

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.12029 OF 2002

ORDER:

1. This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to and connected with the order dated 2.5.2002 in M.W. Case No.138 of 2001 on the file of the 1st respondent, and to quash the same.

2. Heard Sri S. Ravindranath, learned Counsel for the petitioner and the learned Government Pleader for Labour.

3. It has been contended by the learned Counsel for the petitioner that the petitioner-company is engaged in Road Transport business, and in the process, it employed one S. Satyanarayana as Hamali and was paying wages on piece rate basis to him. It has been further contended that the petitioner-company would not come under the purview of Shops and Establishments Act and it is not obligated to pay minimum wages as prescribed by the Government in respect of Hamalies, who were employed on temporary basis, and that the order passed by the 1st respondent-authority under the Minimum Wages Act directing the petitioner to pay Rs.6,011.25 ps., is contrary to law and therefore, the same is liable to be set aside.

4. The learned Government Pleader for Labour has contended that even the workers working on piece rate basis are entitled for the benefits under the Minimum Wages Act and the 1st respondent-authority while passing the order impugned relied upon the Judgment rendered by the Hon'ble Supreme Court in LLJ.II Page No.495, wherein the Hon'ble Supreme Court held as under:

“That the workers are not obliged to work for the whole days in the shop is not very material. There is of course no reason why a person, who is only employed part time, should not be a servant and it is doubtful whether regular part time service can be considered even prima facie to suggest anything other than a contract of service. According to the definition in S.2(14) of the Act, even if a person is not wholly employed, if he is principally employed in connection with the business of the shop, he will be a person employed within the meaning of Sub Section. Therefore, even if he accepts some work from other tailoring establishments or does not work whole time in a particular Establishment that would not in any way derogate from his being employed in the shop where he is principally employed.”

5. I have considered the submissions made by the parties. It is pertinent to note that on 14.8.2002 while admitting this writ petition and while granting interim suspension of the order impugned, 50% of the amount awarded by the 1st respondent-authority under the Minimum Wages Act, was directed to be deposited as per the statutory requirement. It was brought to the notice of this Court that the said amount was deposited.

6. The contention of the petitioner is that S. Satyanarayana was working as Hamali not only in the establishment of the petitioner but also in other establishments. But the petitioner could not produce any documents before the 1st respondent-authority concerned to demonstrate that the said Satyanarayana was also working in other establishments on piece rate basis as Hamali. Moreover, the petitioner could not demonstrate that S. Satyanarayana was not engaged on regular basis but was engaged only as and when there was work. In the absence of any material in support of the contentions of the petitioner and in the light of the judgment relied upon by the 1st respondent-authority, this Court is not inclined to interfere with the order impugned.

7. Accordingly, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

(ABHINAND KUMAR SHAVILI, J)

Dated: 23rd July, 2018
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HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Dated: 23.7.2018

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