

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 454 OF 2018

The Additional Commissioner of Customs
(Preventive) .. Petitioners
Vs.
D.S.Wadke and ors. .. Respondents

Mr.Aswini R.Singh, for the Petitioners.
Mr.Sachin Punde, for Respondents.

CORAM : M.S.KARNIK, J.

DATE : 11th APRIL, 2019

P.C. :

. Rule. Rule is made returnable forthwith and heard finally by consent of the parties. Learned Counsel waives service of Rule on behalf of the respondents.

2. Heard learned Counsel for the petitioners and learned Counsel for the respondents. The order passed by the Competent Authority under Minimum Wages Act, 1948 (hereinafter referred to as 'Act' for short) dated 26/07/2017 is

under challenge in this Petition filed under Articles 226 & 227 of the Constitution of India. The respondents No.1 to 6 - employees who were working as Loaders with the petitioners Custom Department filed an application under section 20(2) of the Act claiming difference of minimum wages as per the Act. The application was filed by the employees on the ground that the petitioners did not pay them minimum wages fixed by the government from 01/01/2016 to 30/11/2016. The said application was filed on 14/02/2017. The Competent Authority awarded the claim amount of Rs. 8,46,034/- plus compensation of one time the claim awarded.

3. Learned Counsel for the petitioners submits that the said application was clearly time barred. The respondents did not file any application for condonation of delay. In the absence of an application for condonation of delay, the Competent Authority ought not to have entertained the claim. He invited my attention to the proviso to sub-section 2 of section 20 of the Act which provides that any application made by the employee

after period of 6 months from the date on which the minimum wages or other amounts became payable, the employee concerned has to satisfy the authority that he had sufficient cause for not making an application within such period. Learned Counsel would further submit that during the course of the hearing of this application on 13/06/2017, the representative of the petitioners submitted that the petitioners are ready to disburse the difference claimed by the respondents. It was further stated that a note would be put up before the higher officers concerned and the payment would be made before the next date of hearing and requested one month's time. He therefore would submit that in these circumstances, the Competent Authority was not justified in awarding the compensation. He submits that the petitioners are not disputing the claim amount as granted by the Competent Authority and in fact, such amounts have been paid to the respondents. He would further submitted that no reasons have been assigned by the Competent Authority while awarding the compensation. According to the learned Counsel, the Competent Authority did

not give any opportunity of hearing to the petitioners on the aspect of award of compensation.

4. Per contra, learned Counsel for the respondents supported the impugned order. Shri Punde would submit that the employees concerned have been working with the petitioners Customs Department for the period ranging from 1995 to 2002. The claim for compensation was made only for the period from 01/01/2016 to 30/11/2016. Shri Punde would submit that once the petitioners agreed to pay difference of minimum wages as claimed, then there was no need for the applicants to have made an application for condonation of delay. In the submission of learned Counsel Shri Punde, the respondents had to run from pillar to post and only because they filed application before the Competent Authority, the petitioners agreed to settle their claims. He would thus submit that the compensation is rightly awarded by the Competent Authority and thus, the order should not be interfered with.

5. Heard learned Counsel for the parties. The period from which the minimum wages and the difference therein is claimed is from 01/01/2016 to 30/11/2016. The amount claimed is Rs. 4,23,017/-. By purshis dated 13/06/2017, the petitioners had agreed to pay to the respondents the amount claimed by them and also stated that they are ready to disburse the amount. This application is made during the course of proceeding pending before the Competent Authority. Considering this conduct on the part of the petitioners in accepting the claim of the respondents and further in view of the fact that the application for claiming minimum wages for the period from 01/01/2016 to 30/11/2016 is made on 14/02/2017, I am of the opinion that this was not a fit case for awarding compensation. Though there is some delay on the part of the petitioners in paying minimum wages, but nonetheless during the course of proceedings, they have agreed to pay to the respondents the amount claimed. The amounts have also been paid.

6. In this view of the matter, impugned order to the extent compensation is awarded is quashed and set aside. Rule is partly made absolute with no order as to costs.

(M.S.KARNIK, J.)