

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1536 OF 2007

Hindustan Aeronautics Ltd.

.. Petitioner

vs.

Authority under the Minimum
Wages Act, 1948 & Regional
Labour Commissioner (Central),
Mumbai and ors.

.. Respondents

Mr. Piyush Shah for the Petitioner.

Ms Madhubala Kajale, AGP for Respondent No.1.

CORAM : M. S. SONAK, J.

DATE : 20 JANUARY 2016.

P.C. :-

1] The challenge in this petition is to the orders dated 8 November 2006 and 12 June 2007 made by the Authorities under Minimum Wages Act, 1948 (said Act) directing the Petitioner and Respondent Nos.3 to deposit total amount of Rs.54,664/- by way of Demand Draft drawn in favour of Assistant Labour Commissioner (Central) towards the portion of minimum wages payable to six applications in MCA No. 275 of 2005.

2] The main order was made on 8 November 2006 and by order dated 12 June 2007, the Petitioner's review petition against the same came to be rejected. The operative portion of the impugned order dated 8 November 2006 reads thus:

ORDER

1. That the claim application filed by the Applicant is allowed.

2. *That the Opponent party shall deposit an amount of Rs.54,664.00 (Rupees Fifty four thousand Eight hundred sixty four only) (Rs.53,664.00 claim + Rs. 1,200.00 compensation) by demand draft drawn in favour of Assistant Labour Commissioner (Central) Mumbai within a period of 10 days of receipt of this order.*
3. *If the opponent No.1 calls to deposit the awarded amount, the applicant shall take steps to recover the amount as per law/rules.*
4. *The applicant shall take all necessary steps to disburse the compensation amount to the concerned workers.”*

3] Perusal of the impugned order dated 8 November 2006, makes it clear that the Petitioner had infact, admitted the claim raised in MCA No. 275 of 2005. In the impugned order, the authority, in the context of the Petitioner, which was opponent No.2 in the proceedings before the authority, made the following observations :

The case was heard on 20.7.06, 15.9.06 & 8.11.06. The applicant and the representatives of the Opponent No. 1 & 2. both were present on the above mentioned dates. The opponent No.1 has submitted his written reply dated 4.5.2006 alongwith the copies of register of wages and refused to accept the claim application of the applicant. However, the Opponent No.2 has candidly admitted the claim without discussion merits.

4] In the review petition instituted by the Petitioner, though, several grounds were raised, no contention was raised to the effect that the Petitioner had not in fact admitted the claim. The review petition was dismissed on 12 June 2007. In the impugned order dated 12 June 2007, the authority has rightly observed that the original impugned order dated 8 November 2006 was not based upon any concession made by the Petitioner, but the findings were based upon appraisal on oral and documentary evidence on record.

5] In view of the aforesaid, at least at this stage, the contention that the claim had not been admitted cannot be accepted. Mr. Shah, learned counsel for the Petitioner, however, submitted that Respondent No.3 has in fact paid the minimum wages to the workmen and therefore, there was no justification of making any orders against the Petitioner. The authority, by relying upon the relevant Notifications by the which minimum wages came to be prescribed, has ruled that there was a shortfall. The authority has also determined shortfall, which comes to Rs.54,664 (inclusive of compensation). There is no reason to interfere with this finding of fact recorded by the authority. In any case, the impugned order makes it clear that the Petitioner is always at liberty to recover the said amount from Respondent No.3 after the Petitioner deposits the same with the Assistant Labour Commissioner (Central). There is neither any jurisdictional error nor is there any perversity of approach in making of the impugned order.

6] Accordingly, this petition is dismissed. Interim order, if any, is vacated.

7] Rule is discharged. There shall, however, be no order as to costs.

8] The Petitioner is directed to comply with the directions contained in the impugned order dated 8 November 2006 within a period of two months from today and thereafter to file an affidavit of compliance in this Court. Further, Respondent No.2, i.e. Assistant Labour Commissioner is directed to disburse the amount to the

workmen, on whose behalf, Respondent No.2 had filed claim before the authority within a period of three months thereafter and file a compliance report in this Court.

9] It is clarified that the consistent with the liberty granted in the impugned order, the Petitioner, upon deposit of the amount as aforesaid with Respondent No.2 shall be at liberty to recover such amount from the Respondent No.3.

10] Place the mater for filing report of compliant on 12 April 2016 on the supplementary board.

(M. S. SONAK, J.)

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