

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 102

LPA No. 735 of 2017 (O&M)
in CWP No. 1547 of 2016
Date of decision : 17.05.2018

The Executive Officer,
Municipal Council, Nabha

.... Appellant

VERSUS

Authority under Minimum Wages Act, 1948
-cum-Assistant Labour Commissioner,
Patiala and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Pankaj Jain, Advocate, for the appellant.

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RAJESH BINDAL, J:

This order will dispose of a bunch of appeals bearing LPA Nos. 735, 761, 763, 766, 788, 791, 792, 797, 803, 807, 808, 809, 810, 811, 864, 865, 866, 871, 906, 909 and 913 of 2017.

A common order passed by the learned Single Judge has been challenged. Before the learned Single Judge also under challenge was a common order passed by Assistant Labour Commissioner, Patiala (for short the 'Labour Court') under the Minimum Wages Act, 1948 (for short the 'Act').

In the case in hand, the workmen were working for the appellant though it is claimed that they had been engaged through a contractor. They filed application claiming that they had not been paid minimum wages. The authority had gone into the issue and found that the workmen had not been paid the minimum wages. Hence, calculation was made and a direction was issued for payment of minimum wages for

different periods to the workmen. The order was challenged by the appellant before the learned Single Judge.

The contention raised by learned counsel for the appellant is that in terms of Section 20 of the Act, an application could be filed within six months. In the case in hand, the authority had directed payment of wages for a period of more than six months. Further, the contractor through whom the workmen had been employed had not been impleaded as a party.

After hearing learned counsel for the appellant, we do not find any reason to interfere with the order passed by the learned Single Judge.

The lowest paid employees, who were being exploited by the contractor under the nose of the appellant had to approach the authority under the Act, raising a grievance that they had not been paid the minimum wages as prescribed under the Act. Once the stand taken by the appellant is that the contractor had been paid the minimum wages as calculated under the Act, it was the duty of the appellant to ensure that in turn the contractor is paying those wages to the workmen. In default, it is the responsibility of the principal employer, the appellant. Hence, it cannot escape its liability to pay that amount to the workmen.

As far as the question of filing the application after the period of six months is concerned, second proviso to Section 20 of the Act clearly enables the authority to admit an application which had been filed beyond a period of six months. In the case in hand, even if there is no averment made by the workmen to justify the delay in filing the application, the learned Single Judge has examined that issue and found no merit therein. We endorse the reason that the lowest paid employees have to first look for

security of their job. Had they raised the issue at that time, they may have been retrenched.

Hence, in this situation, we do not find any merit in the submissions made by learned counsel for the appellant.

The appeals are, accordingly, dismissed.

Consequently, application for condonation of delay in filing the appeals is also dismissed.

Learned counsel for the appellant submits that they had paid the minimum wages correctly calculated in terms of the provisions under the Act to the contractor, who had in fact, defaulted in payment of the same to the workmen, therefore, the appellant may be given liberty to recover the same from the contractor. If that is so, the appellant shall be at liberty to avail of its appropriate remedy, in accordance with law.

[RAJESH BINDAL]
JUDGE

[DEEPAK SIBAL]
JUDGE

17.05.2018
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Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No