

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Appeal Nos.533 and 534 of 2016
and C.M.P.No.7237 and 7238 of 2016

Pradeep Stainless India Private Limited
Rep.by its Managing Director
C3, MEPZ, Tambaram
Chennai 600 045 ..Petitioner/Appellant in both appeals

Vs.

- 1.The Deputy Commissioner of Labour No.II
Authority constituted under the
Minimum Wages Act
DMS Complex
Teynampet
Chennai 6
2. The General Secretary
Chennai Yetrumathi Valaga Uzhiyargal
Matrum Pothu Thozhilalar Sangam
No.11, MES Road
Kadaperi
Tambaram
Chennai 600 045 ..Respondents/Respondents in both appeals

Writ Appeal No.533 of 2016 filed against the order dated 04.03.2016 made in W.P.No.30389 of 2008 filed under Article 226 of the Constitution of India for issuance of Writ of certiorari calling for the records of first Respondent pertaining to MWIA No.6/2008 in the minimum wages case preferred by the 2nd respondent and quash the impugned order dated 22.09.2008 passed by the first Respondent (WA No.533/2016).

Writ Appeal No.534 of 2016 filed against the order dated 04.03.2016 made in W.P.No.8902 of 2009 filed under Article 226 of the Constitution of India, for issuance of Writ of certiorari calling for the records pertaining to MWIA No.14/2008 in the minimum wages case preferred by the 2nd respondent and quash the

impugned order dated 09.04.2009 passed the first respondent there under (W.A.No.534/2016).

For appellant : Mr.Vijay Narayanan, Senior Counsel
for Mr.K.V.Shnamuganathan
(in both Appeals)

For respondent-2: Mr.N.G.R.Prasad
for M/s.Row & Reddy (in both Appeals)

C O M M O N O R D E R

(Order of the Court was made by HULUVADI G. RAMESH, J.)

Heard the learned Senior counsel appearing for the appellant/Management and the learned counsel appearing for the 2nd respondent/caveator/Trade Union.

2. The appellant/Management challenges the order of the learned Single Judge dated 04.03.2016 passed in W.P.Nos.30389 of 2008 and 8902 of 2009, wherein, the learned Single Judge dismissed the Writ Petitions filed by the Management and directed the first respondent/Authority to number the Applications and take the same on file and permit the Management to file their counter statement and the workmen to file reply to the counter statement, if necessitated and thereafter proceed to adjudicate the matter on merits and in accordance with law and dispose of the cases within a period of three months from the date of receipt of a copy of the order.

3. The challenge in the Writ Petitions was to the orders passed by the Deputy Commissioner of Labour-II, the Authority constituted under the Minimum Wages Act, dated 22.09.2008 and 09.04.2009 respectively, in and by which, the Authority has condoned the delay of 14 months in one case and 19 months in other case, in filing the Applications, claiming for minimum wages by the Union.

4. The learned Senior counsel representing the appellant/Management submits that without examining the genuineness of the delay, the court cannot condone enormous delay and the first respondent has totally failed to consider the contention advanced on behalf of the appellant/Management to the effect that they are not in possession of the records and registers from the year 2001. The learned Senior counsel also submitted that the order of the learned Single Judge confirming the order of the first respondent is erroneous.

5. On the other hand, the second respondent/Trade Union,

who filed caveat petition before this court is represented by counsel. The learned counsel appearing for the 2nd respondent submitted that the Minimum Wages to be paid to the employees is due since 2001 and even after the dismissal of the Writ Petitions filed by the Management, the appellant has not taken any steps to deposit the Minimum Wages nor filed any counter statement before the court concerned. The learned counsel further contended that the laches is on the side of the management and it is not the fault on the part of the workmen, who filed claim petitions seeking payment of difference amount of Minimum Wages.

6. In this regard, the learned counsel for the 2nd respondent has drawn the attention of this court to an unreported judgment of a Division Bench of this court in W.A.No.396 of 2016 and CMP.No.5774 of 2016 [Venture Power System India Pvt.,Ltd., Vs. The Deputy Commissioner of Labour-2], wherein, in similar circumstances, it was observed that exercise of discretion by the Authority clearly shows that there is neither arbitrariness in the order condoning the delay in filing the application nor there is any deliberate inaction on the part of the workmen to approach the authority.

7. Now, on examination of the facts of the case, it is evident that the delay caused was on account of justifiable reasons and also on account of the fact of non implementation of Government Orders by the management and therefore, the belated claim is rather beneficial to the management and not to the employees.

8. At this juncture, it is relevant to extract Section 20 (2) and Proviso to Section 20(2) of the Minimum Wages Act, 1948.

"20(2) . Where an employee has any claim of the nature referred to in Sub Section (1), the employee himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector, or any person acting with the permission of the Authority appointed under Sub Section (1) may apply to such authority for a direction under Sub Section (3).

Provided that every such application shall be presented within six months from the date on which the minimum wages or other amount became payable.

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the Authority that he had sufficient cause for not making the application within such period."

9. Keeping in view the above legal position and all the above stated circumstances, we are of the view that the first respondent exercised his power as provided under Sub Section (2) of Section 20 of the Minimum Wages Act, 1948, with vigilance, while condoning the delay in the applications filed by the workmen on satisfaction of showing the "sufficient cause" by the workmen. The learned Single Judge, after going through all the above facts, dismissed the writ petitions, which in our considered view does not suffer from any illegality or infirmity.

10. In the light of the above discussions, the Writ Appeals are dismissed. No costs. Consequently, connected CMPs are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nvsri

To

1.The Deputy Commissioner of Labour No.II
Authority constituted under the Minimum Wages Act
DMS Complex
Teynampet
Chennai 6

2 ccs to Mr.K.V.Shanmuganathan, Advocate, sr.29368

1 cc to M/s.Row & Reddy, Advocates, sr.29189

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