

(2008) 05 P&H CK 0067

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Major (Retd.) A.S. Lally

APPELLANT

Vs

Assistant Labour Commissioner
and Others

RESPONDENT

Date of Decision: May 28, 2008

Acts Referred:

- Constitution of India, 1950 - Article 226
- Minimum Wages Act, 1948 - Section 20

Citation: (2008) 119 FLR 1007 : (2009) 1 LLJ 827 : (2008) 152 PLR 297

Hon'ble Judges: Sabina, J; M.M. Kumar, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

M.M. Kumar, J.

This petition filed under Article 226 of the Constitution is directed against the award dated 20.12.2004 (Annexure P-I) passed by the authorities under the Minimum Wages Act, 1948 (for brevity "the Act"). The workman-respondent No. 2 has been awarded wages for the period of 1.5.2001 to 27.5.2001 and has also been awarded penalty equal to five times of the delayed wages amounting to Rs. 11,178/-. The findings recorded by the authorities below reads thus:

(a) The applicant during his cross-examination AW/02 has submitted that for the period of 1.6.2001 to 2.9.2001 he was employed at the office premises of the respondent No. 2 at Chandigarh. Therefore, we conclude that the claim petition for the period 1.6.2001 to 2.9.2001 is devoid of jurisdiction.

(b) The respondent No. 2 vide written statement has admitted that employment of applicant for the period 7.3.2001 to 27.5.2001. The respondent No. 2 though produced the payment of Wages Register (photocopy) for the period April, 2001 showing payment of wages to the applicant Exhibit MA, but the applicant's wages

for the period 1.5.2001 to 27.5.2001 remained unpaid. Thus, we conclude that the applicant is entitled to wages for the period 1.5.2001 to 27.5.2001, which works out to be Rs. 2,235/60 (Two thousand two hundred thirty five rupees and sixty paise only). The applicant is also allowed compensation equal to five times of the delayed wages amounting to Rs. 11,178/-

(c) The respondent No. 2 is directed to pay Rs. 2,235.60 alongwith Rs. 11,178/- compensation to the applicant within a period of one month from the date of this order. No order as to costs.

(emphasis added)

2. When the matter came up for consideration before us on 27.2.2008, learned Counsel for the petitioner stated that the amount awarded to the workman-respondent No. 2 shall be deposited. After the amount was deposited the same has been disbursed to the workman-respondent No. 2 subject to his furnishing adequate surety. Accordingly the amount stand paid to the workman-respondent No. 2.

3. Mr. Munish Gupta, learned Counsel for the petitioner has made an attempt to persuade us to accept his submission that the claim of the workman respondent No. 2 is covered by clause (ii) of Sub-section(3) of Section 20 of the Act and not by Clause (i) of Sub-section (3) of Section 20 of the Act. According to the learned Counsel the provision with regard to penalty exceeding 10 times the amount of arrears of wages would not be applicable to the case of workman-respondent No. 2.

4. Mr. Gaurav Mohunta, learned Counsel for the respondent No. 2 has argued that once the petitioner-establishment has been found to be in arrears of payment of minimum wages then the provisions of Section 20(3)(i) of the Act would apply.

5. We have thoughtfully considered the submissions made by the learned Counsel and are of the view that the plain reading of the statutory provisions would show that the case of the workman-respondent No. 2 is covered by Section 20(3)(i) of the Act which reads thus:

20. Claim - xx xx xx xx

(3) When any application under Sub-section (2) is entertained the authority shall hear the applicant and the employer or give them an opportunity of being heard and after such further inquiry, if any, as it may consider necessary may without prejudice to any other penalty to which the employer may be liable under this Act direct -

(i) in the case of a claim arising out of payment of less than the minimum rates of wages the payment to the employee of the amount by which the minimum wages payable to him exceed the amount actually paid together with the payment of such compensation as the authority may think fit not exceeding ten times the amount of

such excess;

(ii) in any other case the payment of the amount due to the employee together with the payment of such compensation as the authority may think fit not exceeding ten rupees;

and the authority may direct payment of such compensation in cases where the excess or the amount due is paid by the employer to the employee before the disposal of the application.

6. A perusal of clause (i) of Sub-section 3 of Section 20 of the Act makes it evident that if an application is made under sub Section 2 of Section 20 of the Act then after hearing the party or holding any such enquiry as may be considered necessary the Authority under the Minimum Wages Act may award the workman the amount paid to him less than the minimum wages payable to him. The provision further stipulates that the Authority is competent to award compensation ten times the amount so worked out. There is no dispute regarding the fact that the workman-respondent No. 2 has been paid less than the prescribed minimum wages amounting to Rs. 2235.60 for the period of 1.5.2001 to 27.5.2001. The afore-mentioned amount has been multiplied by five and the Authority was empowered to award compensation to the extent of ten times. We find that the case of the petitioner is squarely covered by clause (i) of Sub-section (3) of Section 20 of the Act. We also placed reliance on a judgment of the Kerala High Court in the case Ponnambalan v. Authority under Minimum Wages Act 1994 L.L.J. 1195. In para 5 of the judgment it has been categorically held that liability of payment of compensation is attracted whenever wages paid by the employer is found to be less than the minimum rate of wages in which case the Authority is given jurisdiction to pass appropriate order directing compensation to the employee not exceeding ten times the amount of such excess. The Authority in the present case is fully justified by directing the petitioner-establishment to pay the workman-respondent No. 2 a sum of Rs. 11,178/- which is five times the amount of compensation which was found due to the workman-respondent No. 2. There is no legal infirmity in the directions issued by the authority.

7. The argument that the case of workman-respondent No. 2 would fall under Clause (ii) of sub Section 3 of Section 20 of the Act does not require any detailed consideration because Clause (ii) postulates any other case which may not necessarily be involving minimum rates of wages. However, in the present case, there is no dispute that the workman-respondent No. 2 has been paid less than the prescribed minimum wages for the period of 1.5.2001 to 27.5.2001. The argument is wholly misconceived and the same is rejected.

For the reasons recorded above, this petition fails and the same is dismissed.