

(2014) 01 P&H CK 0150

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 13459 of 1993 (O&M)

Hospital Administrator

APPELLANT

Vs

The Authority

RESPONDENT

Date of Decision: Jan. 16, 2014

Acts Referred:

- Constitution of India, 1950 - Article 226
- Industrial Disputes Act, 1947 - Section 33C(2)
- Payment of Wages Act, 1936 - Section 20(2)

Citation: (2014) 175 PLR 666 : (2014) 4 SCT 541

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Advocate: Gurdeep Singh, Advocate for the Appellant

Final Decision: Dismissed

Judgement

K. Kannan, J.

The writ petition challenges the order passed by the authorities under the Minimum Wages Act upholding the claim of the workman that the difference of the amount actually paid and the amount that was liable to be paid as minimum wage amounting to Rs. 10,426.45 by the Management to the workman. This amount of Rs. 10,426.45 corresponded to the period between 01.12.1988 to 31.10.1991. The counsel for the petitioner has principally two objections: (i) the petition is not maintainable u/s 20(2) of Payment of Minimum Wages Act, since the minimum wages as determined by the State is itself not in dispute. The proper remedy must be only u/s 33C(2) of the Industrial Disputes Act and cannot be before the authority constituted under the Minimum Wages Act; and (ii) the demand for securing a claim u/s 20(2) of the Payment of Wages Act shall pertain to a period not more than 6 months. The claim for 35 months was, therefore, not maintainable and not in accordance with law.

2. To the first proposition urged, the counsel would rely on the decision of the Supreme Court in *Managanese Ore (India) Limited v. Chandi Lal Saha and others* AIR 1991 Supreme Court 520. The Supreme Court was doling with the situation of when the entitlement of the workman to the minimum wages itself is not denied, the court, therefore, observed that if the rate of minimum wages was not denied, then a relief cannot be secured u/s 20(2). I asked the counsel at the time of arguments that whether the Management was prepared to accede to the claim of the workman and whether the Management did not actually pay the salary less than the minimum wages rate prescribed under the Minimum Wages Act. The counsel would not respond to the fact with a direct reply, but would nibble at the peripheries to contend that if the Management did not deny the rates, the approach to the authority under the Payment of Wages Act does not arise. I find the argument to be frivolous, for, if it was admitted by the Management that the petitioner was entitled to the minimum wages as an organization, namely, a hospital, to which the Act was extended, then the nonpayment of the said sum itself would amount to a denial of the claim to minimum wages. Assuming for the arguments' sake that the Management was not denying entitlement to minimum wages but would still defy the workman to go to some other authority u/s 33C(2) of the Industrial Disputes Act, then in fairness as the court exercising jurisdiction under Article 226, I would hold that the liability to pay the minimum wages itself is not denied before me and hence, there was nothing wrong in that direction.

3. Considering that the workman had sought for Rs. 10,426.45, the other point for consideration is the entitlement to a claim that is possible u/s 20(2). The Section itself reveals that the claim cannot be made for more than a period of 6 months and even apart from the decision cited by the counsel referring to a decision in Manager, Shonaicherra Tea Estate Vs. Mahendra Kisur Purkayastha there is a Division Bench ruling of this Court in Shri Banke Bihari Bricks Vs. State of Punjab and Others, that has held that the payment of minimum wages cannot be for a period more than 6 months and an application filed after 6 months without any explanation for filing the same belatedly is barred by limitation. A non-payment of salary for every month constitute a fresh cause of action. If the claim was made by a workman for salary that fell between the year 01.12.1988 to 31.10.1991, the claim for every month would commence at the conclusion of the wage period. I will take the claim as possible for a period within 6 months from the time when the salary became payable on 31.10.1991. The petition has been filed on 09.10.1991. I do not however think that there is any need for making an intervention only for a consideration of minimum wages for this period, for, the total amount awarded itself is only to the tune of Rs. 10,426.45 which liability itself is not denied by the Management but only the entitlement on the basis of limitation is urged by the Management. The Management shall do well to comply with the directions already given and it ought not have even filed a writ petition before this Court for a challenge to a small amount, the liability of which was admitted by the Management. I take the point of

law as established through the bare provision of Section 20(2) itself but would still find no reason to interfere with the order passed by the court below for a small benefit which the workman had obtained that could have been still recovered by a civil suit. Ultimately, it is the forum of institution that could have altered things but not the relief itself. Substantial justice has been done and hence, I will not think of this situation as requiring any intervention. The writ petition is dismissed.