



W.P(MD)No.15962 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2022

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

W.P(MD)No.15962 of 2012

and

M.P(MD)No.1 of 2012

The Management,
Chandru Rubber Factory,
78/2B, Thirualavayanallur P.O.,
Nagari – Via Thanichiam,
Madurai – 625 521.

... Petitioner

Vs

1.S.Uma Maheswari,
Motor Labour Union,
Regd. No.144, Nanmai – Tharuvar
Koil Arisikara Street,
Madurai – 1.

2.The Presiding Officer,
Labour Court,
Courts' Complex,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, to call for the records and quash the impugned award passed by the Labour Court, Madurai in Claim Petition No.24 of 2009, dated 23.07.2012.

For Petitioner : Mr.S.Ramesh alias Ramaiah

For R – 1 : Mr.S.Arunachalam



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ORDER

This Writ Petition is filed for issuance of a Writ of Certiorari, to quash the impugned award passed by the Labour Court, Madurai in Claim Petition No.24 of 2009, dated 23.07.2012.

2. Learned counsel appearing for the petitioner though raised several issues, like maintainability of the claim petition under Section 33 (c) (2) of the Industrial Disputes Act; that the first respondent, having filed a petition before the authority under payment of Wages Act withdrew the petition and therefore is not entitled to again file a petition before the Labour Court; that the calculation made in the impugned order is not correct, restricted his submission only with reference to the calculation aspect.

3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent.



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4. As per the claim petition in C.P.No.24 of 2009, the first respondent claimed a sum of Rs.1,89,770.16/- as an amount entitled to her, as per the payment of Minimum Wages Act for a period from 01.07.1999 to 31.03.2000, 01.04.2000 to 31.03.2001, 01.04.2001 to 31.03.2002, 01.04.2002 to 31.03.2003, 01.04.2003 to 31.07.2003, 01.08.2003 to 31.03.2004 and 01.04.2004 to 31.10.2004 as detailed in the claim statement.

5. The learned Labour Judge, on going through the materials produced, found that the first respondent was drawing more wages than minimum wages from 01.07.1999 to 31.07.2003 and found that the first respondent is not entitled for any amount during this period, as per the Minimum Wages Act. From 01.08.2003 to 31.03.2004, the first respondent's claim was Rs.4914.40/- per month, whereas she was paid only Rs.3,300/-. From 01.04.2004 to 31.10.2004, the first respondent's claim was Rs.3,843/- per month, but she was paid only Rs.3,300/-. Thus, the learned Labour Judge arrived at the conclusion that the petitioner is entitled for the difference ie., the difference between minimum wages and the actual wages paid.



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6. When calculated for the period from 01.08.2003 to 31.03.2004, the difference between minimum wages and actual wages paid comes as follows:-

Minimum wage	Actual wage	Difference	Aggregate of difference amount for 8 months
Rs.4914.40	Rs.3,300	Rs.1,614.40	Rs.12,915.20/-

7. When calculated for the period from 01.04.2004 to 31.10.2004, the difference between minimum wages and actual wages paid comes as follows:-

Minimum wage	Actual wage	Difference	Aggregate of difference amount for 7 months
Rs.3,843	Rs.3,300	Rs.543	Rs.3,801/-

8. Thus, the total amount paid less than the minimum wages comes to **Rs.16,716.20/-** (Rs.12,915.20 + Rs.3,801). However, the learned Labour Judge directed the petitioner to pay a sum of Rs.1,03,900/- to the first respondent, for which the details of calculation is not given. Apparently, this calculation is not correct. As calculated above, the first respondent is entitled only for a sum of



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Rs.16,716.20/- as the difference amount between minimum wages and actual wages paid to her for the period from 01.08.2003 to 31.03.2004 and 01.04.2004 to 31.10.2004. Therefore, this Court sets aside the order passed by the Labour Court with regard to the quantum alone and directs the petitioner to pay a sum of Rs.16,716.20/- to the first respondent as the difference between minimum wages and actual wages paid.

9. It is submitted by the learned counsel for the petitioner that the petitioner deposited a sum of Rs.20,000/- before the Labour Court at the time of moving the stay petition. The first respondent is entitled to move an appropriate petition for withdrawing the amount of Rs.16,716.20/-. Equally, the petitioner is also entitled to get the balance amount lying in the Court deposit. Accordingly, this Writ Petition is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

05.07.2022

Internet :Yes
Index :Yes / No
ps



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Note:-

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To

The Presiding Officer,
Labour Court,
Courts' Complex,
Madurai.



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G.CHANDRASEKHARAN, J.

ps

Order made in
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05.07.2022