



W.P.No.28517 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28517 of 2016

Chennai Yettrumathi Valaga Uzhiyargal
Matrum Pothu Thozilalar Sangham,
15 Kannan Street, Kadaperi,
Represented by its President,
Tambaram,
Chennai – 600 045.
Petitioner

...

Vs.

1. The Deputy Commissioner of Labour – 1,
Authority under the Minimum Wages Act – 2,
DMS Complex, Teynampet,
Chennai – 600 009.

2. The Managing Director,
Sanco Trans Limited,
No.592, Ennore Express High Road,
Eranavoor,
Chennai – 600 057.

... Respondents



W.P.No.28517 of 2016

WEB COPY

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certioraraified Manadmus, calling for the records of the first respondent vide order in M.W.I.A.No.9 of 2013 dated 27.11.2015 and quash the same and consequently, direct the first respondent to take up the minimum wages case raised by the petitioner by condoning the delay and decide the same on merits.

For Petitioner : Mr.K.K.Ram Siddharthan
for M/s.Row and Reddy

For Respondents : Mr.M.PRem Kumar
Government Advocate for R1
Mr.Anand Gopalan
for T/s.Gopalan & Company for R2

ORDER

This Writ Petition has been filed to call for the records of the first respondent vide order in M.W.I.A.No.9 of 2013. dated 27.11.2015 and quash the same and consequently, direct the first respondent to take up the minimum wages case raised by the petitioner by condoning the delay and decide the same on merits.

2. The petitioner Union, espousing the cause of the workers



W.P.No.28517 of 2016

working in the second respondent Company, had filed M.W.I.A.No.9 of 2013 seeking condonation of delay in filing the application under the Minimum Wages Act, 1948 (hereinafter referred to as 'The Act') claiming minimum wages for the workers. However, there was a delay of 7200 days in filing the application. Hence, the petitioner filed M.W.I.A.No.9 of 2013 seeking condonation of delay of 7020 days by reducing the six months period as provided under first proviso to Section 20(2) of the Act. The said interim application was rejected by impugned order dated 27.11.2015. Challenging the same, the petitioner Union has filed the present Writ Petition and to consequently, direct the first respondent to take up the minimum wages case filed by the petitioner by condoning the delay and to decide the same on merits and in accordance with law within a time frame that may be stipulated by this Court.

3. The learned counsel appearing for the petitioner submitted that the application was filed as soon as the workers approached the Union and the delay caused should have been condoned by the authority considering



W.P.No.28517 of 2016

WEB COPY

the plight of the workers who were not paid the minimum wages as prescribed under the Act. He relied upon the various judgments of this Court as well as Hon'ble Supreme Court stating that the ignorance of law could be an excuse to condone the delay. Relying the same, the learned counsel for the petitioner submitted that the rights of the workers in pursuing their remedy under law is curbed by the dismissal of the condone delay application filed by the Union. Hence, he prays for setting aside the impugned order passed by the authority and to entertain the minimum wages case filed before the Competent Authority.

4. Per contra, Mr.Anand Gopalan, learned counsel for the second respondent Management submitted that it is the claim of the petitioner Union that the minimum wages was not paid to the workmen from August 1990 onwards to March 2013. However, the application was filed only on 26.08.2013. Therefore, the delay ranged from 8420 days onwards in filing the application. The first contention of the second respondent Management is that the State of Tamil Nadu has not notified any rates for minimum



W.P.No.28517 of 2016

WEB COPY

wages for the respondent Industry and hence, the application filed by the petitioner Union itself is not maintainable. Moreover in the charter of demands submitted by the petitioner Union itself, the demand for payment for minimum wages was not raised. He also submits that there is no sufficient cause shown by the petitioner Union for the delay of 7200 days. He further submitted that it is true that there are certain judgments of this Court condoning the delay up to a period of three years and directing the authority to adjudicate the merits of the claim. However, the said judgment would not apply to the facts of the present case as in the case on hand, there was a 12(3) settlement between the employer and the workmen on 29.02.2012 and it was in force. Hence, placing reliance on the said settlement also and the other contentions raised by the petitioner, the learned counsel for the second respondent Management seeks dismissal of the Writ Petition.

5. The learned counsel for the second respondent Management further submitted that the workmen working in the Container Freight Station



W.P.No.28517 of 2016

WEB COPY

(CFS) which is a notified area for receiving and storing cargo in steel containers by import or export. The claim is made in terms of the provisions of the orders of the Government of Tamil Nadu fixing minimum rate of wages for employment in “public motor transport” does not apply to the workers as if worked in the CFS, which is not a public motor transport undertaking and hence, ex-facie, the claim made by the petitioner is not sustainable.

6. I have heard the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

7. Section 20 of the Minimum Wages Act provides that an application seeking minimum wages ought to be filed within a period of six months, failing which, it should be accompanied the petition to condone the delay. Here in the case in hand, the delay was 7020 days excluding the six months time provided under first proviso to Section 20(2) of the Act. It is not



W.P.No.28517 of 2016

WEB COPY

in dispute that, there was a 12(3) settlement between the employer and the workmen on 29.02.2012. When that being so, the claim of the petitioner Union that the minimum wages was not being paid sounds incorrect. It is also pertinent to note that the Management and the employees have signed a wage settlement for a period from 01.04.2015 to 31.03.2021 and in the said settlement, the employees have agreed and acknowledged that the Management has discharged all its statutory obligations till the date of the settlement.

8. Considering the facts and circumstances of the case and in the particular fact that the issue to be adjudicated as regarding the minimum wages which has already been considered by 12(3) settlement as early as in the year 2012, this Court feels that there is no point in analysing the issue of the minimum wages after a lapse of more than two decades. Hence, there is no error in the order passed by the Competent Authority in dismissing the interim application for condonation of delay filed by the petitioner Union.



W.P.No.28517 of 2016

WEB COPY

9. With the above observations, this Writ Petition is dismissed. No

costs.

13.07.2023

NCC: Yes / No

Index : Yes / No

Speaking Order : Yes / No

vji

To

1. The Deputy Commissioner of Labour – 1,
Authority under the Minimum Wages Act – 2,
DMS Complex, Teynampet,
Chennai – 600 009.

2. The Managing Director,
Sanco Trans Limited,
No.592, Ennore Express High Road,
Eranavoor,
Chennai – 600 057.



WEB COPY



W.P.No.28517 of 2016

M.DHANDAPANI, J.

vji

W.P.No.28517 of 2016

13.07.2023