

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.27712 of 2013

and

M.P.No.1 of 2013

- 1.The Principal Chief Conservator of Forests,
No.1, Jeeins Road, Saidapet, Chennai - 15.
- 2.The Regional Conservator of Forests,
Fort, Vellore - 4.
- 3.The District Forest Officer,
Social Forestry Division,
Collectorate Building, Vellore -9. ..Petitioners

Vs.

- 1.Ayyavu
- 2.N.Palanivel
- 3.The Deputy Commissioner of Labour-1,
Chennai and Authority under the Minimum
Wages Act, Chennai - 6. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in M.W.No.29/11 dated 21.1.2013 on the file of the 3rd respondent herein, and quash the same.

For Petitioners : Ms.Thangavadhana Balakrishnan,
Additional Government Pleader(f)

For Respondents : Mr.R.Marudhachalamurthy,
for R1 & R2

Mr.J.Ramesh,
Additional Government Pleader,
for R3

O R D E R

The order dated 21.01.2013 passed in M.W.No.29 of 2011 is under challenge in the present writ petition.

2.The writ petitioners are the Principal Chief Conservator of Forests, the Regional Conservator of Forests and the District Forest Officer. The petitioners made a submission that plantations were raised by the Tamil Nadu Forest Department under scheme of Swedish International Development Authority(SIDA) and persons were engaged only to protect the social forestry plantations. As such, the respondents/workmen were engaged in the Social Forestry Division, Vellore. The wages were paid according to the rates fixed by the Government then and there. The Wages were paid pursuant to the guidelines issued by the Government, as these social forestry employees will not be covered under the provisions of the Minimum Wages Act. The respondents were engaged for the protection of social forestry plantations and not for any skilled/unskilled work. Thus, they are not entitled to claim any wages under the Minimum Wages Act.

3.It is pertinent to note that the Government issued G.O (2D)No.82, Labour and Employment(J2) dated 27.09.2002, which reads as follows;

"In exercise of the powers conferred by Sub-Section(2) of Section 16 of the Minimum Wages Act, 1948(Central Act XI of 1948), the Government of Tamil Nadu hereby directs that the provisions of the said Act, shall not apply to the Social Forestry Workers of Forest Department employed in the Employment in forestry, in the State of Tamil Nadu. Further, Muster Roll was being maintained only to monitor the attendance of the Plot Watchers/Village Social Forestry Workers for the purpose of attending the protection works regularly. It is also emphasized that the Muster Roll was not at all maintained to make any daily wages."

4.Perusal of the Government Order, which is enclosed in page no.10 of the affidavit filed along with the writ petition also reveals that the Social Forestry Workers of Forest Department are exempted from the provisions of the Minimum Wages Act. Such an exemption was granted by the Government by invoking the power conferred under the Provisions of Sub-Section 2 of Section 26 of the Minimum Wages Act, 1948, (Central Act XI of 1948). Therefore, the respondents are not entitled to claim any wages under the Minimum Wages Act as the establishment itself is exempted from the provisions of the Minimum Wages Act.

5.This apart, the learned Additional Government Pleader appearing on behalf of the writ petitioners made a submission that there is a delay of 5018 days in filing the petition itself. As per Section 20 of the Minimum Wages Act, the petition is to be filed within a period of six months. There is an enormous delay and the order is perverse and liable to be scrapped.

6.This Court is of the considered opinion that in respect of the fact that the social forestry workers of Forest Department are exempted from the provisions of the Minimum Wages Act and the claim petition itself was filed after a lapse of 5018 days and the Government Department is also exempted from the Minimum Wages Act as the special Rules would be applicable in respect of payment of wages and other service benefits, the order passed by the competent authority under the Minimum Wages Act is untenable. Under these circumstances, the order impugned is liable to be set aside. Accordingly, the order dated 21.01.2013 passed in M.W.No.29/11 is quashed. The writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

tsg

To

- 1.The Principal Chief Conservator of Forests,
No.1, Jeeins Road, Saidapet, Chennai - 15.
- 2.The Regional Conservator of Forests,
Fort, Vellore - 4.
- 3.The District Forest Officer,
Social Forestry Division,
Collectorate Building, Vellore -9.
- 4.The Deputy Commissioner of Labour-1,
Chennai and Authority under the Minimum
Wages Act, Chennai - 6.

+1cc to the Special Government Pleader, S.R.No. 96724

W.P.No.27712 of 2013
and
M.P.No.1 of 2013

PA (CO)
GN(09/01/2020)