

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR
Writ Petition (L) No.649 of 2010

K.S. Prasad Rao, S/o Late Shri K.S. Ramachandran Rao, Aged about 58 years, Contractor, R/o C-3, Shristi Garden, Telibandha, Ring Road No.2, Raipur (CG)

---Petitioner

Versus

- 1.** State of Chhattisgarh, Through Inspector, under Minimum Wages Act, 1948 Labour Department, Jagdalpur, District Bastar (CG)
- 2.** Authority under minimum Wages Act, 1948 Cum Labour Court, Jagdalpur (CG)
- 3.** Executive Engineer, Housing Board, Jagdalpur, District Bastar (CG)

---Respondents

For Petitioners	:	Mr.N.K.Vyas, Advocate
For respondent No.1	:	Mr.RN.Pusty, Govt.Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

21/06/2018

- 1.** The petitioner is contractor who seeks to challenge the impugned order passed by the Authority under the Minimum Wages Act, 1948 (hereinafter called as "the Act of 1948") by which the said authority has allowed the application filed by respondent No.1 under Section 20 of the Act of 1948 directing payment of ₹ 33,596/- to the concerned workmen.
- 2.** Mr.N.K.Vyas, learned counsel appearing for the petitioner, would submit that the dispute brought before the authority was that less wages were being paid to the workmen and

respondent No.1 has no authority to determine the dispute with regard to wages and the differences of wages as such, in the absence of there being any dispute with regard to rates of wages and therefore, the impugned order deserves to be set aside.

3. On the other hand, Mr.R.N.Pusty, learned counsel for respondent No.1/State would support the impugned order and submit 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.

4. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the records with utmost circumspection.

5. A careful reading of the impugned order would show that entire consideration has been made about the difference of wages rather correctness of wages. In the matter of **Athani Municipality v. Labour Court, Hubli**¹, the Supreme Court has considered the scope and ambit of power of authority under Section 20 of the Act and held as under:-

“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

1 AIR 1969 SC 1335

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 principle of law laid-down by the Supreme Court in **Athani Municipality** (supra) has been followed with approval by the High Court of Madhya Pradesh in the matter of **Manganese Ore (India) Ltd, Nagpur v. Bisen Rajaram and ors.**² wherein the High Court observed as under:-

"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-stated legal position, there being no dispute with regard to rates of wages, the impugned order cannot be sustained and it is accordingly set aside. However, it is open to the workmen to claim difference of

wages by taking recourse to remedy before competent forum in accordance with law who is competent to decide the dispute of difference of wages. The amount, if already paid, shall not be recovered from the workmen concerned.

- 8.** The writ petition is allowed to the extent indicated hereinabove. No cost(s).

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-