

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10274 of 2012

Date of Decision: 14.08.2015

Shambhu Dayal Modern School,
Gohana Road, Sonapat

... Petitioner

Versus

Prescribed Authority under Minimum
Wages Act and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Harkesh Manuja, Advocate,
for the petitioner.

Mr. Ravi Verma, Advocate,
for R-2.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

It is not within the scope of the authority under the Minimum Wages Act to grant grade pay or pay scales over and above the minimum wages fixed under the Minimum Wages Act, 1948 (for short “the Act”). The authority must remain within the confines of section 20(1) of the Act. The Act provides for fixing minimum rates of wages in certain employments.

The petitioner filed an application under Order 7 Rule 11 (d), CPC before the authority objecting that the application under section 20 was not maintainable as it was barred by law and, therefore, the application could not have been entertained much less adjudicated upon by the authority under the Minimum Wages Act, Circle-I, Sonapat The reason for declining

the application under Order 7 Rule 11 (d) is an erroneous view of the law. An application under Order 7 Rule 11(d) can be filed at any stage of the proceedings but before the final order or decree is passed before the adjudicating authority. Rights under Order 7 Rule 11 (d) are available in appeals and further remedies available against the basic order. If the application under section 20 is barred by law then the merits cannot be entertained as those would lie before a proper forum exercising jurisdiction over the subject matter.

For the foregoing reasons, this petition is allowed and the impugned order dated April 30, 2012 is set aside as it is found wholly unsustainable in law.

The respondent-workman will have liberty to approach the proper forum where he may take the benefit of section 14 of the Limitation Act, 1963 for pursuing remedy in the wrong forum.

(RAJIV NARAIN RAINA)
JUDGE

14.08.2015
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