

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2018

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Writ Petition No.25926 of 2016

R.Muthukumar ... Petitioner

Vs.

1. The District Manager, APL India Private Ltd.,
(Formerly known as NOL India Private Ltd.,)
New No.8 Old No.15, II Floor, Whannes Road,
Egmore, Chennai 600 008
2. The Managing Director, APL India Private Ltd.,
(Formerly known as NOL India Private Ltd.,)
Akruti Trade Center, 402 4th Floor, Room No.7,
MIDC, Andheri, Mumbai 400 093
3. II Additional Labour Court, High Court Buildings,
Chennai 600 104 ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the entire records connected with the order of II Additional Labour Court, Chennai, made in C.P.No.546 of 1999 dated 19.05.2015, quash the same and consequently to direct the respondents 1 and 2 to pay current rate of interest on the claim amount of Rs.80,505.97 from July 1999 when the claim petition was filed.

For Petitioner : Mr. M.Sathiachandran

For Respondents : Mr.M.Vijayan, for,
M/s. King and Patridge, for R-1 & R-2.

O R D E R

When the computation for money value is made neither on the basis of award nor on the basis of settlement, whether interest can be claimed in respect of belated payment of the legitimate dues payable to the workman and whether the interest can be declined on the ground that there is no power vested with the Labour Court under Section 33 (c) of the Tamil Nadu Shops and Establishment Act/Rules is the issue raised in this writ petition.

2. The petitioner herein claimed overtime wages along with interest for the period from January 1993 to April 1994, which came to be computed and awarded by the II Additional Labour Court, on 19.05.2015, in C.P.No.546 of 1999.
 - 2.1. Overtime wages were at Rs.80,505.97.
 - 2.2. But the Labour Court concluded that there was no pre-existing right to claim interest and therefore, the petitioner is not entitled to claim interest.
 - 2.3. The non-granting of interest is under challenge in this writ petition.
3. Contending that the deliberate delay in payment of overtime wages would reduce the real value of money and therefore, to compensate the same, the employer has to pay interest, the decision reported in CDJ 2011 MHC 6139 (The Special Officer, Arunmani Milk Producers Cooperative Society Ltd., v. The Presiding Officer, Labour Court, Tirunelveli and others) is relied upon.
 - 3.1. Contending that when the computation in terms of money is sought on the basis of the legal

entitlement or on the basis of the award or on the basis of the settlement, even if there is no specific provision for grant of interest, on the principle of equity, the petitioner is entitled to interest, the decision reported in CDJ 2015 Ker HC 274 (M.M.Joseph v. Labour Court, Kochi and others) is relied upon.

4. The learned counsel appearing for respondents 1 and 2 contended that there is no provision under the Tamil Nadu Shops and Establishment Act/Rules for the grant of interest and therefore, the Court, while computing the money value of the claim under Section 33 (c) of the Act/Rules also, cannot award interest. Moreover, the delay in making the claim on the part of the workman also is relied upon to decline interest to him.

4.1. The learned counsel appearing for respondents 1 and 2, relied upon the decision reported in MANU/TN/0512/2000 (Ramadoss G. and ors v. Management of TANSI Die Castings, and ors) wherein it has been held that interest is not one of the items that appear to be competent for the Labour Court to go into under that section, unless it has been provided for in an award or settlement.

4.2. This Court is of the opinion that this decision will not apply to the facts of this case, as the claim is neither based on settlement nor based on award.

4.3. This Court is of the opinion that the two decisions relied upon by the learned counsel appearing for the petitioner would apply to the facts of this case and any unjustifiable delay in the payment of statutory dues is liable to be paid with interest on the basis of equity, even if there is no provision for interest. Hence, the respondents are liable to pay interest.

5. So far as the contention regarding belated claim is concerned, the records reveal that C.P.No.546 of 1999 has been ordered by the Labour Court only in the year 2015, i.e., on 19.05.2015. The claim for overtime wages pertains to the period from January 1993 to April 1994. Therefore, it is clear that the claim has been preferred after the period of five years. But, the learned counsel appearing for the petitioner submitted that the petitioner met with an accident, sustained fracture and thereafter, suffered termination of service in the year 1997 and thereafter, only on 12.05.1999, the termination order was set-aside and hence, there is justification for the delay in filing. This delay cannot be construed as an unavoidable delay, as it is an avoidable delay. But, the matter has been pending for long years only before the Labour Court. Therefore, the contention that the interest should be declined on account of the delay on the part of the petitioner in making the claim cannot be sustained.

6. The petitioner has claimed 18% interest for the overtime wages due from the date on which they fell due. Considering the long period for which the litigation was pending for which respondents alone cannot be blamed and also considering the delay on the part of the petitioner in approaching the court, respondents 1 and 2 are directed to pay interest at the rate of 6% per annum, on Rs.80,505.97 (rounded off to Rs.80,506/- the overtime wages) for the period of ten years. This amount shall be paid within a period of two weeks from the date of receipt of a copy of this order.

7. With the above directions, this writ petition is disposed of. No costs.

.09.2018

Index : Yes / No

Web : Yes / No

Speaking order / Non speaking order

srk

To

1. II Additional Labour Court, High Court Buildings,
Chennai 600 104

Dr. S.VIMALA, J.,

srk

Writ Petition No.25926 of 2016

27.09.2018

Pre-Delivery Order in
W.P.No.25926 of 2016

To

The Hon'ble Dr. Justice S.Vimala

Most Respectfully submitted:

S.Ramkumar

Pvt. Secy., to the Hon'ble Judges.