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+ W.P.(C) 4588/2017 & CM APPL. 20033-20034/2017
EAST DELHI MUNICIPAL CORPORATION Petitioner

Through Kumar Rajesh Singh, Standing
Counsel for EDMC

versus

VIRENDER SINGH & ANR Respondent

Through None.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **24.05.2017**

CM APPL. 20034/2017 in W.P.(C) 4588/2017

Exemption is allowed, subject to just exceptions.

The application is disposed of.

W.P.(C) 4588/2017 & CM APPL. 20033/2017

Vide the present petition, the petitioner assails the impugned order dated 30.06.2016 of the Authority under the Minimum Wages Act, 1948 whereby the East Delhi Municipal Corporation through its Commissioner was directed to pay the arrears of minimum wages and compensation to the claimant / workman on account of the difference between the notified minimum wages and the wages actually paid to them in view of the factum that the contractor M/s. Gaurav Enterprises had failed to make the requisite payments of the wages to the claimant / workman.

The details of the claims of the claimant / workman are tabulated below: -

<i>S. No.</i>	<i>Name of the claimants</i>	<i>Total wages</i>	<i>Wages payable</i>	<i>Less Minimum</i>	<i>Total less payment</i>
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		<i>received per month</i>	<i>per month</i>	<i>wages per month as claimed</i>	<i>difference due</i>
1.	Sh. Virender s/o Ram Singh	Rs.3327/- from January, 2013 to May, 2014	Rs.7254/- from January, 2013 to March, 2013. Rs.7722/- April, 2013 to September , 2013. Rs.8086/- October, 2013 to March, 2014 and Rs.8554/- April, 2014 to May, 2014	Rs.3937/- from January, 2013 to March, 2013 (Rs.11811) Rs.4395/- April, 2013 to September, 2013. Rs.4759/- (Rs.26370/-) October, 2013 to March, 2014 Rs.28554/- and Rs.5227/- April, 2014 to May, 2014 (Rs.10454/-)	Rs.77189/-

The petitioner thus seeks that in view of the contract agreement between the petitioner and M/s. Gaurav Enterprises, it was the duty of the M/s. Gaurav Enterprises to make the payments of the wages to the claimants / workmen and the petitioner thus cannot be penalized.

On a consideration of the submissions and on consideration of the impugned order dated 24.06.2016 of the Authority under the Minimum Wages Act, 1948 and in view of the verdict of the Supreme Court in

Hindustan Steel Works Construction Ltd. VS. Commissioner of Labour and Ors in Civil Appeal No. 11355 of 1996 decided on 03.09.1996 wherein vide specific observation in paragraph 7 of the said verdict, it is categorically observed that in relation to Section 21(4) of the Contract Labour (Regulation and Abolition) Act, 1970, which provides : -

“(4) In case the contractor fails to make payment of wages within the prescribed period or makes short payment, then the principal employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be, to the contract labour employed by the contract or and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor”;

with further observations vide paragraph 8 of the said verdict to the effect that

“In case the contractor fails to make payment of wages, then the principal employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be, to the workers. The principal employer, in turn, is entitled to recover the amount so paid from the contractor. Thus, it is clear that under Section 21 also the responsibility for payment of wages of contract labourers is on the contractor who employs them. In case of any default by the contractor, the principal employer is required to make good the default, but at the cost of the contractor from whom the principal employer can recover the amount.”

as admittedly the contractor has failed to pay the minimum wages due to the workman, the principal employer, the SDMC cannot be absolved of its duty to pay make good the default, but it may recover the amount from the contractor.

In the circumstances, the submission made on behalf of the petitioner

seeking waiver / reduction of the compensation imposed on the petitioner to be paid equivalent to one time of the difference balance amount of the minimum wages to the claimant / workman as imposed by the impugned order u/s 20 (3)(i) of the Minimum Wages Act, 1948, is also declined.

In view thereof, there is no merit in the abovesaid petition.

The petition is declined and the abovesaid stay application is dismissed.

ANU MALHOTRA, J

MAY 24, 2017/mk