

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27.03.2015

CORAM

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN
AND

THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR

W.A.No.770 of 2013

Bharat Sanchar Nigam Ltd.
rep.by its Chief General Manager
Tamil Nadu Circle
No.80, Anna Salai
Chennai 600 002.

.. Appellant

vs

1. The Deputy Chief Commissioner of Labour (Central), Shastri Bhavan V Floor, No.4, Haddows Road Nungambakkam, Chennai 600 006.
2. The General Secretary Tamil Nadu Telecom Contract Workers Union (Telecom Working Telephone Exchange), B.S.N.L. Rajapalayam 626 117.
3. The Circle Secretary BSNL Employees Union Tamil Nadu Circle No.21, R.K.Srinivasa Flats Bharathi Nagar I Street Pazhavanthangal Chennai 600 114.

.. Respondents

Prayer : Writ Appeal against the order of this Court dated 30.08.2011 passed in W.P.No.24552 of 2008.

Prayer in W.P.No.24552 of 2008:- Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call for the records of the first respondent in his proceeding No.M.20/1/2007/P1 dated 28.1.2008 and to quash the same.

For Appellant : Mr.M.Govindaraj

For Respondent : Ms.Anna Mathew

J U D G M E N T

(Judgment of the Court was delivered by V.RAMASUBRAMANIAN.J.,)

The Management of Bharat Sanchar Nigam Limited has come up with the above writ appeal challenging the order passed by the learned Single Judge in dismissing their writ petition with certain directions, with regard to the order passed by the Deputy Chief Labour Commissioner (Central) in respect of the persons employed by the appellant through contractors.

2. Heard Mr.M.Govindaraj, learned counsel for the appellant and Ms.Anna Mathew, learned counsel appearing for the respondents 2 and 3.

3. The respondents 2 and 3 gave a representation to the Chief Labour Commissioner (Central) contending that persons engaged through contractors by the appellant-establishment, were getting paltry amounts as wages per day and that they are entitled to enhanced wages. The Deputy Chief Labour Commissioner (Central) undertook an enquiry and passed an order dated 28.01.2008, determining the rates of wages payable to the workers represented by the respondents 2 and 3 under Rule 25(2)(v)(b) of Contract Labour Central Rules, 1971. The Deputy Chief Labour Commissioner fixed the rate of wage at Rs.140/- per day for house keeping work and Rs.125/- per day for sweeping/cleaning work.

4. Challenging the said order of the Deputy Chief Labour Commissioner, the appellant-Establishment filed a writ petition in W.P.No.24552 of 2008 on the file of this Court.

5. The learned Single Judge, disposed of the writ petition by an order dated 30.08.2011, taking note of two Notifications issued by the Ministry of Labour, one on 07.08.2008 and another on 20.05.2009 under the Minimum Wages Act and directing the appellant-Management to pay the minimum wage as fixed by the Ministry of Labour with effect from 07.08.2008. Aggrieved by the said order, the appellant-Management is before us.

6. Admittedly, the original challenge of the appellant to the order of the Deputy Chief Labour Commissioner (Central) dated 28.01.2008 does not survive for adjudication. This is for the reason that as per the said order, the rate of wages was fixed at

Rs.140/- per day for house keeping work and Rs.125/- per day for sweeping/cleaning work. But, by the Notification issued under the Minimum Wages Act on 20.05.2009 all workers irrespective of their source of engagement, have become entitled to more than the said rate of wages. It is conceded by Mr.M.Govindaraj, learned counsel for the Appellant that all the workers, irrespective of their source of engagement are entitled to the benefit of the Notification dated 20.05.2009. Therefore, the original challenge to the order of the Deputy Chief Labour Commissioner (Central) does not survive any more for adjudication. In fact, the respondents 2 and 3 also do not want the benefit of the order of the Deputy Chief Labour Commissioner (Central) in view of the admitted position that they are entitled to the benefit of the Labour Ministry's Notification dated 20.05.2009, which fixed a higher rate of wages.

7. That takes us to the next question as to the date from which, the workers are entitled to the benefit of Notification. There are three dates, which are of significance. The first, is the date of the award of the Deputy Chief Labour Commissioner, viz., 28.01.2008; the second is the Notification of the Ministry of Labour dated 07.08.2008; the third is the date of the next Notification of the Ministry of Labour dated 20.05.2009.

8. Even according to the learned counsel for the respondents 2 and 3 all the members of their union are paid the minimum wages as fixed in the Notification dated 20.05.2009, but with effect from 2011. The benefit of the Notification will be available to the worker only from the date of the Notification, if it is not otherwise stated. Therefore, the workers are entitled to the benefit of the Notification dated 20.05.2009, atleast from that date.

9. Therefore, the writ appeal is disposed of to the following effect:

(i) The workers whom the respondents 2 and 3 represent are entitled to the benefit of the Notification dated 20.05.2009.

(ii) The benefit is available to them from 20.05.2009.

(iii) The order of the Deputy Chief Labour Commissioner dated 28.01.2008 gets eclipsed by the Ministry's Notifications.

No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1. The Chief General Manager
Bharat Sanchar Nigam Ltd.
Tamil Nadu Circle
No.80, Anna Salai, Chennai 600 002.
2. The Deputy Chief Commissioner of
Labour (Central), Shastri Bhavan
V Floor, No.4, Haddows Road
Nungambakkam, Chennai 600 006.

1 cc to M/s. Govindaraj, Advocate, Sr. 17791

सत्यमेव जयते

W.A.No.770 of 2013

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