



WEB COPY



W.P.Nos.11396 to 11400 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.11396 to 11400 of 2012
and M.P.No.1 of 2012 (5 Nos.)

Bharat Sanchar Nigam Ltd.,
Rep. by its Principal General Manager,
Promenade Road,
Contonment,
Trichy-1.

...Petitioner in
all W.Ps.

-Vs-

1. The Regional Labour Commissioner (Central),
Chennai & Authority under Section 20(1) of
Minimum Wages Act, 1948,
Sastri Bhavan, V Floor,
No.4, Haddows Road,
Nungambakkam,
Chennai – 600 006.

2. The Labour Enforcement Officer (Central),
Trichy.

... Respondents 1 & 2
in all W.Ps.

3. A. Raja
Contractor,
Pudukottai Security Services,
T.S.No.3309, Near Big Pallivasal,
South Second Street,
Pudukottai – 622 001.

... 3rd Respondent in
W.P.11396 of 2012



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3. S.Ramachandran

Contractor,

Shree Security Services,

Anna nagar, Mathur Post,

Pudukottai – 622 515.

... 3rd Respondent in
W.P.11397 of 2012

3. N.Venkatesan,

Managing Director,

Firstman Security Force,

H-No.11/30, 1st Main Road,

Ramalinga Nagar,

Worlur, Tiruchy – 620 003.

... 3rd Respondent in
W.P.11398 of 2012

3. V.Sivaramakrishnan

Managing Partner,

Clean and Care Services,

H.No.11, First Main Road,

Ramalinga Nagar,

Trichy – 3.

... 3rd Respondent in
W.P.11399 of 2012

3. M.Pandian

Contractor,

Sri Balaji Agency,

No.41-A, Mela Chinthamani,

F-3, Block “A”, J.B.Towers,

Karur Bye Pass Road,

Trichy – 2.

... 3rd Respondent in
W.P.11400 of 2012

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in Claim Application Nos.26, 25, 28, 27 & 24 of 2010 respectively, dated 27.09.2011 and to quash the same as illegal and consequently direct the first respondent to follow the relevant Notification pertaining to Telecom Industry issued by the Ministry of Labour and Employment dated 20.05.2009 in future.



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In all W.Ps.

For Petitioner : Mr.M.S.Velusamy

For Respondents

For R1 & R2 : Mr.K.Srinivasamurthy
Senior Panel Counsel

For R3 : Mr.M.R.Dharanichander

COMMON ORDER

These writ petitions have been filed challenging order dated 27.09.2011 passed by the first respondent in Claim Application Nos.26, 25, 28, 27 & 24 of 2010 respectively, and to direct the first respondent to follow the relevant Notification pertaining to Telecom Industry issued by the Ministry of Labour and Employment dated 20.05.2009.

2. The Government of India banned employment of casual labourers on and after 30.03.1985, pursuant to the judgment of the Hon'ble Supreme Court of India. Subsequent to the said judgment, the Government of India has circulated a scheme namely Casual Labourers (grant of Temporary Status and Regularization) Scheme, with effect from 01.10.1989. Accordingly a large number of casual employees were regularized as per the said scheme.



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3. The petitioner had taken a decision to outsource the works like gardening, sweeping, cleaning, catering and maintenance at guest house, lift operation etc. The category of house keeping is not covered under the schedule of Minimum Wages Act as such it is not a scheduled employment. The wages are regulated by the notification dated 20.05.2009, by the Ministry of Labour and Employment in respect of contract works of Telecom, Telegraph and other departments.

4. The Ministry of Labour and Employment has notified the minimum wages vide notification dated 14.09.2006 and accordingly the wage was fixed by the Central Government at Rs.81/- for “A” area; Rs.78/- for “B” area and Rs.66/- for “C” area. The minimum wages will be revised once in three or five years. The latest notification was published on 20.05.2009 and the same was communicated to individual office by a letter dated 06.05.2010. At the relevant point of time, the minimum wages fixed by the District Collectors of the respective districts was ranging from Rs.85 to Rs.100/- in Trichy, Perambalur, Pudukkottai, Ariyalur and Karur District in the State of Tamil Nadu.



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5. While being so, the contractors viz., the third respondent in all the writ petitions, were awarded with contract to depute their workers.

However, the above said rates are not applicable to the third respondent. Therefore, a complaint filed before the first respondent seeking pay parity on par with the regular employees. Though the equal pay for equal work was rejected, the first respondent fixed the wages contrary to Section 3 of the Minimum Wages Act. Hence, the petitioner filed the present writ petitions, with the above said prayer.

6. Heard the learned counsel appearing on either side and perused the material placed before this Court.

7. Similar issue has already been dealt with by the Hon'ble Division Bench of this Court in *W.A.No.770 of 2013* in the case of ***Bharat Sanchar Nigam Ltd., Vs. The Deputy Chief Commissioner of Labour & ors.,*** in which this Court by an order dated ***27.03.2015***, held that original challenge to the order of the Commissioner, does not survive any more for adjudication for the reason that as per the said order, the rate of wages was fixed at Rs.140/- per day for housing



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keeping work and Rs.125/- per day for sweeping/cleaning work. But by the notification issued under the Minimum Wages Act, on 20.05.2009, all workers irrespective of their source of engagement, have become entitled to more than the said rate of wages. Therefore, the workers are entitled to the benefit of the notification dated 20.05.2009. Further, the benefit of the notification will be available to the workers only from the date of the notification, as such the workers are entitled to the benefits of the notification dated 20.05.2009, from that date.

8. Accordingly, all the Writ Petitions are disposed of. Consequently, connected miscellaneous petitions are closed. There shall be no order as to cost.

04.09.2023

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

rts



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