

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 14-03-2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.27489 OF 2015

S.Malliga

...Petitioner

-Vs-

1.The Deputy Commissioner of Labour-2,
(Authority under Minimum Wages Act)
DMS Complex, Teynampet,
Chennai-600 006.

2.The Management of
Trinity Leather Waren,
Chennai 600 117.

...Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, to call for the records from the first respondent in connection with its order, dated 13.04.2015, passed in M.W.A.No.29 of 2012 and quash the same and direct the second respondent to pay the minimum wages difference of Rs.3,50,961/- (Rupees Three Lakh Fifty Thousand Nine Hundred and Sixty One only) with 18% interest till the realisation of the amount with the compensation.

For Petitioner : Mr.V.Prakash,
Senior Counsel,
for Mr.K.Krishnamoorthy.

For Respondents : No Appearance.

ORDER

Though the names of the respondents have been printed in the Cause List, none appears for them.

2. Petitioner has filed this writ petition, challenging the order, dated 13.04.2015, passed by the first respondent in M.W.A.No.29 of 2012, wherein the petitioner claimed for payment of difference in minimum wages of a sum of Rs.3,50,961/-, together with interest.

3. The petitioner's case is that she joined the service of the second respondent, which was carrying on

business in the name and style "Thirumurthy Leather Waren", during the year 1990, and, thereafter, in the year 2000, it changed its name to "Trinity Leather Waren" and continued to carry on the business activities. The petitioner would state that the management did not pay the wages as per the notification issued, and, on coming to know of the same, she filed an application before the first respondent in I.A.No.7 of 2011, for condoning the delay in filing the application for claiming minimum wages. Thereafter, the application was taken on file and the parties were heard.

4. The first respondent, by the impugned proceedings, rejected the application, on the ground that the petitioner had not produced sufficient documents to establish that she had been employed by the management and the other documents to prove her salary structure. Therefore, the only ground for rejection appears to be that the petitioner had not produced the necessary documents.

5. Learned Senior Counsel appearing for the petitioner would submit that the finding rendered by the first respondent is absolutely perverse, as the documents, which were placed by the petitioner, would clearly show that she had worked in the respondent management and this was not denied by the management in the counter affidavit in M.W.A.No.29 of 2012 and that it has changed its name and style from Thirumurthy Leather Waren to Trinity Leather Waren. It is further submitted that the documents relating to EPF Scheme for the years 2000-2001, 2001-2002 and 2002-2003 are very relevant documents which go to prove the petitioner's employment. It is submitted by the learned Senior Counsel that Ex.R-1, dated 09.06.2006, marked by the respondent management, did not contain signature or seal of the management, so also Ex.R-2, dated 30.06.2006, and, while so, the first respondent ought not to have rejected the claim of the petitioner, on the ground of Ex.W-5 did not containing the seal and signature.

6. On a perusal of the impugned order, it is seen that the petitioner has examined herself as W.W.1 and marked five documents. However, the management did not choose to lead any oral evidence, but they marked two documents. Therefore, the proper procedure for the first respondent was to examine those documents and then record a finding, but, without doing so, the first respondent merely brushed aside all the documents and threw blame on the petitioner. When, prima facie, the petitioner had discharged the burden on her side, it was for the management to establish that those documents produced by the petitioner were wrong or invalid or not acceptable. In fact, no such exercise was conducted by the first respondent.

7. For all the above reasons, this Writ Petition is allowed and the order impugned is quashed. The matter is remanded to the first respondent for fresh consideration. The

first respondent shall take into consideration the oral and documentary evidence already placed; give an opportunity to the petitioner and the second respondent to lead further evidence, both oral and documentary, if any; hear both sides and pass a reasoned order on merit and in accordance with law, within a period of three months from the date of receipt of a copy of this order. No costs.

dixit

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Deputy Commissioner of Labour-2,
(Authority under Minimum Wages Act)
DMS Complex, Teynampet,
Chennai-600 006.

+ 1 cc to The Govt.Pleader, Sr 16343

+ 1 cc to Mr.K.Krishnamoorthy, Advocate Sr 16359

KR/21/3/16

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