

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Reserved on : 05.04.2021

Order Passed on : 16/06/2021

W.P.(L) No. 2941 of 2009

State of Chhattisgarh, Through : the Sub Divisional Officer, Public Works Department, District, Korba(C.G.)

---- Petitioner

Versus

Bhaiya Lal Yadav, S/o. Late Sahdeva Yadav, R/o. Irrigation Colony, Labour Haat, Korba, C.G.

---- Respondent

For Petitioner/State	:	Shri Gurudev I. Sharan, G.A.
For the Respondent	:	Shri R.S. Baghel, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

CAV Order

1. In WPL No.2941/2009 the petitioner/State of C.G. has challenged the order dated 7.11.207, passed by the Court of Authority Minimum Wages Act, Korba, in case 25/MW/KRB/2006.
2. It is submitted by the counsel for petitioner in WPL No.2941 of 2009 that the claim made by respondent – Bhaiya Lal Yadav was baseless. According to the Circular [No.477/F5-4/1/वेआप्र/92](#), the contingency paid employees have to be paid on the basis of the rates fixed by Collector for the first 03 years and subsequent to that they will have entitlement for revised

pay. The respondent was appointed on 03.11.1987 as a daily wage employee. The respondent was regularized vide order No.35059-022/05 dated 31.10.2005, therefore, any entitlement, which may be of the respondent for the revised pay scale would be from the date of such regularization only and not before that. The learned Authority has not made any differentiation and drawn conclusion on the point of entitlement of the respondent for the revised pay scale, therefore, the order passed is erroneous. The respondent has entitlement for payment at enhanced rate from 31.10.2005 only, hence the petition be allowed and the impugned order be set aside.

3. The counsel for respondent opposed the submissions and submitted that the order dated 31.10.2005 itself speaks about the entitlement of the petitioner, according to which, the authority has passed orders. No error has been committed by the Authority in passing the impugned order, therefore, the petition be dismissed.

4. In reply, it is submitted by the counsel for petitioner, that the respondent shall have no entitlement for enhanced payment of wages prior to the date on which he was regularized, therefore, the petition be allowed and the impugned order be set aside.

5. Considered on the submissions. The respondent had filed application on 14.12.2007 before the Authority under the Minimum Wages Act, 1948 praying for compliance of the order dated 7.11.2007. The learned Authority had to give a finding and to decide as to the date of entitlement of the respondent from which he would be entitled for the payment of enhanced wages. On perusal of the impugned order, it is found that there is no such finding given by the Authority as to from which date the enhanced wages are to be paid to the respondent. This Court in exercise of jurisdiction under

Article 227 of the Constitution of India cannot act as an Authority under the Minimum Wages Act and decide the date from which the respondent shall be entitled for payment of enhanced wages. It is for the Authority under the Minimum Wages Act, 1948 to consider and decide the issue that has been brought before this Court.

6. Section 20 (7) of Minimum Wages Act, provides that every Authority appointed under sub-section (1) of Section 20 shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 that includes the power to recall the order as well as to modify the same. The impugned order under challenge, before this Court, needs only modification on the point of which the previous order is silent.

7. On the basis of discussions made here-in-above, this petition is disposed off. The petitioner is at liberty to approach the authority under Minimum Wages Act praying for modification in the impugned order regarding the date from which the respondent is entitled for payment and other benefits according to the revised pay scale.

8. With the above observations, the petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
JUDGE