



WEB COPY



W.P. Nos.27671 and 27672 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. Nos.27671 and 27672 of 2016

and

W.M.P.Nos.23838 and 23839 of 2016

Coimbatore Kidney Centre,
Kidney Care & Research Private Limited,
Rep. by its Managing Director Dr.K.S.Ramalingam,
738B, Puliakulam Road,
Coimbatore.

... Petitioner in both W.P.s

Vs.

1. Deputy Commissioner of Labour,
Coimbatore.

2. Assistant Inspector of Labour II,

Under the authority of Minimum Wages Act, 1948,
Coimbatore.

... Respondents in both W.P.s

Common Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in M.W.Nos.51 and 52 of 2015 dated 11.03.2016 on the file of the 1st respondent herein and quash the same and consequentially remand the proceeding to the 1st respondent herein to conducting a fresh trial after giving due opportunity to the petitioner herein to examine their witnesses.

In both W.P.s

For Petitioner : Mr.M.Vijayalakshmi

For Respondents : Mr.V.P.R.Elamparithi
AGP for R1 & R2



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COMMON ORDER

Since the issue involved in the present writ petitions are one and the same they are disposed of by way of this common order.

2. It is the case of the petitioner that in order to cater the needs of the visitors of the petitioner hospital, they are running a small canteen inside the hospital campus. Pursuant to the inspection, the 2nd respondent filed an application before the 1st respondent in M.W.Nos.51 and 52 of 2015 u/s.20(2) of the Minimum Wages Act against the petitioner's hospital on the ground that the wages paid by the management were less than the revised minimum wages vide G.O.Ms.No.35 dated 08.07.2014. The 1st respondent vide order dated 11.03.2016, allowed the application made by the 2nd respondent directing the petitioner to pay the difference of wages to the employees as envisaged under the Minimum Wages Act. Challenging the same, the present writ petition has been filed.

3. The learned counsel for the petitioner submits that though the petitioner has made a request before the 1st respondent during the course of the proceedings to examine all the employees as management witnesses, however, the 1st respondent without considering the said request, mechanically allowed the application made by the 2nd respondent vide order dated 11.03.2016 in M.W.Nos.51 and 52 of 2015 which is *per se*



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unsustainable. More so, during the course of the enquiry conducted, the management witness in W.P.No.27672 of 2016 had deposed that the differences of wages was paid to the workers and had filed the register of wages as an exhibit in M.W.No.52 of 2015 evidencing payment of the differences between the minimum wages and the actual wages. He further submits that in so far as the employees namely Manogari and Mageswari in W.P.No.27671 of 2016 are concerned, since they were employed only as trainees, they are not entitled for regular wages and are only entitled for stipend. However, the 1st respondent without examining them, has come to a conclusion that the employees were not trainees but were employed as ward girls on the basis of the inspection report of the 2nd respondent. Therefore, the impugned order is liable to be quashed.

4. On the above contentions heard learned counsel appearing for the respondents 1 and 2 and perused the materials placed on record.

5. Admittedly, the 2nd respondent while inspecting the petitioner's premises found that, the petitioner management has paid wages which is less than the revised minimum wages as per G.O.Ms.No.35 dated 08.07.2014, for which he made a complaint before the 1st respondent, wherein the 1st respondent vide Award dated 11.03.2016, directed the petitioner



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management to pay the difference of wages to the employers as envisaged under the Minimum Wages Act. Though the facts stand as such, however, it is clear from the Award passed by the 1st respondent in M.W.Nos.51 and 52 of 2015 dated 11.03.2016, that the petitioner management has extracted work from the employees by giving very minimal wages to them and when the 1st respondent has come to a conclusion that the employees were given minimal wages, unless it is proved by the petitioner management that the said order is perverse or arbitrary, the same cannot be interfered with.

6. Hence, this Court directs the petitioner management to pay the award amount to the employees as per the order dated 11.03.2016 passed by the 1st respondent in M.W.Nos.51 and 52 of 2015, if not already paid, along with 6% interest within a period of four(4) weeks from the date of receipt of a copy of this order.

7. Accordingly, these writ petitions are dismissed with the above direction and observations. No costs. Consequently, connected miscellaneous petitions are closed.

05.07.2023

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Index : Yes / No

Speaking order : Yes / No

NCC : Yes/No



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To

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1. Deputy Commissioner of Labour,
Coimabtoe.
2. Assistant Inspector of Labour II,
Under the authority of Minimum Wages Act, 1948,



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M.DHANDAPANI, J.

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