



W.P. Nos. 25141 to 25143 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2023

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

**W.P. Nos. 25141 to 25143 and 28004 & 28005 of 2017
and**

W.M.P. Nos. 26577 to 26582 and 30054 to 30057 of 2017

W.P.No.25141 of 2017:-

The Management
Muruga Home industries
Rep. by its Managing Partner-N.Prakash Rao
No.56-A, Town Road
Tachanallur, Tirunelveli-627 358.

... Petitioner

-VS-

State of Tamil Nadu
Rep. by its Secretary
Labour and Employment Department
Fort St. George
Chennai-600 009.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in G.O.(2D) No.36, Labour and Employment (J1) Department and quash its order dated 02.06.2017 published in Part II – Section 2 of the Tamil Nadu Government Gazette dated 06.09.2017 and direct the respondent to call for representation from the petitioner and issue revised of minimum wages notification with prospective effect.



W.P. Nos. 25141 to 25143 of 2017

W.P.No.25142 of 2017:-

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Shukra Beedies Private Limited
Rep. by its Chief Executive Officer
G.Nithyananda Kamath
No.32, Grand New Street
Mangala Kudiuruppu
Tachanallur, Tirunelveli-627 358.

... Petitioner

-VS-

State of Tamil Nadu
Rep. by its Secretary
Labour and Employment Department
Fort St. George
Chennai-600 009.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in G.O.(2D) No.36, Labour and Employment (J1) Department and quash its order dated 02.06.2017 published in Part II – Section 2 of the Tamil Nadu Government Gazette dated 06.09.2017 and direct the respondent to call for representation from the petitioner and issue revised of minimum wages notification with prospective effect.

W.P.No.25143 of 2017:-

Jyoti Home Industries
Rep. by its Partner – A.Keshava Bhat
D.No.3/409, Varthanapalli Road
Katinayanapalli Village
Krishnagiri – 635 001.

... Petitioner

-VS-



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State of Tamil Nadu
Rep. by its Secretary
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Chennai-600 009.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in G.O.(2D) No.36, Labour and Employment (J1) Department and quash its order dated 02.06.2017 published in Part II – Section 2 of the Tamil Nadu Government Gazette dated 06.09.2017 and direct the respondent to call for representation from the petitioner and issue revised of minimum wages notification with prospective effect.

W.P.No.28004 of 2017:-

J.P.Tobacco Products (P) Ltd.,
4A, Ambasamudram Road,
Kulavanigarpuram,
Melapalayam Post,
Tirunelveli District,
Rep. By its Power Agent,
Vishnubhai Narottamdas Patel

... Petitioner

-VS-

State of Tamil Nadu
Rep. by its Secretary
Labour and Employment Department
Fort St. George
Chennai-600 009.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in G.O.(2D) No.36, Labour and Employment (J1)



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Department and quash its order dated 02.06.2017 published in Part II – Section 2 of the Tamil Nadu Government Gazette dated 28.08.2017 and quash the same and direct the respondent to call for representation dated 28.03.2016 from the petitioner and issue revision of minimum wages notification with prospective effect insofar of minimum wages notification with prospective effect insofar as beedi rolling is tobacco industry are concerned.

W.P.No.28004 of 2017:-

CEEJAY Tobacco Products Ltd.,
35-36, Nethaji Road,
Melapalayam Post,
Tirunelveli District,
Rep. By its Power Agent,
Pankajbhai Prabhubhai Patel

... Petitioner

-VS-

State of Tamil Nadu
Rep. by its Secretary
Labour and Employment Department
Fort St. George
Chennai-600 009.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in G.O.(2D) No.36, Labour and Employment (J1) Department and quash its order dated 02.06.2017 published in Part II – Section 2 of the Tamil Nadu Government Gazette dated 28.08.2017 and quash the same and direct the respondent to call for representation dated 28.03.2016 from the petitioner and issue revision of minimum wages notification with prospective effect insofar of minimum wages notification with prospective effect insofar as



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beedi rolling is tobacco industry are concerned.

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For Petitioners : Mr. S.Ravindran
Senior Counsel
For Mr.S.Bazeer Ahamed
For W.P.Nos.25141 to 25143/2017
Mr.Anand Gopalan
For M/s.T.S.Gopalan & Asst.
For W.P.Nos.28004 & 28005/2017

For Respondent : Mr. V.Ravi, SGP (in all Wps)

COMMON ORDER

Since the issue involved in all the matters are one and the same, they are disposed of by way of this common order.

2. These writ petitions have been filed seeking to quash the order passed by the respondent in G.O.(2D) No.36, Labour and Employment (J1) Department and quash its order dated 02.06.2017 published in Part II – Section 2 of the Tamil Nadu Government Gazette dated 06.09.2017 and 28.03.2016 and direct the respondent to call for representation from the petitioner and issue revised of minimum wages notification with prospective effect.

3. It is the case of the petitioner that the petitioners are engaged in the business of beedi making. Thousands of workers were involved directly and



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indirectly. The last minimum wages notification issued by the respondent for employment in tobacco manufacture is in terms of G.O.2D No.43 Labour and Employment (J1) Department, dated 11.09.2012 which was effective from its publication in the gazette dated 30.09.2012. Subsequently, the Government issued notification from minimum wages in GO.(2D) No.36 Labour and Employment Department dated 02.06.2017 but with retrospective effect from 15.08.2015. This notification i.e. G.O.2D No.36 Labour and Employment (J1) Department dated 02.06.2017 has been challenged on various legal grounds such as Section 3(1)(d) of the Minimum Wages Act enables the respondent to revise minimum wages within interval of 5 years. But the present revision has been made within three years. The notification increased basic rate of wages at one stroke and no periodic increase in variable dearness allowance. There was no justification for giving retrospective effect which is never done. Challenging the said G.O.(2D) No.36 dated 02.06.2017, all these writ petition have filed.

4. The learned counsel for the petitioner submitted that the impugned notification revising basic wages within a period of less than three years is uncalled for and without any precedent. While Section 3(1)(b) of the Minimum Wages Act enables the respondent to revise minimum rates of wages within any interval of 5 year, the present revision of minimum wages within three years is



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unprecedented which calls for an explanation from the respondent. Therefore,

the impugned notification is liable to be quashed on the ground of discrimination and unreasonable.

5. The learned Government Advocate submitted that a settlement was made between the Management of the beedi rolling units and their Labour representatives under Section 12(3) of the ID Act on 12.10.2010. The implementation period of the settlement is 3 ½ years from 01.11.2010. Based on the existing customary practice, the Commissioner of Labour has sent proposal for revision of minimum rates of wages in the tobacco manufactory as per the said settlement. The learned counsel further submitted that the State Government have powers under Section 5(2) of the Minimum Wages Act, to make notification revising the wages with retrospective effect. Hence, the writ petitions are not maintainable and the same are liable to be dismissed.

6. Heard the learned counsel for the petitioners and the learned counsel for the respondent and perused the materials available on records.

7. The facts of the case are not in dispute. For questioning the retrospective revise minimum wages, the writ petitions have been filed. The



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short point which arises for consideration in this batch of petitions is whether the State Government have power to revise the minimum wages prospectively or retrospectively. In the present case, the State Government issued impugned G.O. revising the minimum wages from 2015 onwards.

8. In order to ascertain the fact, this Court perused Section 5 of the Minimum Wages Act and the same is as follows:

5. This settlement will be in operation for a period of one year and if in the meanwhile the Government notifies minimum rates of wages, this settlement will be inoperative from the date on which the revised minimum wages will come into force."

9. On perusal of the above said provisions, which makes it clear that there is no power available to the Government to revise the minimum wages retrospectively it can be only prospectively. Though the learned Special Government Pleader relied upon the decision of Kerala High Court in the case of ***Jyothi Home Industries and others Vs. State of Karnataka in W.P.nos.135 to 140 of 1984*** wherein held that there was considerable pressure on the managements for increasing the minimum wages and that is the reason the managements had agreed to increase the minimum wages pending the issue of the notification by the State Government.



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10. In the present case, the Government have not issued the government order in terms of Section 5 of the Minimum Wages Act. In terms of the above said provisions, the respondent have no jurisdiction to revise the minimum wages retrospectively. It is also undisputed fact that already the minimum wages is covered by the earlier notification, in which, the petitioner paid minimum wages to the employers for the year 2015-2016. If the order is retrospectively, it will amount to double payment to the employees, which will adversely affected to the companies. Such fact was not properly discussed in the present impugned notification and no opportunity has been given to the petitioners for revising the minimum wages retrospectively. On the above said ground, the impugned G.O. is set aside in respect of revising the minimum wages for retrospectively. However, there is no legal impediment to operate the revising minimum wages prospectively from the date of notification.

11. The writ petitions are allowed with the above terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

08.08.2023

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M.DHANDAPANI, J.



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Index: Yes/No

NCS : Yes/No

To

The Secretary
Labour and Employment Department
Fort St. George
Chennai-600 009.

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