

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.27702 of 2022

***M/s Tulasee Construction,
Deogarh***

.....

Petitioner
Mr. A. Pattanaik, Adv.

-Versus-

State of Odisha & ors

.....

Opp. Parties
Mr. D. Nayak, AGA.

**CORAM:
JUSTICE S. TALAPATRA
JUSTICE SAVITRI RATHO**

**ORDER
31.10.2022**

Order No.

- 01.
1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
 2. Heard Mr. A. Pattanaik, learned counsel appears for the petitioner.
 3. By means of this writ petition, the petitioner has urged this court for directing the Opposite Party No.5 to reimburse the enhanced differential amount of minimum wages on the basis of the rate adopted by the memorandum of the Works Department dated 07.04.1986 (Annexure 3 to the writ petition).
 4. An alternative prayer has also been made for directing the Opposite Party No.5 to dispose of the representation dated 16.08.2022 (Annexure 5 to the writ petition) within a time frame, as would be set up by this court. From the representation dated 16.08.2022, it appears that in the contract by which the petitioner has been engaged there is an express clause that whenever the minimum wages would be

revised, the contract-workman will be entitled to that minimum wages and the differential shall be paid accordingly.

5. It has been asserted that during the course of the execution of the contract, the appropriate State Government i.e. the Government of Odisha enhanced the minimum wages in terms of the Minimum Wages Act, 1948. As per Details Standard Specification of Odisha and under the clause provided in the Condition of Contract, it has been clearly laid down that the minimum wages as would be revised has to be paid to the workmen. According to the petitioner, the minimum wages has been enhanced to Rs.286.30 by the letter dated 27.05.2019.

6. Variable dearness allowances has also been enhanced to Rs.6.30 paisa per day for the un-skilled, Semi-skilled, skilled and highly skilled categories of employees in all 89 scheduled employments with effect from 01.04.2019, in addition to the enhanced rate of minimum wage as notified vide the Labour and ESI Department Notification No.6502-LL-i(ar)-1/15/LESI dtd.30.10.2018, which has come into force with effect from 01.04.2019. Therefore, the petitioner has represented that his minimum wage has to be revised with effect from 01.04.2019 at the revised minimum wage and differential would be paid to him forthwith. But no heed was given to his representation.

7. Per contra, Mr. D. Nayak, learned Addl. Government Advocate appearing for the Opposite Parties has submitted that there is no endorsement from the said representation when it was received by the competent authorities. Therefore, it is very difficult to say whether the representation at all was sent to the competent authority or not.

8. Fairly Mr. Nayak, learned Addl. Government Advocate has suggested that the competent authority may be directed to consider the representation. According to Mr. D. Nayak, learned Addl. Government Advocate it appears that the petitioner is entitled to get such differential. But such decision can only be taken by the competent authority.

9. In the conspectus of facts as emerged, we dispose of this writ petition, directing the Opposite Party No.5 to consider the said representation dated 16.08.2022 (Annexure-5 to the writ petition) within a period of 30 days from the date when the petitioner shall furnish a copy of this order to the Opposite Party No.5.

10. The petitioner is given liberty to file a copy of the representation dated 16.08.2022 with this order of this court or he may also file a fresh representation. This option remains with the petitioner.

11. There shall be no order as to costs.

(S. Talapatra)
Judge

(Savitri Ratho)
Judge