

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2017

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The Honourable **Mr.Justice HULUVADI G.RAMESH**
and

The Honourable **Mr.Justice RMT.TEEKAA RAMAN**
REV.PETITION NOS.27 TO 51 OF 2017

Rev.Petition No.27 of 2017 :

S.P.Apparels Limited (Thekkalur),
rep. by its Chairman Cum Managing Director,
S.F.No.565/2 Covai Main Road,
Thekkalur Post Avinashi Taluk,
Tiruppur-641654

.. Petitioner

versus

State of Tamil Nadu,
rep. by its Secretary,
Labour and Employment Department,
Fort St.George,
Chennai-600 009.

.. Respondent

Prayer: This Review Petition is filed, seeking to review the order passed by this Court in W.P.358 of 2015 dated 13.7.2016.

For Petitioner : Mr.Vijay Narayan, SC for
Mr.K.Sridhar

For Respondent : Mr.A.Muthukumarasamy, AG
assisted by
Mr.T.M.Papiah, Spl.G.P.

COMMON ORDER

(Order of the Court was made
by HULUVADI G.RAMESH, J.)

These Review Petitions have been filed, seeking to review the order passed by this Court dated 13.7.2016 passed in W.P.Nos.34161 of 2014 etc., in and by which, while allowing the Writ Appeal filed by the State, dismissed the Writ Petitions filed by the employer/writ petitioners, directing the respective writ petitioners to comply with the notification issued in G.O.(2D) No.59 Labour & Employment (J1) Department dated 10.10.2014 and published in Part II Section 2 of the Tamil Nadu Government Gazettee dated 3.12.2014 for payment of the revised minimum wages, with effect from December 2014 including arrears with interest at 6% p.a. However, the writ petitioners/management was given liberty to submit a representation to the Government as to the difficulties faced by them in payment of minimum wages as notified and in such event, the Government was directed to consider the same at the time when the revision is contemplated in future and pass orders in accordance with law, while further revising the minimum wages as per the provisions

of the Act.

2. Learned senior counsel appearing for the review petitioners would submit that in fact, the impugned G.O.Ms.No.59 Labour & Employment (J1) Department dated 10.10.2014 is not applicable to employment in tailoring industry, as such, holding that the impugned G.O. 59, dated 10.10.2014 is applicable to both employment in tailoring industry and Hosiery Industry by this Court, is factually an error apparent on the face of the record and it needs to be rectified. He would point out that in fact, a bare perusal of the impugned Notification, nowhere reveals that it is applicable to Hosiery Industry, but it was specifically mentioned therein that it is passed in respect of employment in tailoring industry. While so, when this cardinal issue raised in the grounds of appeal for consideration, this Court has failed to deal with the said issue. He would further point out that being Hosiery Manufacturing units involved in manufacture and export of hosiery knitted garments, they are exclusively covered by G.O.Ms.No.5 dated 27.01.2016. In fact, in the present impugned G.O. 59 dated 10.10.2014, there was no specific mention about earlier G.O.Ms.No.4844 dated 21.10.1960 which was issued for

payment of minimum wages for Hosiery industry. It is pointed out that a Committee was appointed in 2012 and the said Committee after an elaborate discussion, fixed the minimum wages for hosiery industry and consequently a separate G.O.(2D) Ms.No.5, dated 27.01.2016 was issued in 2016 for payment of minimum wages for employment in hosiery manufactory and the erstwhile G.O. of 1960 is superseded by G.O.Ms.No.5 dated 27.1.2016. It is pointed out that the present impugned G.O. of 2014 is in supersession of Labour and Employment Notification 11.2/LE/98/2005 published in Gazettee on 2.2.2005, which was issued for payment of minimum wages for employment in tailoring industry. As such, the present impugned G.O. has to be strictly applied to employment in tailoring industry. It is also pointed out that there are no separate wages fixed in G.O. of 2016 for payment of minimum wages in Hosiery industry for domestic and export sales. Therefore, holding that the impugned G.O. of 2014 is applicable to hosiery industry is factually an error apparent on the face of the record, which needs to be rectified.

3. On the other hand, the learned Advocate General for the respondents would submit that the review petitions are not maintainable since there was no error apparent on the face of the record. The learned Advocate General filed a Clarification Statement furnishing the details as regards the minimum rates of wages in respect of employment in tailoring industry *vis-a-vis* the Hosiery Manufactory and submitted that the Government of Tamil Nadu sought for a clarification from the Ministry of Textiles, Government of India in respect of term 'hosiery manufactory' and obtained the clarification regarding hosiery manufactory and that since the petitioners were exporting knitted hosiery garments to various countries and the foreign customers are insisting for implementation of the minimum wages, the Government of Tamil Nadu has rightly issued the impugned G.O.(2D) No.59 dated 10.10.2014 and it is very much applicable to them. He also pointed out that as against the order under review, as many as 32 export garment manufacturing industries filed Special Leave Petitions before the Apex Court, which came up for hearing on 20.3.2017 and it was ordered to deposit 50% of the awarded amount and four of them have also deposited the amount.

Further, the review petitioners have also filed various writ petitions with similar prayer before this Court and they are still pending and this fact was not brought before this Court and the Government is agitating the same by filing counter affidavits and after the pleadings, suitable orders would be passed in the said Writ Petitions.

4. Heard the learned senior counsel appearing for the review petitioners and the learned Advocate General appearing for the respondents.

5. Since the matter is also under consideration before the Apex Court in some of the S.L.Ps. preferred by various garments manufacturing industries, we feel it appropriate, in view of the above submissions made by the learned senior counsel that as no separate wages fixed is in G.O. Ms.No.5, dated 27.01.2016 for payment of minimum wages in Hosiery Industries and Tailoring Industries for domestic sales and export sales, and the stand of the review petitioners that holding that the impugned G.O.59, dated 10.10.2014 is applicable to Hosiery Industry is factually

incorrect and an error apparent on the face of record. Therefore, liberty is given to the petitioners to approach the respondent/Government, seeking for reconsideration and to take decision as to the applicability of relevant G.O. to the petitioners.

Accordingly, Review Petitions are disposed of. No costs. Consequently, connected WMP Nos.9037 to 9061 of 2017 are closed.

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(H.G.R., J.) (T.K.R., J.)
27.04.2017

HULUVADI G.RAMESH, J.
and
RMT.TEEKAA RAMAN, J.
suk

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