

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No. 2294 of 2011 (O&M)
Date of decision: 05.10.2016**

Vijay Kumar Goyal

....Petitioner

Versus

Authority under the Payment of Wages Act and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Sanjay Tangri, Advocate for the petitioner.

Mr. Neeraj Yadav, AAG, Punjab.

Mr. Amitjot Singh Dhaliwal, Advocate for respondent No.3.

P.B. Bajanthri, J. (Oral)

Persuant to the order dated 16.09.2016, respondents no. 1 and 2 are present. Irrespective of whether they discharged the duties of the quasi-judicial function or not as and when they received notice from the court, it is their bounden duty to be present in person or through counsel representing State/Department.

2. In the present case despite service of notice, both respondents No.1 and 2 failed to appear as well as failed to inform the State counsel to assist in the matter. Today, on behalf of respondents No. 1 and 2 learned State counsel is representing.

3. Petitioner has assailed the order dated 10.12.2007 passed by the

Authority under the Payment of Wages Act-cum-Assistant Labour Commissioner, Ferozepur and further questioned the order dated 30.11.2010 order passed by the Authority under the Payment of Wages Act-cum-Assistant Labour Commissioner, Moga. The respondent No.3 filed application under Section 20 of Payment of Wages Act.

4. Perusal of Annexure P1 dated 10.12.2007 read with zimny orders commencing from 05.03.2007 to 10.12.2007 there are various discrepancies like non-appearance of the respondent (Vijay Kumar Goyal) etc. Despite presence of the respondent (Vijay Kumar Goyal) in the order dated 10.12.2007, in the zimni order dated 10.12.2007 it has been recorded as none for the respondent. During pendency of the application under Section 20 of Payment of Wages Act, for the purpose of service of notice to the petitioner, the respondent No.3 herein furnished address of petitioner as "Varinder Kumar Goyal (Cheema)" instead of Vijay Kumar Goyal. Thus, the petitioner-Vijay Kumar Goyal has not been served and it is deemed that the order dated 10.12.2007 is ex-parte order. The petitioner-Vijay Kumar Goyal preferred an application before the authority to set aside the order dated 10.12.2007. The same has been rejected on 30.11.2010. It is clear case of ex parte order and further the respondent No.3-Prabhash Narayan Dass has failed to identify about his claim against Vijay Kumar Goyal or Varinder Kumar Goyal as is evident from furnishing of address "Varinder Kumar Goyal". Accordingly, notice was issued by the Assistant Labour Commissioner, Ferozepur to Varinder Kumar Goyal.

5. Having regard to the above discrepancies in the order of the Authority under the Payment of Wages Act-cum-Assistant Labour Commissioner, Ferozepur read with Authority under the payment of Wages

Act-cum-Assistant Labour Commissioner, Moga, matter requires to be remanded to the Authority under the Payment of Wages Act-cum-Assistant Labour Commissioner, Moga to decide the application of respondent No.3-Prabhash Narayan Dass afresh. Territorial jurisdiction which was with Ferozepur would be changed in view of the new development that Moga has been constituted as a new district during the intervening period from 2007 to this day. Therefore, Annexures P1 dated 10.12.2007 and P8 dated 30.11.2010 are set aside. Hence, the petitioner and respondent-Prabhash Narayan Dass are directed to appear before the Authority on 08.11.2017. The authority is directed to decide the application under Section 20 of the Payment of Wages Act filed by respondent No.3-Prabhash Narayan Dass in accordance with law within a period of 3 months.

05.10.2016

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No