

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.03.2018

Coram

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.A.No.1481 of 2011

and M.P.No.1 of 2011

Ideal Institute of Management Security,
And Detectives,
Represented by its General Manager, Mr.K.Pillai,
143/75, P.H.Road, Near Rajakadai Bus Stop,
Chennai - 600 019. .. Appellant

Vs.

- 1.The Regional Labour Commissioner (Central),
Haddows Road, Chennai - 6.
2. Labour Enforcement Officer (C),
Salem.
- 3.The General Manager,
BSNL, Salem. ... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set-aside the order dated 28.07.2010 made in W.P.No.4317 of 2006 filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the Records of the 1st Respondent dated 26.12.2015 in MCA.No.235/2005, quash the same and consequently for bear the respondents from collecting the amount in the impugned order.

For Appellant : Mr.R.Sunilkumar
For R1 & R2 : No appearance
For R3 : Mr.S.Udaya Kumar

J U D G M E N T

[Judgment of the Court was delivered by K.K.SASIDHARAN,
J.]

The competent authority under the Minimum Wages Act, 1948 quantified the amount payable by the appellant and the compensation for belated payment. The authority directed the appellant to pay a sum of Rs.3,28,482/- within a period of 30 days. The order was challenged before the Writ Court in W.P.No.4317 of 2006. The learned Single Judge, while granting

interim stay of execution of the order dated 26 December 2005 directed the appellant to pay 50% of the demand.

2. During the currency of the writ petition, the competent authority under the Minimum Wages Act, 1948 passed a fresh order on 21 February, 2006 reducing the compensation from Rs.3,28,482/- to Rs.1,64,241/-. The appellant was directed to pay the said amount within a period of 30 days.

3. The third respondent paid the said amount on behalf of the appellant and got it reimbursed from the amount payable to the contractor. The amount was paid on 30 September 2006.

4. The factum of passing a subsequent order on 21 February, 2006 was not brought to the notice of the learned Single Judge. The writ petition was therefore, disposed of with a direction to the appellant to pay the balance 50%. The said order is under challenge, primarily on the ground that the writ Court was not having the benefit of the subsequent order and that was the reason for directing the appellant to pay 50% of Rs.3,28,482/-.

5. We have heard the learned counsel for the appellant. We have also heard the learned Standing Counsel for the third respondent. None appeared on behalf of the respondents 1 and 2.

6. There is no dispute that the competent authority under the Minimum Wages Act quantified the amount payable by the appellant at Rs.3,28,482/-. It was only to quash the said order, the appellant filed the writ petition in W.P.No.4317 of 2006. It is a matter of record that the competent authority passed a modified order on 21 February, 2006 reducing the compensation to Rs.1,64,241/-. It is also a matter of record that pursuant to the revised claim made by the first respondent, the said amount was paid by the third respondent for and on behalf of the appellant. Therefore, it is clear that the appellant has paid the entire amount, pursuant to the order dated 21 February, 2006.

7. The counter affidavit filed by the Assistant Labour Commissioner before the Writ Court on 26 July 2010 clearly indicates the subsequent order passed on 21 February, 2006 reducing the liability. The appellant has not cited the attention of the learned Single Judge with regard to the modified order passed on 21 February, 2006 and the same appears to be the reason for disposal of the writ petition with a direction to pay the remaining 50% taking into account the original demand. In any case, this Court has to take into account the subsequent events relating to the modification of the order and the payment made by the appellant in accordance with the modified order.

8. The documents produced by the appellant clearly indicate that the entire amount of Rs.1,64,241/- was paid to the authority under the Minimum Wages Act. Such being the factual position, there is no further claim for the respondents 1 and 2 in the matter. We therefore, set aside the order passed by the learned Single Judge.

The intra court appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gms

To

- 1.The Regional Labour Commissioner (Central),
Haddows Road, Chennai - 6.
2. Labour Enforcement Officer (C),
Salem.
- 3.The General Manager,
BSNL, Salem.

+1 cc to M/s.R.Sunil Kumar Advocate sr 16506

+1 cc to M/s.S.Udayakumar Advocate sr 16544

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