

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.26442 OF 1998

ORDER:

The issue arises under the Minimum Wages Act, 1948 (for short 'the Act'). The petitioner prays for a writ of *certiorari* to call for the records leading up to and inclusive of orders dated 22.02.1997 and 17.02.1998 in M. W. No.58 of 1994 of the 1st respondent and to quash the same as illegal and without jurisdiction.

The operative portion of order dated 22.02.1997 reads as follows:

"Therefore, the respondent is directed to deposit the amount of Rs.7,440/- the balance amount in the above case, since the respondent has already deposited to the credit of this case at the time of reopening of the case, within one month from the date of receipt of the order. However, the applicant i.e. K.Venkateswarao, Heavy Vehicle Driver, is at liberty to withdraw the amounts already deposited after 30 days or depositing of remaining amount of Rs.7,440/- whichever is earlier."

Sri D.Ravi Shanker Rao, learned counsel for the petitioner conscious of the scope of a writ of *certiorari* and the grounds available for judicial review contends that the Government Order relied upon by the Assistant Labour Officer, Kothagudem, has no application inasmuch as a separate Government Order is issued stipulating the minimum wage payable to Heavy Vehicle Driver. In other words, the submission is that an inapplicable G.O. is relied upon to arrive at minimum wage payable to K.Venkateswar Rao and on erroneous view of the matter the order impugned in the writ petition was passed.

The burden is on the petitioner herein to show that firstly the Government Orders relied upon by the competent authority are not applicable and secondly some other Government Order is in force for payment of minimum wages. Considering the fact in issue from either of the requirements referred to above, the writ petitioner, in the considered

view of this Court, failed to discharge the burden. The petitioner does not clearly define the employment of K.Venkateswar Rao whether as skilled, semi-skilled or un-skilled to examine whether the G.O. relied upon by the Competent Authority is correct in the alternative the G.O. relied upon by the petitioner is correct. On consideration of a fact in issue, the findings as already noted are recorded. I am not inclined to re-examine the issues of fact and further see no error in exercise of jurisdiction by 1st respondent warranting interference under Article 226 of the Constitution of India.

The writ petition fails and accordingly dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT,J

Date:01.07.2015
Stp