

HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.4014 of 2003

ORDER:

This writ petition is filed challenging order dated 29.06.2002 in M.W.Case No.11 of 2001 on the file of Assistant commissioner of Labour, Ongole (for short "the lower authority").

2. Respondent herein approached the authority appointed under Minimum Wages Act (for short "the Act") contending that the employer has not paid the Over Time (O.T.) wages and that he is entitled for a sum of Rs.49,634/- as Over Time wages for the period from 29.01.1994 to 20.02.1998. The employer i.e., petitioner herein resisted the claim of employee on the ground that the employee has not made any claim within one month as stipulated to the department and he approached the authority 7 years after the alleged due date for payment, and that there is no basis for the amount claimed at Rs.49,634/-. The lower authority under the Act, on a consideration of contentions and rival contentions of both parties, held that respondent herein is entitled for amount claimed and directed petitioner herein to pay the amount within 30 days from the date of that order. Challenging the same, present writ petition is filed.

3. Heard arguments.

4. Advocate for petitioner submitted that order of the lower authority is contrary to law and it erred in observing that petitioner did not maintain O.T. register in Form-IV. He further submitted that the lower authority failed to notice that there is abnormal delay of nearly 7 years, which is not properly explained by the

employee. He further submitted that the lower authority ought to have seen that there is no basis and material for the claim of Rs.49,634/-, and for these reasons, the order of the lower authority is arbitrary, illegal and liable to be set aside.

5. On the other hand advocate for respondent/claimant submitted that there is no limitation prescribed in the Act for claiming O.T. wages and the lower authority has rightly granted O.T. wages and that there is no illegality in the order of the lower authority. He further submitted that there are no grounds to interfere with the findings of the lower authority.

6. Now the point that would arise for my consideration in this writ petition is :

Whether the order dated 29.06.2002 of lower authority is arbitrary, illegal and contrary to the provisions of Minimum Wages Act?

POINT :

7. I have perused the material papers including the order of lower authority. As seen from the record, the claimant worked in petitioner-Corporation from 29.01.1994 to 20.02.1998 as conductor and as System Supervisor, but the Corporation did not pay any O.T. wages as applicable. As per Section 4 of the Act, the employee is entitled for Over Time wages and considering the said provision applying it to the facts of the case, lower authority held that petitioner herein having admitted that the applicant had worked for overtime and did not produce the O.T. Register, which has to be maintained in Form-IV granted the relief.

8. Now the contention of petitioner is that finding of lower authority that petitioner did not maintain O.T. register in Form-IV is

incorrect and illegal. But as seen from the record, the finding is that having admitted that employee worked for overtime, the employer did not produce O.T Register before the Court and that factor was taken into consideration, therefore there is nothing wrong in the finding of lower authority and contention of petitioner on this score is not at all tenable.

9. One of the objection of advocate for petitioner is that respondent herein i.e., employee has not produced any material supporting the claim of Rs.49,634/- for the period from 29.01.1994 to 20.02.1998. As seen from the record, the employee deposed in his evidence that the management maintained the chart for the Over Time service rendered by him and out of the amount arrived towards Over Time charges, a balance of Rs.49,634/- was left. When such a specific statement is made, the employer did not produce the chart prepared by the management of the overtime rendered by the employee, to contradict the evidence of employee.

10. On the other hand, there is a clear admission on the part of employer about overtime service and if really claim of Rs.49,634/- is not in accordance with Section 4 of the Act, nothing prevented the petitioner to produce relevant material to show that the calculation made by the employee is incorrect. Lower authority considering these aspects discarded the objection of petitioner on both points and I do not find any arbitrariness or illegality in the order of lower authority in granting overtime wages to the employee as claimed.

11. For these reasons, I am of the view that this writ petition is devoid of merits and liable to be dismissed.

12. Accordingly, this Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any pending, in this writ petition shall also stand closed.

S. RAVI KUMAR, J

Date: 03-02-2016.

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