be justified under law.

6. Learned counsel for the petitioner relied upon the decision Rajasthan State Road Transport Corporation and Others Vs. Laxman Das Mali and Another, The relevant paras are as under :

"He was rightly found to be liable for commission of negligence and misconduct resulting in pecuniary loss to the Corporation and so the impugned appellate order, in modification of the impugned order passed by the Disciplinary Authority, was passed."

Further relying upon Section 10 the judgment goes on to show :

"Section 15(2) clearly lays down that the Payment of Wages Authority has only jurisdiction to hear and decide the claim arising out of deductions from the wages or delay in payment of wages which are not permissible under the provisions of the Act of 1936 and the Payment of Wages Act does not apply to the cases where the employer has withheld the wages on the ground of negligence, misappropriation and default, if any, committed by the employee,"

7. Learned counsel for the petitioner has further relied upon the decision of the Apex Court in State of Punjab Vs. Baldev Singh, etc. etc., where the Apex Court has ruled as under :

"Learned counsel for the appellants submitted that the authority constituted under the Payment of Wages Act has no jurisdiction to interfere with the orders passed under the disciplinary proceedings. We find that the argument of the

learned counsel is well founded and the orders passed by the authority under the Payment of Wages Act was without jurisdiction."

8. In view of the aforesaid settled law the order of the appellate authority and the prescribed authority impugned in the writ petition deserve to be quashed and they are hereby quashed. The writ petition succeeds and is allowed. It is open to the Corporation to recover the amount from the contesting respondent.