

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 179 of 2018 (O&M)

Date of Decision: 27.03.2019

Shishpal

...Petitioner

Vs.

Controlling Authority under the Minimum of Wages Act, 1948 and Ors.

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ashok Kumar Sharma, Advocate for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

CM No. 4417 of 2019

CM is allowed as prayed for.

Annex. P-7 to P-9 are taken on record.

CM No. 4418 of 2019 and CWP No. 179 of 2018

1. As per office report, service on the respondents is complete. No one has come forward so far to defend the petition despite last opportunity to file written statement given by the interim order dated 17.07.2018. Since none has appeared for the respondents and they stand served, they are proceeded against ex-parte.

2. Notice of motion was issued in this case on the ground that the matter is covered by the decision dated 26.08.2015 passed in Rakesh and another Vs. The Authority under the Minimum Wages Act & others, CWP No. 17771 of 2015 (Annex.P-6).

3. I have read my judgment and order dated 26.08.2015 in Rakesh (supra) and find that the question of jurisdiction and maintainability is verily

the same regarding the application in Form 7-A presented under Section 21 (1) of the Minimum Wages Act, 1948 for recovery of wages by the respondents/farm labour stated to be working on the agricultural fields of the present petitioner and would deem it appropriate to pass similar order as in the aforesaid case. In Rakesh case the claim was not for payment of minimum wages but non-payment of wages agreed upon by farmer and labour for work done. Such a claim is not maintainable before the Controlling Authority under the 1948 Act. The position is the same here. However, instead of simply allowing the petition and leaving the workers confounded I had thought it necessary and expedient to transmit the file from one to the other to preserve remedy, other than a protracted civil suit for recovery of money and save time, money and energy the better course would to get the matter settled by the Labour Court exercising territorial jurisdiction, observing:

“The workers have been misguided to claim the amounts allegedly due in a wrong forum. However, allowing this petition would leave the workers in a lurch and may cause them untold suffering as they may not know what to do next. Even to issue notice on this petition would put poor people to a great expense and therefore, in exercise of power under Section 24 of the Code of Civil Procedure, 1908, this Court orders transfer of the file of application No.3 of AMW Act of 2013 instituted on 29th January, 2013 from the board of the authority under the Minimum Wages Act, 1948-Munish Kumar, HLS-cum-Assistant Labour Commissioner, Fatehabad to the board of the Presiding Officer, Labour Court, Hisar

with a direction to the Labour Court to treat the application as an application under Section 33-C(2) of the Industrial Disputes Act and to adjudicate the claim after issuing notice to the respondent-workers.”

4. As a result and by adopting the same methodology in order to serve the ends of justice, the file of the Claim Application No. 48-MW-2014 decided by the respondent authority on 27.04.2017 in Devi Lal and others Vs. Shish Pal is directed to be remitted to the Presiding Officer-cum-Labour Court, Hisar with a direction that the application under the Minimum Wages Act be treated as one filed under Section 33 C (2) of the Industrial Disputes Act, 1947 for adjudication of the claim on merits after issuing notice to the present *ex parte* respondents who are the claimants in that application.

5. As a result, this petition is partly allowed. The order dated 27.04.2017 (Annex. P-5) is set aside and the file is ordered to be sent to the Labour Court, Hisar in exercise of powers under Section 24 of the Code of Civil Procedure, 1908 read with Article 227 of the Constitution.

6. Petitioner is directed to appear before the learned Presiding Officer Industrial Tribunal-cum-Labour Court, Hisar on 09.05.2019. The learned Tribunal would then issue notice to the respondents for appearance etc. and proceed with the case and determine money due, if any.

7. This Court expresses no opinion on the case on merits since it has ordered the remittance of file from the Authority under the Minimum Wages, Act to the board of the learned Presiding Officer Industrial Tribunal-cum-Labour Court, Hisar, to save time and the interests of the workers who may possibly be migrant.

8. A copy of this order be sent to the respondents and to the Authority under the Minimum Wages Act, 1948 which passed the impugned order to facilitate transfer of file to the board of the learned Presiding Officer Industrial Tribunal-cum-Labour Court, Hisar.

(RAJIV NARAIN RAINA)
JUDGE

27.03.2019
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No