

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (L) NO. 5940 OF 2008

Rayalseema Concrete Sleepers (P) Ltd., through- General Manager,
opposite Railway Station, Karagi Road (Kota), District Bilaspur (C.G.)

... Petitioner

versus

1. Authority under Minimum Wages Act & Regional Labour Commissioner (Central), L-7, Sector-1, Aranti Vihar Colony, Raipur (C.G.)
2. Labour Enforcement Officer (Central), Bilaspur, Distt. Bilaspur (C.G.)
3. Gorelal, S/o Shri Bisahu Singh
4. Bishnu, S/o Shri Indrapal Singh
5. Shiv, S/o Narayan Singh
6. Moritram, S/o Tihara Singh
All R/o Navapara, Kota, Bilaspur (C.G.)

... Respondents

For Petitioner	:	Mr. S.P. Kale, Advocate.
For Respondents No. 1 & 2	:	Mr. B. Gopa Kumar, A.S.G.
For Respondents No. 3 to 6	:	Mr. D.C. Verma, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

02/01/2018

1. Challenge through the present writ petition is to the order dated 29.5.2008 (Annexure P-1) passed by the Authority under the Minimum Wages Act & Regional Labour Commissioner (Central), Raipur.
2. Vide the impugned order (Annexure P-1), the Authority has ordered for payment of difference of wages of Rs. 6244.77/- to Respondents No. 3 to 6 and 10 times of the said amount towards compensation, i.e., Rs. 62447.70/-.
3. Grievance of the Petitioner is that the Petitioner in the instant case was a Manufacturer of Concrete Sleepers and that Respondents No. 3 to 6 were engaged by the Petitioner at their Stone Quarry. The Inspector under the Minimum Wages Act had inspected the premises of the Petitioner and it was alleged that the Respondents No. 3 to 6 for the period during 1.11.2005 to 13.3.2006 were not paid the minimum wages fixed by the

Government total amounting to Rs. 6244.77/-. Subsequently, the Inspector filed a claim application before the Authority under the Minimum Wages Act who has passed the impugned order (Annexure P-1) holding that the Petitioner is liable to pay the principal amount of Rs. 6244.77/- with 10 times compensation of Rs. 62447.70/-, totalling Rs. 68692.47/-.

4. Shri S.P. Kale, learned Counsel for the Petitioner, at the outset assails the order on the ground that the Authority did not have the power to pass such an order for payment of difference of wages and compensation thereon. Contention of Shri Kale is that such a power is not conferred upon the Authority under Section 20 or Section 22 of the Minimum Wages Act. He submits that the power which has been conferred upon the Authority is to fix the minimum wages of the workers and in the event of the minimum wages not been paid, appropriate prosecution case could have been initiated. He further submits that it is a case where the workers in the event of not been paid the minimum wages, could have moved appropriate application for redressal of their grievance under the provisions of the Payment of Wages Act and, if not, they could have also initiated appropriate proceeding under Section 33-C(2) of the Industrial Disputes Act. It was further contended by Shri Kale that the Petitioner, however, in due course of time had paid the principal amount to each of the workers and an intimation in this regard was also sent to the competent Authority vide Annexure P-3, dated 20.6.2006, wherein the payment as quantified by the Authority has been paid to each of the workers, receipt of which is enclosed as Annexure P-4 along with present writ petition showing the payment made to each of the private respondents i.e. Respondents No. 3 to 6. He thus prayed for the quashing of the impugned order.

5. Shri D.C. Verma, learned Counsel appearing for Respondents No. 3 to 6, on the other hand opposing the writ petition submits that it is a case where the workers were deprived of their wages what they were otherwise entitled for and in the given facts and circumstances of the case the Authority concerned cannot be said to have exceeded its jurisdiction in any manner particularly taking note of Section 20 of the Minimum Wages Act and thus prayed for the rejection of the writ petition.

6. Having heard the contentions put forth on either side and on perusal of record, what is necessary at this juncture to take note of is the provisions of Section 20 of the Minimum Wages Act which pertains to 'Claims'. A plain reading of Section 20 by itself would reveal that it gives a power to the Authority notified by the appropriate Government to hear and decide for any specified area all claims arising out of payment of less than the minimum rates of wages or remuneration/payment in respect of days of rest or the work done on rest days.

7. The said Section clearly stipulates the limited power which has been conferred upon the Authority under the Minimum Wages Act wherein the Authority has simply to determine the minimum wages which the worker would be entitled for.

8. The Hon'ble Supreme Court in the case of **Town Municipal Council, Athani v. Presiding Officer, Labour Court, Hubli and Others**, AIR 1969 SC 1335, has made the following observations:

“6. ...We have mentioned these provisions of the Minimum Wages Act, because the language used at all stages in that Act leads to the clear inference that Act is primarily concerned with fixing of rates - rates of minimum wages, overtime rates, rate for payment for work on a day of rest - and is not really intended to be an Act for enforcement of payment of wages for which provision is made in other laws, such as the Payment of Wages Act, No. 4 of 1936, and the Industrial Disputes Act, No. 14 of 1947. In Section 20(1) of the Minimum Wages Act also, provision is made for seeking remedy in respect of claims arising out of payment of less than the minimum rates of wages

or in respect of payment of remuneration for days of rest or for work done on such days under Clause (b) or Clause (c) of Sub-section (1) of Section 13 or of wages at the overtime rate under Section 14. This language used in Section 20(1) shows that the Authority appointed under that provision of law is to exercise jurisdiction for deciding claims which relate to rates of wages, rates for payment of work done on days of rest and overtime rates. If there be no disputes as to rates between the employer and the employees, Section 20(1) would not be attracted. The purpose of Section 20(1) seems to be to ensure that the rates prescribed under the Minimum Wages Act are complied with by the employer in making payment and, if any attempt is made to make payments at lower rates, the workmen are given the right to invoke the aid of the Authority appointed under Section 20(1). 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 overtime or work on off days is due to a workman or not, the appropriate remedy is provided in Payment of Wages Act. If the payment is withheld beyond the time permitted by the Payment of Wages Act even on the ground that the amount claimed by the workman is not due, or if the amount claimed by the workman is not paid on the ground that deductions are to be made by the employer, the employee can seek his remedy by an application under Section 15(1) of the Payment of Wages Act. In cases where Section 15 of the Payment of Wages Act may not provide adequate remedy, the remedy can be sought either under Section 33-C of the Act or by raising an industrial dispute under the Act and having decided under the various provisions of the Act.... It is true that, under Section 20(3) power is given to the Authority dealing with an application under Section 20(1) to direct payment of the actual amount found due; but this, it appears to us, is only an incidental power granted to that Authority, so that the directions made by the Authority under Section 20(1) may be effectively carried out and there may not be unnecessary multiplicity of proceedings. The power to make orders for payment of actual amount due to an employee under Section 20(3) cannot, therefore, be interpreted as indicating that the jurisdiction to the Authority under Section 20(1) has been given for the purpose of enforcement of payment of amounts and not for the purpose of ensuring compliance by the employer with the various rates fixed under that Act. This interpretation, in our opinion, also harmonises the provisions of the Minimum Wages Act with the provisions of the Payment of Wages Act which was already in existence when the Minimum Wages Act was passed. In the present appeals therefore, we have to see whether the claims which were made by the workmen in the various applications under Section 33-C(2) of the Act were of such a nature that they could have been brought before the Authority under Section 20(1) of the Minimum Wages Act inasmuch as they raised dispute relating to the rates for payment of overtime and for work done on weekly off days."

9. Relying upon the said judgment, the Hon'ble Supreme Court in the case of **Manganese Ore (India) Ltd v. Chandi Lal Saha and Others**, **1991 LAB I.C. 524**, in paragraph 17, has held as under:

“17. In the present case there was no dispute regarding the rates of wages and it is admitted by the parties that the minimum rates of wages were fixed by the Government of India under the Act. The workmen demanded the minimum wages so fixed and the appellant denied the same to the workmen on extraneous considerations. Under the circumstances the remedy under Section 20 of the Act was not available to the workmen and the Labour Court rightly exercised its jurisdiction under Section 33-C(2) of the Industrial Disputes Act, 1947.”

10. Subsequently, relying upon both the aforesaid judgments, a Division Bench of the Orissa High Court in the case of **Sri Binod Kumar Agrawal v. The Regional Labour Commissioner (Central) and Another**, **1992 LAB I.C. 1303**, has taken a similar stand wherein it has been held that the Authority under the Minimum Wages Act under Section 20 is not empowered to decide the entitlement of the workers except for deciding the minimum wage which would be payable to a worker under Section 20 of the Minimum Wages Act and for all other claims of a worker the appropriate remedy has been decided to be either under the provisions of the Payment of Wages Act or under the provisions of Section 33-C(2) of the Industrial Disputes Act.

11. In the light of the authoritative decisions referred to herein above and also taking note of the fact that vide Annexure P-3, dated 20.6.2006, the Petitioner seems to have discharged the liability of payment of principal amount to each of the workers, this Court is of the opinion that the impugned order dated 29.5.2008 (Annexure P-1) was in excess of the jurisdiction conferred upon the Authority under the Minimum Wages Act and the same is not sustainable.

12. Leaving open the claim of the respondent-workers to get their grievances, if any, redressed before the appropriate forum, the present writ petition stands allowed and the impugned order (Annexure P-1) stands quashed.

Sd/-
(P. Sam Koshy)
Judge

/sharad/