

HIGH COURT OF CHHATTISGARH, BILASPUR**WPL No. 3954 of 2007**

M/s. Danteshwari Agencies, Engineers & Contractors through its Partner Abhay Kale, aged about 37 years, son of Babasaheb Kale, 3rd Ground Floor, Kakkar Complex, Katora Talab Chowk, Raipur (CG)

---- Petitioner**Versus**

1. Regional Lab Commissioner (Central) Authority Under Minimum Wages Act.1948, Raipur, Chhattisgarh
2. Labour Enforcement Officer (Central) Raipur, District - Raipur (C.G.)

---- Respondents

Shri Shobhit Koshta, counsel for the petitioner/s.
Shri Rajkumar Gupta, counsel for the respondents.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****16/11/2017**

A short issue arising for consideration in the present petition is whether respondent No.1 had the authority to issue direction to pay difference of wages in favour of the workmen without there being any dispute of rate of minimum wages brought for consideration and adjudication.

2. Shorn of unnecessary details, it would suffice to state in the order that on 24/06/2005, an inspection was carried out in petitioner's establishment by the Labour Enforcement Commissioner (Central), Raipur. The officer found that the workmen were not being paid their full wages. He, therefore, submitted a claim before respondent No.1, the administrative authority as provided under Section 20 of the Minimum Wages Act, 1948. Several notices were issued to the petitioner. Initially, the petitioner did not appear but later on, he engaged a counsel who also could not proceed in the matter with the result that the petitioner was proceeded ex-parte and the impugned award came to be passed against the petitioner.

3. Relying upon judgment of the Supreme Court in the case of **Athani Municipality v. Labour Court, Hubli, AIR 1969 SC 1335** and the judgment of the High Court of Madhya Pradesh in the case of **Manganese Ore (India) Ltd, Nagpur v. Bisen Rajaram and ors., 1978 MPLJ 595**, it is submitted by learned counsel for the petitioner that respondent No.1 had no authority to determine the dispute with regard to wages and the difference of wages as such, in the absence of there being any dispute with regard to rates of wages.

4. Learned counsel for the respondents submits that the provisions of wages are defined as all remuneration, capable of being expressed in terms of money. The authority, upon enquiry, in which the petitioner did not participate, found on facts that the workmen were being paid less wages. He submits that though in the award, there is no specific mention of the rates, the very fact that less wages were being paid would mean that rates of wages was below the prescribed rate. Therefore, the authority had all the jurisdiction to pass the order.

5. After hearing learned counsel for the parties and going through the impugned order, this Court has no hesitation to hold that the impugned order is without jurisdiction. In the entire order, there is no mention of the rates, much less adjudication of dispute with regard to rates of minimum wages payable to the workmen for which, claim was made before respondent No.1. The entire consideration revolves around the difference of wages rather than correctness of the rate of wages. On this factual premise, the decision of the Madhya Pradesh High Court placing reliance in the case of **Athani Municipality** (supra) will become squarely applicable. The Supreme Court in the aforesaid decision interpreting scope and ambit of power of the authority under Section 20 of the Act held as below -

7. We have examined the applications which were presented before the Labour Court under Section 33C (2) of the Act in these appeals and have also taken into account the pleadings which were put forward on behalf of the appellant in contesting those applications and we are unable to find that there was any dispute relating to the rates. It is true that, in their applications, the workmen did plead the rates at which their claims had to be computed; but it was nowhere stated that those rates were being disputed by the appellant. Even in the pleadings put forward on behalf of the appellant as incorporated

in the order of the Labour Court, there was no pleading that the claims of the workmen were payable at a rate different from the rates claimed by them. It does appear that, in one case, there was a pleading on behalf of the appellant that no rates at all had been prescribed by the Mysore Government. That pleading did not mean that it became a dispute as to the rates at which the payments were to be made by the appellant. The only question that arose was whether there were any rates at all fixed under the Minimum Wages Act for overtime and for payment for work done on days of rest. Such a question does not relate to a dispute as to the rates enforceable between the parties, so that the remedy under Section 20 (1) of the Minimum Wages Act could not have been sought by the applicants in any of these applications. No question can, therefore, arise of the jurisdiction of the Labour Court to entertain these applications under Section 33C (2) of the Act being barred because of the provisions of the Minimum Wages Act. The first point raised on behalf of the appellant thus fails.

6. The aforesaid decision was followed subsequently by the High Court of Madhya Pradesh in the case of **Manganese Ore (India) Ltd.** (supra) wherein the High Court observed as below -

6. It is also argued by the learned counsel that in view of Section 20 of the Minimum Wages Act, which confers jurisdiction on the authority appointed under that section, jurisdiction could not be exercised under Section 33 C (2) of the Industrial Disputes Act. This argument is also devoid of any merit. Section 20 of the Minimum Wages Act was construed by the Supreme Court in the case of **Athani Municipality (supra)**. It was pointed out in that case that the language used in Section 20 showed that the authority appointed under that provision of law exercises jurisdiction for deciding claims which relate to rates of wages, rates for payment of work done on days of rest and over-time rates; and that in cases where there is no dispute as to rates of wages and the only question is whether a particular payment at the agreed rate in

respect of minimum wages is due to a workman or not, the authority has no jurisdiction to decide it. In the instant case, the dispute does not relate to the rates of wages. The claim of the workmen is for the balance of the amount payable to them in accordance with the rate applicable which is notice dispute. Such a dispute is not cognizable by the authority under Section 20 of the Minimum Wages Act. The jurisdiction under Section 33-C (2) of the Industrial Disputes Act for entertaining such a claim is, therefore, not taken away.

7. It was lastly submitted that the claim of the workmen was made beyond the period of limitation provided in Section 20 of the Minimum Wages Act, and, therefore, it was not entertainable under Section 33-C (2) of the Industrial Disputes Act. As earlier pointed out by us, the claim made by the workmen falls outside Section 20 of the Minimum Wages Act. The period of limitation provided under that section is not applicable for a claim under Section 33-C(2) of the Industrial Disputes Act. It is conceded that there is no period of limitation provided under this provision. The argument on the ground of limitation thus also fails.”

7. In view of above, the impugned order cannot be sustained in law and is therefore set aside.

8. Before parting with the case, this Court has to make it clear that if law permits, it would be open for the parties or the workmen to claim difference of wages by taking recourse to remedy before Forum competent under the law to decide the dispute of difference of wages.

The amount recovered from the petitioner shall be refunded to him.

Sd/-
(Manindra Mohan Shrivastava)
Judge