

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No.26487 of 2011

M/s. S & I B Services Pvt. Ltd.

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Petitioner

Mr. Narendra Kumar Mishra, Advocate

-versus-

***The Regional Labour Commissioner Opposite Parties
(Central), Government of India &
Others***

Mr. Jateswar Nayak, Central Govt. Counsel

Mr. Pradeep Kumar Das, Advocate

(for Opposite Party No.2)

**CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN**

ORDER

13.04.2022

**Order No. W.P.(C) Nos. 26487, 26489, 26490, 26492, 26493, 26495, 26496
& 26497 of 2011**

04. 1. Mr. Jateswar Nayak, learned Central Govt. Counsel files a memo of appearance on behalf of the Opposite Party No.1 in Court today, which is taken on record.
2. A short point arises for adjudication in this batch of petitions, all of which are by contractors who have supplied the labour force for different units of the Birla Industrial and Technological Museum (BITM) at Kolkata under National Council of Science Museums

(NCSM) which is under the administrative control of the Ministry of Culture, Govt. of India.

3. A contract was entered between the Petitioner on one hand and the BITM on the other on 17th September, 2007. It was valid for a period of three months from 1st September, 2007 onwards. The contract completed the tenure on 31st August, 2009.

4. In the premises of the Opposite Party No. 4 i.e. M/s. Regional Science Centre at Bhubaneswar, eight casual employees were engaged for different nature of activities. All of them were unskilled employees performing manual work. It appears that these employees approached the authority under the Minimum Wages Act, 1948 (MW Acct) stated that they were engaged as Malis from 3rd March, 1996 onwards till 1st October, 2009 in the premises of the Opposite party No.4; that they were engaged in the garden work but had been paid less than minimum wages. On the above basis, summons was issued to the Petitioner by the Opposite Party No.1.

5. After replies were filed to the summons by the Petitioner, the impugned order dated 25th August, 2011 was passed by the Regional Labour Commissioner (Central) at Bhubaneswar *inter alia* directing that minimum wages in terms of the Government of India Notification shall be paid for the period from 1st September, 2007 to 1st October, 2009 and further that the labourers were not entitled to the differential wages prior to 1st September, 2007.

6. Two objections have been raised to the impugned order. One is that in terms of proviso to Section 20 (2) of the MW Act every application claiming minimum wages is required to be presented within six months from the date the minimum wages became payable. It is submitted that the claim relates back to the year 1996 onwards and that in terms of the second proviso to Section 20 (2) sufficient cause for delay in filing such application has not been shown. The second objection taken is that the workers would be covered by the central government notification with effect from 7th August, 2008 and therefore the differential wages should be mad payable only from that date.

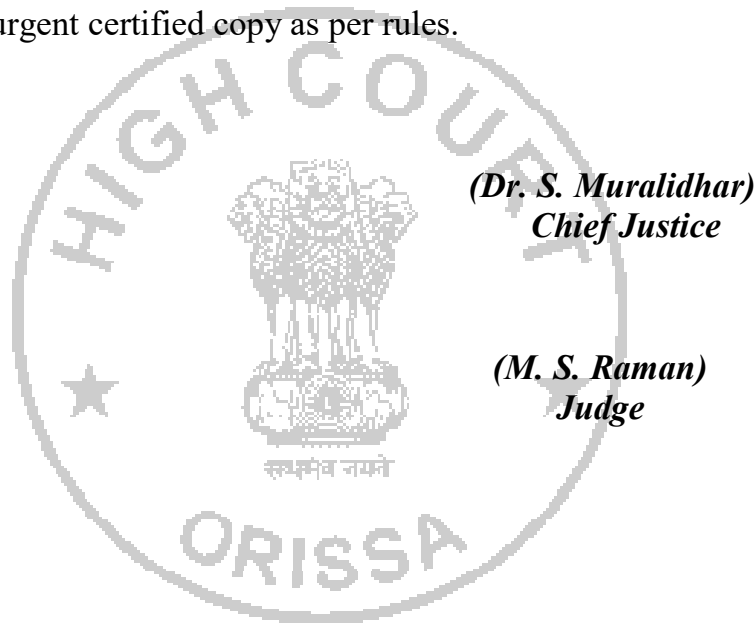
7. The above submissions have been considered. It is the admitted case that the workers have been paid minimum wages as per the State Government Notification. This was also evident from the impugned order where the payments received by the workers have been set out in a tabular form. Since by the impugned order, the payment to be made of differential wages has been restricted to the period from 1st September, 2007 onwards, this Court is not impressed with the plea regarding limitation. However, as regards the second plea, the Court notes that the Central Government Notification became applicable to the type of work discharged by the workmen only from 7th August, 2008 onwards. Therefore, the differential wages i.e. the wages to be paid as per Central

Government Notification minus that already paid would be due only from that date.

8. Accordingly, the impugned order is modified by directing that workers will receive the differential wages for the period from 7th August, 2008 till 1st October, 2009.

9. The writ petitions are disposed of in the above terms.

10. Issue urgent certified copy as per rules.



AKS