

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.8279 of 2009

ORDER:

The Executive Engineer (R.W.S) Division at Sadashivpet, Medak is the petitioner.

2. Petitioner challenges the order dated 28.02.2009 passed by the Assistant Commissioner of Labour, Sangareddy (Authority under Payment of Wages Act). The reproduction of impugned order dated 28.02.2009 relieves the Court from referring to the factual background.

“This case is heard on 31-01-2009 in the presence of Sri Shaik Dada, Trade Union leader and petitioners’ representative and Sri D.R. Mane, Counsel for the respondent. The respondents counsel stated that as per the notification issued by the Government in G.O.Ms.No.46 Labour Employment Training and Factories (Lab Act, IV) dated 28.06.2008 published in Andhra Pradesh Gazette Dated 10-07-2008 at page No.613 the pecuniary jurisdiction of this authority to entertain claims under Payment of Wages Act 1936 & Minimum Wages Act, 1948 is up to Rs.20,000/- (Rupees Twenty Thousand Only).

In view of the above notification this authority cannot adjudicate this matter therefore, this claim petition along with entire file submitted Joint Commissioner of Labour, RR Zone, O/o The Commissioner of Labour, Hyderabad, who is competent authority under Payment of Wages Act, as per the notification for further disposal.”

3. The second respondent was the applicant before the first respondent and claimed a sum of Rs.60,000/- from the petitioner herein under the Payment of Wages Act. The first respondent by referring to the notification issued under G.O.Ms.No.46 Labour, Employment, Training & Factories (Lab.IV) Department dated 20.06.2008 has transferred the pending case to the file of the Joint Commissioner, RR Zone, O/o. The Commissioner of Labour, Hyderabad. Hence, the writ petition.

4. Learned counsel for petitioner challenges the order on two grounds viz. that the first respondent cannot and could not have transferred the pending

case to the office of the third respondent and that there is no provision under the Payment of Wages Act to order transfer of a case. It is further contended that once the first respondent realized that he did not have jurisdiction on account of pecuniary limits stipulated by the Government, the first respondent ought to have either returned or rejected the pending claim in P.W.No.15 of 1996. Hence, prays for setting aside the same.

5. Mr. Ashok Anand Kumar, counsel for second respondent, contends that the order impugned in the writ petition is in terms of G.O.Ms.No.46 dated 20.06.2008. According to him, when the claim was made before the first respondent, the first respondent had no jurisdiction and in obedience to the directions issued by the Government, the first respondent relieved himself from deciding the claim and made it over to the authority, which has jurisdiction, therefore, no exception can be taken.

6. Learned Assistant Government Pleader draws the attention of the Court to note appended to the schedule attached to G.O.Ms.No.46 dated 20.06.2008. The note reads as follows:

"Note:

1. The Assistant Commissioners of Labour shall exercise their functions as Authorities in their respective administrative areas within the district.
2. In respect of claims under Payment of Wages Act 1936, Minimum Wages Act, 1948 the concerned Assistant Commissioner of Labour shall take up claim for amount up to Rs.20,000/-, Exceeding Rs.20,000/- and up to Rs.50,000/- claims shall be taken up by the concerned Deputy Commissioner of Labour and claims for amount above Rs.50,000/- shall be taken up by the concerned Joint Commissioner of Labour.
3. The Joint Commissioners of Labour and above ranked officers can also take up any claims under the above Acts irrespective of the amount, if it is required under certain circumstances.
4. The Conciliation Officers shall take up Industrial Disputes in Industries as specified below:
 - a) Assistant Commissioners of Labour: up to 50

- workers,
- b) Deputy Commissioners of Labour: Above 50 and up to 200 workers,
 - c) Joint Commissioners of Labour and Additional Commissioner of Labour: Above 200 workers,
 - d) Joint Commissioner of Labour and above ranked conciliation officers shall take up any dispute irrespective of number of workers as and when required. The lower officers shall also take up any dispute assigned to them by the higher officers irrespective of number of workers."

Therefore, according to learned Assistant Government Pleader, the first respondent, on being satisfied that the amount involved in P.W.No.15 of 1996 is more than Rs.50,000/-, has rightly transferred the case to the Joint Commissioner, authorized by the Government while stipulating the jurisdiction of respective authorities.

7. The contention of the petitioner, at the outset, does not merit consideration. The reasons as to why a simple claim for adjudication under the Payment of Wages Act is pending from 1996 till 2009 are not explained. When the case is taken up for orders, the jurisdictional difficulty presented by G.O.Ms.No.46 dated 20.06.2008 was noticed by the first respondent. The first respondent is bound by the note appended to the schedule attached to G.O.Ms.No.46 dated 20.06.2008. This is a general order issued by the Government to make over the cases, which are beyond the pecuniary jurisdiction of such authority, as on that date. Rightly the first respondent has passed the order impugned in the writ petition. The objection that the claim ought to have been returned or rejected, in the considered view of this Court, is merely noted to be rejected. In the view of this Court, a vexatious case is filed, stay of proceedings before the Commissioner is obtained for a period of seven years and the petitioner, therefore, ought to be put to terms for pursuing writ remedy. However, keeping in view the submissions of counsel for petitioner, the petitioner is relieved from the difficulty of costs.

The writ petition is dismissed. As a sequel, the miscellaneous

applications, if any pending, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

June 16, 2016
DSK