

CWP-9085-2013

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-9085-2013

Date of decision : 07.02.2023

Banwari Lal and another

...Petitioners

Vs.

**Authority under the Minimum
Wages Act, Circle Sirsa and another**

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. P.K.Ganga, Advocate for the petitioner.

Mr. Dheeraj Narula, Advocate for respondent No.2.

MANOJ BAJAJ, J.

Petitioners have preferred this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of certiorari for quashing the impugned order dated 04.01.2012 (Annexure P-1) passed by the statutory authority under the Minimum Wages Act-respondent No.1, whereby claim raised by respondent No.2 on account of payment of less wages was accepted.

The facts in brief leading to the petition are that respondent No.2 and others brought the claim petition against petitioners under the Minimum Wages Act, 1948 on the ground that they were engaged by the employer as agricultural labourers for the period from 01.05.2004 to 30.04.2005. They were appointed to produce the agriculture on 1/5th share of agriculture produce or daily wages as prescribed for agriculture labour. As per the averments, respondents were paid the less wages, which amounts to Rs.1,42,000/-, despite various demands. They made a complaint to the Labour Officer, Sirsa,

however, the matter was not settled. On these broad averments, it was prayed that there is relationship of employee and employer, therefore, the outstanding amount of Rs.32,400/- be paid to each claimant.

The claim was contested by petitioners by filing the written statement and admitted the employment of the respondents. According to the reply, petitioners have stated that no amount is due towards the respondents, therefore, their claim is not maintainable. On merits, it was pleaded that there was no relationship of employer and employee as the respondents have cultivated 10 acres of land, which is 1/5th share of the total land and they have to bear all the expenses. They were not appointed on daily wage basis. Further, while denying the other averments in the claim, it was prayed that the claim be dismissed.

Thereafter, the competent authority framed four issues and after considering the evidence adduced by the parties, accepted the claim qua Sohan Lal only to the sum of Rs.28,400/- vide impugned decision dated 04.01.2012. Being dissatisfied with the impugned order, petitioners preferred the present writ petition.

Learned counsel has argued that the claim of the respondent Nos.2 and others under the Minimum Wages Act, 1948 was not maintainable as they were engaged for agricultural purposes against the remuneration fixed @ 1/5th of the produce and were not to get any minimum wages. He submits that the relationship of employee and employer is missing in the present case, but the authority under the Minimum Wages Act has wrongly exercised jurisdiction in accepting the claim on 04.01.2012 thereby awarding a sum of Rs.28,400/- to Sohan Lal.

The claim is opposed by learned counsel for the respondents, who submits that in view of the notification dated 26.03.2001, even if a labourer is engaged for the purposes of agriculture, the claim under the Minimum Wages Act would be maintainable and issue in this regard has been specifically dealt with by the authority. He submits that as per the written statement of the petitioner/employer himself, he has admitted the engagement of labourer @ 1/5th produce instead of 1/4th. He submits that once facts pleaded in the claim are not disputed by the employer, he cannot re-agitate this issue before the writ Court. He submits that impugned order has been passed by the authority upon carefully examining the evidence and do not warrant any interference.

After hearing learned counsel and considering the submission, this Court finds that the engagement of Sohan Lal/respondent No.2 by the writ petitioners was not disputed and the petitioner No.2, namely, Rohtash who is son of petitioner No.1 appeared as RW-1 and stated that he owns 30 acres of land alongwith his father and respondent No.2-Sohan Lal used to cultivate it on 1/5th share. Similar is the stand of other witness, namely, Atma Ram, who appeared as RW-2, therefore, in the light of this material admission, the authority under the Minimum Wages Act, 1948 proceeded to accept the claim and held that the respondent No.2/Sohan Lal is entitled to Rs.28,400/- from respondents. The findings delivered on the material issues are based upon admission of the petitioners, therefore, no case is made out for exercising the writ jurisdiction.

Dismissed.

07.02.2023

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(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :
Whether Reportable :

Yes	No
Yes	No