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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-26217-2104 (O&M)

Date of Decision : October 3, 2018

Aditya Cotton Factory

.... Petitioner.

Versus

The Authority under the Minimum Wages Act, 1948, Sirsa,
and others.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Ravish Bansal, Advocate
for the petitioner.

Mr. Dheeraj Narula, Advocate,
for respondents No. 2 to 8.

SHEKHER DHAWAN, J.

Present writ petition under Articles 226/227 of the Constitution of India is challenge to the orders dated 18.07.2014 (Annexure P/5) and 4.1.2012 (Annexure P/2) passed by respondent no.1 under the Minimum Wages Act, 1948 (for short, “the Act”).

2. Facts relevant for the purpose of decision of this writ petition; that Jagtar Singh and six others, through Malook Singh Consultant Forest Department Mazdoor Union (for short, “the Union”) had filed an application under Section 20 of the Act for payment of minimum wages to the applicants. As per the applicants, they were engaged for the welding

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works and were recruited as Welding Mistri. Their remuneration was fixed at Rs.4,000/- per month. They had worked from 1.4.2008 to 30.09.2008. As per the applicants, they were paid less wages for the said period to the extent of Rs.84,000/- and with compensation, the total amount comes to Rs.8,40,000/-.

3. On notice, the petitioner-Management contested the application on the ground that there is no relationship of master and servant between the parties and they had not worked during the said period. More so, the Management is a seasonal factory which operates from September to April each year and the Management used to get restored the electric connection and for the remaining period, the connection used to be got disconnected temporarily and there was no work available in the factory. The Management took the plea that the claim raised before the Authority under the Act is false and the same be dismissed.

4. The Authority under the Act decided the application vide order dated 4.1.2012 (Annexure P/2) whereby payment of Rs.12,000/- was ordered to be made to Jagtar Singh only, who alone had come in the witness box in support of his claim, whereas the claim of the remaining applicants was rejected.

5. The other applicants filed CWP-6397-2012 before this Court on the ground that similar relief was granted to Jagtar Singh and this Court vide orders dated 26.08.2013 (Annexure P/3) granted liberty to the writ petitioners to raise their claim before the competent authority by way of

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legal notice or representation within a period of three months from the date of decision (26.08.2013) and the competent authority was bound to decide the same in accordance with law within a period of three months from the date of receipt of such representation/legal notice.

6. On that basis, Dalvinder Singh and five others had filed claim petition under Section 21 (1) of the Act on form 7-A on the same grounds as taken by Jagtar Singh and also claimed that they were entitled to total amount on account of payment of minimum wages to the extent of Rs.72,000/- alongwith compensation and the competent authority under the Act decided that application vide order dated 18.7.2014 (Annexure P/5) holding that any member of the unpaid group, who filed a single application under Section 21(1) of the Act can prosecute the same as a common claim and on that basis all the applicants were held entitled to the balance amount of Rs.72,000/-. The petitioner is aggrieved of the same.

7. Learned counsel for the petitioner-Management contended that the order dated 18.7.2014 (Annexure P/5) passed by the Authority is a mechanical one because the same has been passed without there-being any material available before the Authority under the Act. The Management challenged the said order almost on the same grounds that the work in the petitioner-employment is of seasonal nature. The applicants had adduced only oral evidence and no documentary evidence was produced. As per learned counsel for the petitioner, the minimum wages applicable to the private respondents, at the relevant time, were Rs.1950/- per month and they had already been paid @ Rs.2000/- per

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month. As such, the present writ petition be accepted and the orders, Annexure P/2 and P/5 be set-aside.

8. Learned counsel for the respondents contended that payment at the rate of Rs.4,000/- per month has already been ordered to be made to Jagtar Singh, who was one of the applicants alongwith the applicants in proceedings, on the basis of which, Annexure P/5 was passed. The minimum wages at the relevant time were Rs. 4,000/- per month and the Authority under the Act has rightly exercised the jurisdiction vested in it under Section 21(c) of the Act and the present writ petition deserves dismissal.

9. As the matter in controversy mainly relates to the fact – whether such an application for payment of wages under the Act, could have been filed and maintained by Jagtar Singh on behalf of himself and on behalf of other applicants as well and secondly, whether the Authority under the Act was justified in declining the relief of minimum wages to the co-applicants while passing the order, Annexure P/2. The next point involved in this case would be – Whether other applicants are entitled to the same wages and the order passed by Authority under the Act on 18.7.2014 (Annexure P/5) was a mechanical one and was result of non-application of mind without there-being any supporting material on the file. For ready reference, Section 21(1) of the Act is being extracted hereunder:-

“21. Single application in respect of a number of employees -
(1) Subject to such rules as may be prescribed, a single application] may be presented under section 20 on behalf or in respect of any number of employees employed in the scheduled employment in respect of which minimum rates of wages have been fixed and in such cases the

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maximum compensation which may be awarded under sub-section (3) of section 20 shall not exceed ten times the aggregate amount of such excess or ten rupees per head, as the case may be.”

10. The above referred provisions of the Act makes it ample clear that such an application could be filed by an employee on his behalf or in respect of any number of employees in the scheduled employment where the minimum wages are applicable and as such, application filed by Jagtar Singh before Authority under the Act on his behalf and on behalf of the other employees was legally maintainable.

11. Thereafter other applicants had raised claim before this Court in CWP-6397-2012 before this Court and vide orders dated 26.08.2013 (Annexure P/3) this Court had granted liberty to the writ petitioners to raise their claim before the competent authority by way of legal notice or representation within a period of three months from the date of decision i.e., 26.08.2013. Accordingly, the other applicants had raised claim under Section 21(1) of the Act and the Authority under the Act decided the same vide order dated 18.7.2014 (Annexure P/5).

12. The Authority under the Act rightly appreciated that as the proceedings were initiated and continued under Section 21(1) of the Act, one of the applicants, namely, Jagtar Singh had made statement on behalf of the group that they were paid wages at the rate of Rs.2,000/- per month only and the difference of balance claim is still outstanding. That fact establishes the relationship between Jagtar Singh and other applicants as well because the law empowers and entitles one of the applicants to file and maintain the claim for minimum wages on behalf of other employees

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as well, who are working in the scheduled employment where minimum rate of wages is applicable. The Authority under the Act while considering the record of claim application No. MW-3 and statements of both the parties, recorded the finding that the applicants were also engaged as Welder Mistries to do the welding works in the factory of the Management and there was relationship of employer and employee between the parties. While applying the provisions of Section 21(1) of the Act, which empowers one of the employees to prefer such a claim on his behalf and on behalf of other employees, the Authority under the Act decided the same holding that applicants, Dalvinder Singh and others were also entitled to recover the minimum wages.

13. The Authority under the Act placed reliance upon statement of one of the applicants, which is extracted hereunder :-

“ I and other labourers named in this case have done welding works in Aditya Cotton Factory, Sirsa. We were employed by Seth Sushil. The wages of Rs. 4000/- per month was settled. We were paid Rs. 2000/- every month. He assured us that the half payment will be made to us on completion of the work. Amar Nath, Manager/Munim used to look after our entire work. For work, light was taken from Mer Factory and connection was taken from the generator. Mer Factory is of these owners. Regular work was done from April 2008 to 30.09.2008. Our remaining amount has not been paid till date. It is prayed to the Hon`ble Court that our remaining amount be got paid.”

14. The above statement makes it ample clear that the applicant was making statement for himself and for other co-employees as well and

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the wages settled were Rs.4,000/-, but they were paid Rs. 2,000/- per month only and the remaining amount had not been paid. The statement was rightly held to be common for all the applicants and as such, decided the claim vide order dated 18.7.2014 (Annexure P/5).

15. No interference is called for by this Court in the order dated 18.7.2014 by invoking writ jurisdiction. There is no merit in the present writ petition and the same stands dismissed

(SHEKHER DHAWAN)
JUDGE

October 3, 2018.
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Whether speaking/reasoned? :	Yes
Whether reportable? :	Yes