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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 9th November, 2020

+ **W.P.(C) 4534/2020 & CM APPL. 16361/2020**

RAJENDER KUMAR Petitioner

Through: Mr. Vijay Kumar, Advocate (M-9810169432)

versus

DY. LABOUR COMMISSIONER & ANR. Respondents

Through: Mr. Aseem Mehrotra, Advocate. (M: 9811062351)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done by video conferencing.
2. The present petition has been filed challenging the impugned order dated 21st February, 2020, passed by the Deputy Labour Commissioner, Authority under the Minimum Wages Act, 1948 (*hereinafter 'Authority'*). By the said order, the Petitioner's claim under Section 20 of the Minimum Wages Act, 1948 (*hereinafter 'the Act'*) has been dismissed as being barred by limitation.
3. The Petitioner was working as a security guard, appointed by the Contractor/Respondent No.2 and his allegation against the Contractor was that he was not paid minimum wages for various periods i.e. 1st July, 2015 to 1st October, 2015, 1st November, 2015 to 31st March, 2016 and 1st April, 2016 to 1st July, 2018. The claim was filed by the Petitioner on 27th June, 2019, along with an application for condonation of delay. However, the Authority held that no sufficient cause existed for condoning the delay in filing the claims under Section 20 of the Act and the same was dismissed as barred by

limitation.

4. Mr. Vijay Kumar, Id. counsel for the Petitioner submits that the Authority has completely erred in dismissing the claim on the ground of delay as the delay can always be condoned if sufficient cause is shown as per the proviso to Section 20(2) of the Act. Reliance is placed on the judgment of the Supreme Court in ***Sarpanch, Lonand Grampanchayat vs Ramgiri Gosavi & Anr. [AIR 1968 SC 222]***. Mr. Mehrotra, Id. counsel on the other hand submits that even if the delay is condonable, the claim should be restricted to a period of three years.

5. A perusal of Section 20 of the Act shows that the first proviso requires the Applicant to file the application, within six months from the date when the minimum wages became payable. However, the second proviso also makes it clear that after the expiry of the said period, if the Applicant satisfies the Authority that there was sufficient cause, the delay can be condoned. In ***Sarpanch (supra)*** the Supreme Court observed:

“3. The Authority has a discretion to condone the delay in presenting the application provided sufficient cause for the entire delay is shown to its satisfaction. This discretion like other judicial discretion must be exercised with vigilance and circumspection according to justice, commonsense, and sound judgment. The discretion is to know through law what is just, see Keighley's case.”

The above legal position has thereafter been reiterated in a number of decisions both by the Supreme Court and this Court.

6. It is observed that there is no discussion in the impugned order as to whether there was sufficient cause for the delay at all. Moreover, the entire

claim of the Applicant/Petitioner herein cannot be held to be barred inasmuch the Authority would have to consider as to whether the claim can be restricted for a period prior to the filing of the claim. There is no discussion on this aspect as well. The Authority has simply proceeded on the basis that there is no sufficient cause and the claim has been dismissed.

7. Further, considering the fact that the Petitioner is a security guard whose monthly wages were only Rs. 5,485/-, it cannot be held that shortage of money with the Applicant cannot be a sufficient ground for condoning the delay by itself. Coming from a lower stratum of society, the Petitioner could have been facing financial crunch, in order to engage lawyers or to file claims and to approach the Authority. The Authority is expected to be compassionate in such circumstances, while proceeding in accordance with law.

8. In view of the above facts and circumstances, the impugned order is set aside. The matter shall be reconsidered by the Authority as to whether the delay is condonable in accordance with the settled legal position and if not, whether the claim needs to be restricted to any specific period.

9. Parties to appear before the Minimum Wages Authority on 7th December, 2020.

10. The petition is allowed in the above terms. All pending applications are disposed of.

11. Copy of this order be intimated by the Registry to the Deputy Labour Commissioner (North East District) under the Minimum Wages Act, 1948 (Add:- Vishwakarma Nagar Jhilmil Colony, Delhi-110095) by e-mail as well.

PRATHIBA M. SINGH
JUDGE

NOVEMBER 9, 2020/Rahul/A