has given his award regarding matters that concerned those claims and the claims also, and prior thereto in *Smt. Santa Sila Devi and another* v. *Dhirendra Nath Sen and others* (13), while construing this very expression, their Lordships of the Supreme Court had held that where the award was regarding of and concerning all the matters, it meant that the arbitrator had dealt with all matters including the defence pleas.

(59) A perusal of the award shows that the arbitrator has given his award on each item of dispute separately. Also when awarding a given sum regarding a particular claim he had not only complied with the other requirement of clause 70 in question, that is, of 'indicating' the amount but thereby he had also given his findings regarding all matters concerning the said claim inclusive of the pleas that may have been raised before him either for or against awarding the said amount.

(60) For the reasons aforementioned, we are clearly of the view that the arbitrator was not bound to give a speaking award and the award given by him is perfectly valid and legal.

(61) In the result, we find no merit in this appeal and dismiss the same, but with no order as to cost.

N.K.S.

Before B. S. Dhillon and M. R. Sharma, JJ.

DEPUTY CHIEF MECHANICAL ENGINEER,—*Petitioner.*

versus

JOGINDER SINGH,—*Respondent.*

Civil Revision No. 1109 *of* 1979.

July 21, 1980.

Payment of Wages Act (IV of 1936)—Sections 7 and 15—Authority set up under section 15—Jurisdiction of—Order passed by the employer taking disciplinary action against an employee—Legality of—Whether can be challenged before such authority.

Held. that the language employed in Explanation II of section 7 of the Payment of Wages Act, 1936 shows that the wages deducted as

(13) A.I.R. 1963 S.C. 1677.

penalty resulting from the imposition for good and sufficient cause pursuant to a domestic enquiry could be validly deducted. In other words, if the employer puts forth a defence that deductions have been made pursuant to a disciplinary action against the employee it has to *prima facie* show that the enquiry had been held in accordance with rules on the subject. If it fails to do so, or if the order imposing penalty on the employee *prima facie* discloses that it had been passed in violation of the principles of natural justice, it is open to the authority to come to the conclusion that the penalty had not been imposed on the employee for good and sufficient cause. In that case, the authority would ignore such an order and order the payment of wages to the employee. The provisions of section 7 (2) (h) of the Act also imply that the order of a court or other authority should have been passed after notice to the employee if the employer intended to claim any immunity against its challenge. (Para 3).

Petition under section 44 of the Punjab Courts Act, read with Article 227 of the Constitution of India for revision of the order of the Court of Shri S. D. Bajaj, District Judge, Ambala, dated the 20th November, 1978, reversing that of Shri A. N. Verma, Authority under Payment of Wages Act, 1936 Yamuna Nagar, District Ambala, dated the 30th May, 1977, accepting the appeal and ordering the record of the case to be remitted back to the Authority with the direction that the relief admissible to the appellant flowing from the denial of annual increments to him comulatively for three years with effect from 26th August, 1970 be assessed and made payable to him and the appellant shall also be paid the costs of this appeal and directing the parties to appear before the learned Authority for facilitating the requuisite calculations and drawing up of the order based thereon on 11th December, 1978.

B. S. Shant, Advocate, *for the Petitioner.*

Pritam Singh, Spl. Attorney, *for the Respondent.*

JUDGMENT

M. R. Sharma, J. (Oral).

(1) The respondent made a claim for Rs. 1,637.83 before the authority under the Payment of Wages Act, 1936 (hereinafter called the Act) against the petitioner pertaining to his remuneration for the suspension period from 21st September, 1968 to 3rd December; 1969 and the loss resulting from stoppage of annual increment with

cumulative effect for a period of three years with effect from 26th August, 1970. The authority held that the claim for wages for the suspension period was barred by time and the loss of increment benefit having been backed by a valid order of stoppage could not be entertained by the authority under the Act. The respondent went up in appeal which was allowed by the learned District Judge, Ambala. The revision petition filed by the petitioner was admitted for hearing by a Division Bench because the view taken by me in *Divisional Superintendent, Northern Railway, Delhi etc.* v. *Ram Kishan etc.* (1) was doubted.

(2) The learned counsel for the petitioner drew our attention to sections 7 and 15 of the Act, and argued that the authority under the Act exercised summary jurisdiction for ordering the payment of wages to an employee and in this jurisdiction it cannot question the legality of the orders passed by the employer who is a statutory authority. The material portion of section 7 of the Act reads as under:—

> "7. *Deductions which may be made from wages.*—(1) Notwithstanding the provisions of sub-section (2) of section 47 of the Indian Railways Act, 1890, the wages of an employed person shall be paid to him without deductions of any kind except those authorised by or under this Act.
>
> *Explanation I.*—Every payment made by the employed person to the employer or his agent shall, for the purposes of this Act, be deemed to be a deduction from wages.
>
> *Explanation II.*—Any loss of wages resulting from the imposition, for good and sufficient cause, upon a person employed of any of the following penalties, namely,—
>
> (i) the withholding of increment or promotion including the stoppage of increment at an efficiency bar;
>
> (ii) the reduction to a lower post or time scale or to a lower stage in a time scale; or
>
> (iii) suspension;

(1) 1973 Current Law Journal 693.

shall not be deemed to be a deduction from wages in any case where the rules framed by the employer for the imposition of any such penalty are in conformity with the requirements if any, which may be specified in this behalf by the State Government by notification in the Official Gazette."

(2) Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely:—

* * * * * * * *

* * * * * * * *

(h) deductions required to be made by order of a Court or other authority competent to make such order?

(3) The language employed in Explanation II noticed above shows that the wages deducted as penalty resulting from the imposition for good and sufficient cause pursuant to a domestic enquiry could be validly deducted. In other words, if the employer put forth a defence that deductions have been made pursuant to a disciplinary action against the employee it has to *prima facie* show that the enquiry had been held in accordance with the rules on the subject. If it fails to do so, or if the order imposing the penalty on the employee *prima facie* discloses that it had been passed in violation of the principles of natural justice, it is open to the authority to come to the conclusion that the penalty had not been imposed on the employee for good and sufficient cause. In that case, the authority would ignore such an order and order the payment of wages to the employee. The provisions of section 7 (2) (h) of the Act also imply that the order of a Court or other authority should have been passed after notice to the employee if the employer intended to claim any immunity against its challenge. In the instant case, the Appellate Authority has come to the conclusion that the impugned orders were passed against the employee without the service of any notice upon him to show cause why such an order should not be passed. The impugned orders were, therefore, violative of principles of natural justice and contrary to the rules governing the enquiries against the Railway employees. In these circumstances, no fault can be found with the view taken by the Appellate Court. This view is in accord with the principle of law laid down by a Division Bench of this Court in (*The Divisional*

Personnel Officer Delhi Division, Northern Railway, New Delhi and another v. *Jaswant Rai and another*) (2). After making an exhaustive analysis of the case law, the Division Bench observed as under:—

> "This clearly indicates that where a part of the claim relates to increment withheld, the Authority dealing with the claim has to see whether the deductions from wages in such cases on that account are in conformity with the rules framed by the employer for imposition of any such penalty."

This view was followed by me in *Ram Kishan's case* (supra).

(4) Mr Shant, the learned counsel for the petitioner, submitted that the aforementioned view ran counter to the view taken by a Full Bench of this Court in *Divisional Superintendent, Northern Railway, Delhi Division* v. *Mukand Lal,* (3). We are unable to accept this contention. In the Full Bench case, the legality of the order of suspension was not under challenge. In the instant case, as already observed, the impugned orders were *prima facie* violative of principles of natural justice and the rules. No elaborate enquiry was needed to determine their legality. In such a situation, the authorities under the Act could ignore these orders while considering the claim made by the employee.

(5) For reasons aforementioned, we see no force in this petition and dismiss the same. We might also add that the claim made by the worker has been resisted by the petitioner wholly on untenable grounds for a long period. In the circumstances, we order that the amount found to be due to the employee be paid to him along with interest at the rate of 6 per cent, per annum. No costs.

Bhopinder Singh Dhillon, J.—I agree.

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(2) C.R. 389 of 1969 decided on 27th April, 1972.

(3) A.I.R. 1957 Pb. 130.

N.K.S.