

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.09.2017
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.24226 and 24227 of 2003

R.Kandasamy ... Petitioner in W.P.No.24226 of 2003
F.Joyee ... Petitioner in W.P.No.24227 of 2003

Vs.

1.The Management,
SPM Bus Service,
Bhavani.

2.The Deputy Commissioner of Labour
(The authority under the M.W.Act 1948)
Salem 7. Respondents in both the W.Ps.

Common Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records connected with the impugned order in M.W.Nos.18/2001 and 17/2001 respectively, dated 21.10.2002, passed by the 2nd respondent and quash the same and direct the 1st respondents to pay the amount to the petitioner as prayed in M.W.Nos.18/2001 and 17/2001 respectively.

For Petitioners : Mr.S.N.Ravichandran
For Respondents : Mr.M.Palani for R1
Mr.M.Elumalai for R2
Government Advocate

C O M M O N O R D E R

The petitioners have filed these writ petitions challenging the order passed under the Minimum Wages Act, 1948.

2.The petitioners filed individual petitions under Section 20 (2) of the Minimum Wages Act, 1948, against the first respondent Management claiming the difference between the wages actually paid and minimum wages payable to them under the Act.

3.The issue which centre around the case is whether the petitioners made a claim within six months of the recovery under Section 20 (2) of the Minimum Wages Act, 1948.

4.The issue is answered by the Labour Court as follows:

"Further according to Section 20 (2) of the Minimum Wages Act, 1948, the claim application should have been presented to the Authority within six months from the date on which the minimum wages became payable. The applicants have not given any satisfactory and convincing reason for not claiming the alleged difference in wages for the past several years. In this case all the Applicants failed to comply with the mandatory requirement and on this ground alone these applications are liable to be dismissed.

The Respondent has denied that they were paying less than the minimum wages prescribed under the Act. Further, they have produced the daily wages payment vouchers which were duly signed by the Applicants. The new Management has taken over the ownership only from 23.3.1998 as per documentary evidence (Ex.A1) submitted by them. This fact not disputed by these applicants. Out of 4 Applicants one Applicant (IVth Applicant) has left the service from the previous management as early as December 1997. He has also filed the claim petition (MW 18 of 2001). The other three applicants have not given any satisfactory and acceptable reasons for their not claiming the alleged difference in wages from 1978/1979/1990 within six months from the date, minimum wages became payable and thereby violated section 20 (2) of the Minimum Wages Act, 1948.

In the result, it is held that the Applicants failed to satisfactorily prove their claim for payment of the alleged differenced in minimum wages. These claims for the alleged difference in minimum wages from 1978/1979/1990 in respect of first three Applicants in MW 15 of 2001, MW 16 of 2001 and MW 17 of 2001 are not sustainable and claim of IVth Applicant in MW 18 of 2001 is not sustainable at all since he himself has admitted that he ceased to be the employee of the Respondent from 6.12.1997 onwards and the Respondent in their evidence has stated that they took over the present management with effect from 26.3.1998 and

the IVth Respondent was snot under their employment at all at any time."

5.Admittedly, the petitioners did not file the petitions within the mandatory period of six months and the learned counsel appearing for the petitioners also does not dispute the mandatory requirement of filing the petition within six months.

6.In view of the above fact that the petitioners did not file the petitions within a period of six months, this Court do not find any error in the impugned orders passed by the Authority. Accordingly, the writ petitions are dismissed. No costs.

-sd/-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Management,
SPM Bus Service,
Bhavani.

2.The Deputy Commissioner of Labour
(The authority under the M.W.Act 1948)
Salem 7.

+1 C.C. to The Government Pleader, SR.NO.70914

+1 C.C. to MR.M.Palani Advocate SR.NO..70366

+1 C.C. to MR.S.N.Ravichandran Advocate SR.NO. 70061

KK (CO)
VS 28.10.2017

W.P.Nos.24226 and
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