

**224 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP-7582 of 2013

Date of Decision: 03.10.2016

National Institute of Technology, Kurukshetra & Anr.

... Petitioners

Versus

Regional Labour Commissioner(Central)-cum-Authority & Ors.

... Respondents

CORAM:- HON'BLE MR.JUSTICE P. B. BAJANTHRI

Present:- Mr. A. S. Virk, Advocate
for the petitioners.

Mr. Vikram Bajaj, Sr. Panel Counsel
for respondent No.1.

Ms. Abha Rathore, Advocate
for respondent Nos. 2 to 16, 18 to 25,
29, 31, 33 and 34 to 36.

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P. B. BAJANTHRI.J.

In the instant writ petition, the petitioners have challenged the order dated 09.01.2013 passed by respondent No.1-Regional Labour Commissioner(Central), Chandigarh under Minimum Wages Act, 1948.

The respondents filed an application under Section 20(3) of the Minimum Wages Act, 1948 claiming the difference of wages for the period from October, 2009 to March, 2010 alongwith the compensation. They were working as Security Guards with NIT, Kurukshetra during the relevant period. Although, 54 workers had given authority to file the claim on their behalf, admittedly, it was restricted to only 35 workers. The Regional Labour Commissioner authority under Minimum Wages Act, 1948 allowed the claim of the respondents along with the compensation.

Learned counsel for the petitioner disputed grant of the claim made by the workers and compensation in respect of respondents No.34 to 36 stating that they are not entitled for the reasons that they did not file affidavit but also they were not present for cross examination. In respect of respondents No.13, 16, 18, 21 and 24 to 33 even though they have filed affidavit and they were not present for cross examination. Therefore, they are not entitled for the relief sought by them. It was further contended that authority under the Minimum Wages Act, 1948-cum-Regional Labour Commissioner while passing the order dated 09.01.2013 has erred in holding that claim of the workers at serial No.1 to 22, 24, 25, 28 to 32 and 34 to 35 is not in terms of the claim made by them in their applications presented before the Regional Labour Commissioner. Therefore, Regional Labour Commissioner has committed error. In view of these discrepancies, order dated 09.01.2013 is liable to be set aside.

Per contra, learned counsel for the respondents submitted that admitting the fact that respondent No.34 to 36 are not entitled as they have not filed affidavit and so also they were not present for cross examination. Insofar as, respondents No.13, 16, 18, 21, 24 to 33, they have filed affidavit in support of their claim merely because they were not present for cross-examination. It is not correct as contended by the petitioners that the respondent-workmen are not entitled for the claim made by them as well as compensation. It was further admitted by the respondents that if the Regional Labour Commissioner has committed error with reference to claim amount each of the respondent, she has no objection for rectifying the same.

I have heard learned counsel for the parties.

Respondents No.13, 16, 18, 21, 24-33 were not present for cross examination does not mean that they have given up their claim before the authority. There is no mandatory provision for the purpose of examination and cross-examination to decide claim application. Therefore respondents No.13, 16, 18, 21, 24-33 are also entitled for the claim made by them along with the compensation. The Regional Labour Commissioner while passing the order dated 09.01.2013, has committed error insofar as some of the respondents claim mentioned in the order is not in accordance with their claim. Therefore, the petitioners are directed to release the claim of each of the respondent who are eligible with reference to their claim application and release the said amount along with the compensation instead of remanding the matter to Labour Court to rectify the claimed amount with reference to the claim application made by each of the respondent.

Accordingly petition stands disposed of.

The petitioner institute is directed to disburse the claim amount along with the compensation to the workmen-respondents after verification of their identity. The monetary benefit awarded by the authority under the Minimum Wages Act, 1948 and Regional Labour Commissioner, Chandigarh order dated 09.01.2013 is modified as above.

03.10.2016

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(P. B. BAJANTHRI)
JUDGE