

03.12.2024
(D/L-8)
Ct. No.4
(B.K.N.)

W.P.C.T. 307 of 2024

**The Union of India through the Secretary,
Government of India,
Ministry of Communication & Information
Technology, Department of Posts & Ors.**

Vs.

Snehasis Mondal and Ors.

Mr. D. Chakraborty,
Mrs. Sarda Sha

...for the Petitioners

Mr. P. C. Das

...for the Respondents

1. Affidavit of service filed by the petitioner is taken on record.
2. Heard learned counsel for the petitioner/Union of India as well as learned counsel for all the respondents.
3. The respondents were the applicants before the Tribunal. It is their case that their services were being taken on a daily rated basis as per requirement as Daily Rated Mazdur (D.R.M.). Their services were being utilized to perform the duties and functions against various jobs of the concerned post offices which included mail processing, mail carrying, delivery and as Gramin Dak Sevak for the main post offices and sub-offices under the division.

4. It is their claim that they have been rendering their services as D.R.M. since 2013. The Superintendent of Post Offices, Baruipur Division issued a communication dated 16th January, 2020 to the post offices under its division whereby it directed not to engage any D.R.M. if there is no vacancy of post in the particular post office.
5. It is further directed that the bill of D.R.M. will not be sanctioned if the posts are full according to the sanctioned posts from the month of January, 2020. The direction in the letter dated 16th January, 2020 is being reproduced herein:

“To

**The IP, Joynagar Majilpur Sub Division
Joynagar – 743337**

No. A-1/BO/DRM/Ch-IX dated
Dated at Baruipur, the 16/01/2020

Subject: Notification regarding sanction of DRM for BO and SO.

As directed by the undersigned all the postmaster and SPMs are hereby directed not to engage any DRM if there is no vacancy of posts in the particular. No DRM bill will be sanction if the posts are full according to the sanction posts from the month of January 2020.

Signed by
Supdt. Of Post Offices
Baruipur Division
Baruipur, Kol-144

Copy to

ASPOs of the Division..... for information and taking necessary action.

The IOPs: Budge Budge, Bishnupur, Canning Town, Diamond Harbour, Joynagar Majilpur, Sonarpur,

Mathurapur, Kakdwip For information and taking necessary action.”

6. The applicant assailed this communication apprehending that the authorities would stop taking work from them and also claiming parity with those performing this work on a regular basis in terms of remuneration.
7. The Tribunal by the impugned order dated 31st January, 2022 passed in O.A. No. 286 of 2020 and M.A. No. 161 of 2020 has refused to interfere with the mandate contained in the letter dated 16th January, 2020. The communication, however, has been read by the Tribunal as follows:

“The order does not seem to restrict engagement of DRM under any circumstance. Rather it allows a concession, where permanent posts are vacant, to get the work extracted from the DRMs. The content further substantiates the claim of the applicants that the DRMs are rendering service against permanent posts.

The documents examined by us further substantiate approvals for the engagement of applicants, sanctions for payment by the competent authority and release of dues as per payment vouchers raised, hence, the claim of the respondents that the engagement was made without any engagement letter, against fake and forged documents, and not against any particular post gets diluted and debilitated. Their payment has been fixed at the rate of Rs. 48.38/- per hour which seems to be way less than their entitlement.

10. Having noted that in **Jagjit Singh (supra)** the Hon’ble Apex Court has referred to even the daily wagers, pulling up jobs that regular employees perform, as temporary employees entitled to remuneration on par with regular employees, we would direct the authorities to review the rates of Rs. 48.38/- on hourly basis in accordance with principle of minimum wages, and, to continue engaging the present applicants if their services are so required and so long as the vacancies of

permanent posts are not filled up on a regular basis.

This O.A. is accordingly disposed of. No Costs.”

8. The learned counsel for the department submits that the rate of Rs. 48.38/- per hour was fixed by an order passed by the Deputy Labour Commissioner. The authorities, therefore, are bound by such rate.
9. It is submitted that in the circumstances the direction of the Tribunal that the rate is to be reviewed in accordance with the principles of minimum wages, if complied with, the same would upset the determination by the Deputy Labour Commissioner. We find such apprehension of the authorities to be misplaced.
10. The mandate of the Tribunal as extracted above is clear in its letter and intent. It directs for reviewing the rate per hour to an amount in accordance with the principles of minimum wages.
11. The fact that such determination would result in a higher rate than Rs. 48.38/- is not in dispute. That being so the apprehension of the authorities that fixing a wage per hour at a rate higher than Rs. 48.38/- as determined by the D.L.C. would in any way offend the

mandate of the D.L.C. is clearly misplaced and misconceived.

12. Based on such submission, we find that no case is made out to interfere with the direction of the Tribunal in the order dated 31st January, 2022 impugned in the present writ petition.

13. The writ petition is accordingly dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)