

(2001) 11 DEL CK 0074

Delhi High Court

Case No: Civil Writ Petition No. 1158 of 1999

Hospital Employees Union

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision: Nov. 21, 2001

Acts Referred:

- Constitution of India, 1950 - Article 226
- Payment of Wages Act, 1936 - Section 1(6)

Citation: (2002) 4 AD 448 : (2002) CriLJ 918 : (2002) 95 DLT 883 : (2002) 92 FLR 975 : (2002) 1 LLJ 918

Hon'ble Judges: Sharda Aggarwal, J; B.A. Khan, J

Bench: Division Bench

Advocate: Digvijay Singh, for the Appellant; Babita, for the Respondent

Judgement

B.A. Khan, J.

Petitioner, a registered trade union, claiming to be engaged in promoting welfare of labour class has filed this petition in public interest for striking down of Section 1(6) of the Payment of Wages Act, 1936 which prescribed wage ceiling of Rs. 1,600/- per month.

2. Petitioner's case is that the prescribed wage ceiling had become arbitrary, unreasonable and unreal with the passage of time and due to inflation and manifold rise in salary/wages of the employees and for various other reasons. Now, even the lowest paid employee was getting over Rs. 1,600/- wages per month due to revision in Pay Scales in the light of 4th Pay Commission and 5th Pay Commission Reports. More even the Minimum Wages Act prescribed more than Rs. 1,600/- wages per month to the lowest paid employees in Delhi and other parts in the country.

3. Petitioner has submitted various charts containing wage rates to show that wage ceiling prescribed under the Act had become obsolete and redundant and so had the whole Act did not benefit any workman or employee presently. He according

wants the relevant provision of the Minimum Wages Act to be declared void and supports this by Supreme Court judgment in [Malpe Vishwanath Acharya and Others Vs. State of Maharashtra and Another](#), in which the Court had dealt with the ceiling of standard rent in Bombay Rents, Hotel and Lodging House Rates Act, 1947 and thought of striking it down on holding that the provisions of Act had become unreasonable and arbitrary in the course of time.

4. Respondents have denied any inaction in the matter on their part. Their case is that fell within the domain of the Parliament to make appropriate changes in the Act and for this they had taken steps to suggest suitable amendments which were on the anvil and which could either the coverage of the Act either by removing or enhancing the ceiling of Rs. 1,600/- per month and further remove several ambiguities/weaknesses in the Act and provide more effective grievance redressal mechanism and strengthening compensation and penal provisions of the Act. Such amendments stood finalised at one stage in Parliament and even an Ordinance was proposed about to be issued but for calling of 13th Lok sabha elections.

5. It goes without saying that present prescribed ceiling of Rs. 1,600/- per month apparently appears to have become obsolete and unreal with the passage of time and due to various factors and circumstances. Therefore, there was surely a need for giving a fresh look to the matter. Therefore given regard to the fact that respondent No. 1 was already seized of the matter and was taking requisite steps for bringing about appropriate changes in the Act for rectifying its defects and removing anomalies and to update it to bring it in tune with the changed circumstances, it becomes unnecessary to examine the validity of the relevant provision and to strike it down which may deprive the labour class of whatever benefit may be flowing from it.

6. But that should not be construed to put any premium on the snail's pace at which respondents were approaching the matter. It is noticed that 13th Lok Sabha was functional by now for the few years, yet respondents had not seen the matter through. Nor had they chosen to offer any Explanation or justification in this regard. The delay in action was indeed writ large on the face of record. We feel constrained to express our concern on this and direct respondent No. 1 and all its concerned functionaries to expedite the action in the matter and take all necessary steps in this regard within 8 months from receipt of this order.

7. W.P. disposed of.