

HIGH COURT OF CHHATTISGARH, BILASPUR**WP No. 3474 of 1998**

1. State of Madhya Pradesh through the Secretary, PWD, Mantralaya, Bhopal
2. Superintending Engineer, Bastar Division, PWD (B&R) Jagdalpur
3. Executive Engineer, Department of PWD (B&R) North Bastar, Division Jagdalpur.

---- Petitioners

Versus

1. Samdhu Ram S/o Naru through Yashwant Sahu, Mahamantri, PWD Mazdoor Sangh, Durg
2. Presiding Officer, Labour Court, Jagdalpur
3. Member Judge, Industrial Court, Raipur.

---- Respondents

For Petitioners : Shri Vivek Sharma, GAShri N. Naha Roy, Advocate appears as amicus curiae

Order On Board by Hon'ble Shri Justice Pritinker Diwaker**25/10/2016**

From the record it appears that on 30.3.1994 in the representative capacity respondent No.1 Samdhu Ram had filed an application under Section 15 (3) of the Payment of Wages Act, 1936 (for short the "Wages Act") before the competent authority under the Wages Act/Labour Court stating therein that members of its group (labourers) were entitled for payment of difference of arrears of dearness allowance to the extent of Rs. 1,02,080/- for the period April 1993 to February 1994. That application was granted by the authority vide order dated 18.2.1997 (Annexure P-2) and a direction was given to the State Government not only to pay Rs. 1,02,080/- at the rate of Rs. 638/- per employee but it also directed to pay the same amount as penalty to respondent No.1/Group. This order was unsuccessfully challenged by the

State Government before the Industrial Court which by order dated 6.3.1998 dismissed the appeal of the petitioner/State under section 17 of the Wages Act. It is these two orders passed by the authority and the Industrial Court dated 18.2.1997 and 6.3.1998 respectively which have been challenged in this writ petition.

2. The main ground raised by the petitioner/State in the present petition is that the application filed by respondent No.1 in the representative capacity was not maintainable before the competent authority.

3. Amicus curiae however submits that the application filed by respondent No.1 was very much maintainable before the competent authority in view of the provisions of Section 16 of the Wages Act which pertains to the maintainability of such application filed by the people of such unpaid group.

4. Heard and perused the documents on record.

5. Before expressing any opinion on merits of the case, this Court first thinks it proper to take note of provisions of Section 16 of the Wages Act, which reads as under:

"16. Single application in respect of claims from unpaid group.—

(1) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if [deductions, have been made from their wages in contravention of this Act for the same cause and during the same wage-period or periods or if] their wages for the same wage-period or periods have remained unpaid after the day fixed by section 5.

(2) A single application may be presented under section 15 on behalf or in respect of any number of employed persons belonging to the same unpaid group, and in such case [every person on whose behalf such application is presented may be awarded maximum compensation to the extent specified in sub-section (3) of section 15].

(3) The authority may deal with any number of separate pending applications, presented under section 15 in respect of persons belonging to the same unpaid group, as a single application presented under sub-section (2) of this section, and the provisions of that sub-section shall apply accordingly."

6. A bare perusal of above quoted provision makes it clear that the application preferred by respondent No.1 under the Wages Act was very much maintainable and

the competent authority has considered all aspects of the matter while passing the order dated 18.2.1997 which has subsequently been affirmed by the appellate authority as well vide order dated 6.3.1998. There appears no illegality in the said orders and being so this Court is not inclined to interfere with the same. Accordingly, the petition being without any force is hereby dismissed.

7. Let a copy of this order be sent to the concerned Labour Court which in turn shall ascertain whether the amount directed to be paid to respondent No.1/Group has been disbursed or not.

Sd/-
Pritinker Diwaker
Judge

Jyotishi