

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

WP(C).No. 34958 of 2011 (T)

PETITIONER :

**SILPY PARPPIDA KENDRAN
REPRESENTED BY ITS SECRETARY
NIDA, KANJIKODE, PALAKKAD – 678 621.**

**BY ADVS.SRI.T.C.SURESH MENON
SRI.JIBU P. THOMAS
SRI.P.S.APPU
SRI.A.R.NIMOD**

RESPONDENT(S) :

- 1. C.K. BALAKRISHNAN
S/O. KARUPPAN, RESIDING AT CHENNAMKADU HOUSE
CHENNAMKADU P.O., KOTTAYI
PALAKKAD – 678 573.**
- 2. SURESH PALAKKAD
S/O. PONMALAI, RESIDING AT THAZHATHU VEEDU
NOORANI P.O., VENNAKKARA, PALAKKAD – 678 004.**
- 3. P. ARUMUGHAN
S/O. PALU, RESIDING AT NEITHALA
ERETTUKULAM P.O., PARA
ELAPPULLY, PALAKKAD – 678 622.**
- 4. R. GANESH
S/O. RAMASWAMY, RESIDING AT RKG M NIVAS
PETTAKKAD, CHULLIMADA P.O.,
KANJIKODE, PALAKKAD – 678 621.**
- 5. KANAKARAJ
S/O. KRISHNASWAMY
RESIDING AT KOYYAMARAKKAD
KANJIKODE P.O., PALAKKAD – 678 621.**
- 6. K. SIVARAJ
S/O. KITTA, RESIDING AT CHULLIMADA
KANJIKODE, PALAKKAD – 678 621.**

7. THE DISTRICT PANCHAYATH OFFICE
REPRESENTED BY ITS SECRETARY
PALAKKAD – 678 001.
8. THE MANAGER
DISTRICT INDUSTRIES CENTRE
BEHIND CIVIL STATION, PALAKKAD – 678 001.

R1 TO R6 BY ADV. SRI.P.K.MOHANAN (PALAKKAD)
R7 BY ADV. SRI.T.V.VINU
R8 BY GOVT. PLEADER SRI. R. RANJITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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...3/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE REGISTRATION CERTIFICATE ISSUED BY THE REGISTRAR OF SOCIETIES DATED 24.6.1998.
- EXT.P2 COPY OF THE CERTIFICATE ISSUED BY THE SECRETARY, DISTRICT PANCHAYATH OFFICE DATED NIL.
- EXT.P3 COPY OF THE APPLICATION FILED BY RESPONDENTS 1 TO 6 BEFORE THE COURT OF THE COMMISSIONER FOR EMPLOYEES COMPENSATION DATED 9.11.2009.
- EXT.P4 COPY OF THE OBJECTION FILED BY THE PETITIONER AND RESPONDENTS 7 AND 8 DATED 29.3.2010.
- EXT.P5 COPY OF THE ORDER IN M.W.A. NO. 10/2009 ON THE FILE OF THE COMMISSIONER FOR EMPLOYEE'S COMPENSATION, PALAKKAD DATED 29.8.2011.

RESPONDENT'S EXHIBITS :

- EXT.R1(a) : COPY OF THE LETTER DATED 24.5.2008 OF THE PUBLIC INFORMATION OFFICER, DISTRICT INDUSTRIES CENTRE, PALAKKAD OBTAINED UNDER THE RIGHT TO INFORMATION ACT.

//TRUE COPY//

P.A. TO JUDGE

Mn

K. VINOD CHANDRAN, J

W.P(C) No.34958 of 2011

Dated this the 12th day of January, 2015

J U D G M E N T

The petitioner is aggrieved with the order passed at Ext.P5 by the Commissioner for Employees Compensation, Palakkad. The application before the Commissioner was made by the respondents 1 to 6 contending that they were employed for various periods continuously in the petitioner's Organisation and had been entitled to minimum wages which they were not paid. The petitioner contends that the rate of wages they were paid as daily wage workers, were between 75 to 125, whereas the minimum rate was Rs.209/- as per Ext.P3.

2. The claim has been allowed by the Commissioner on the basis of G.O(Rt)NO.419/2004/Lbr dated 13.02.2004. Admittedly, the petitioner was engaged in Brick manufacturing. The petitioner has been constituted as a Charitable Society for the purpose of imparting training to the unemployed persons from the lower strata of society and is financed by the plan fund of the Panchayat. The petitioner had been imparting training works and the respondents 1 to 6

also were trained in brick manufacturing. They were said to have been continued as daily wage workers between February 2009 to October 2009, the period for which the minimum wages has been granted by Ext.P5 order. The petitioner's contention is that the employment in which the respondents 1 to 6 were engaged was not a scheduled employment, which contention is belied by the fact that "brick manufacturing" comes under the schedule.

3. The further contention is with respect to G.O(Rt) 419/2007/Lbr dated 13.02.2004 regarding employment in brick manufacturies. A perusal of the schedule of the said notification would indicate that none of employment so scheduled thereunder has minimum wages fixed at Rs.209/-. Even the skilled workers like Moulders, Kiln settlers, Kiln Burners are fixed with a minimum wage of Rs.90/-. Even according to the claim made, the respondents have been paid more than that, for the aforesaid period. The unskilled workers are entitled to Rs.85.20/- by the notification relied on by the Commissioner. In such circumstance, reliance placed on the notification is not proper. If at all a subsequent

notification has been issued, the same would have to be urged before the Commissioner.

4. In such circumstance, Ext.P5 would stand set aside. The matter is remanded back for fresh consideration. The parties shall appear before the Commissioner on 28.01.2015 and the Commissioner shall consider the issue and decide on the same within a period of three months from the date of appearance.

Writ petition is disposed of.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

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P.A to Judge