



WEB COPY



WP.No.30439 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2024

CORAM

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

WP.No.30439 of 2011

A.Abdul Raseedh

... Petitioner

Vs.

1. The Managing Director,
Tamilnadu Textile Corporation Ltd.,
3rd Floor, Corporation Commercial Complex,
Dr.Nanjappa Road,
Coimbatore-641 018.
2. The Factory Incharge,
The TN Textile Corporation Ltd., Power Loom Complex,
Sivagiri-638 109
Erode District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records connected with the orders passed by the 1st respondent in Proc.Lr.No.1A/3/1/10-11 dated 17.05.2010 rejecting the petitioner's claim of minimum wages and quash the same and also direct the respondent management to pass appropriate orders enhancing the minimum wages payable to the petitioner from Rs.138.30/- to



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Rs.183.27/- by implementing the orders of the Authority viz., the Inspector of Factories, Erode dated 17.03.2010, with retrospective effect from 18.10.2004, i.e., from the date of issuance of G.O.(2D) No.65, Labour & Employment Department (J1) dated 18.10.2004 and also pay the revised G.O.(2D) No.15, Labour and Employment Department (J1) dated 05.04.2010 or pass any such further or other order.

For Petitioner : Ms.Girija

For Respondents : Mr.S.Saravanakumar for R1
R2-Served-No Appearance

ORDER

The petitioner has assailed the order passed by the first respondent on 17.05.2010.

2. The petitioner has challenged the non payment of minimum wages by the respondent-Textile Corporation, as contemplated under the Minimum Wages Act.

3. The learned counsel for the petitioner would vehemently contend that the Inspector of Factory, who is the competent Authority under Section 19(2)



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of the Minimum Wages Act has recorded that the respondents have paid less than the minimum wage to the petitioner, and also found that the respondent is paying Rs.119.71/- instead of Rs.176.27/- having shortage of Rs.56.38/-, and also directed the respondents to pay such amount. It appears that in respect of the order dated 17.03.2010 passed by the competent Authority, the first respondent did not pay the amount, and has rejected the request dated 17.05.2010 made by the petitioner, which is under challenge by way of this writ petition.

4. Per contra, the learned counsel for the first respondent would vehemently contend that the petitioner is not at all a skilled labour, and that notwithstanding the Minimum Wages Act, there was a contract between the employer and employee, therefore, the petitioner being the employee of the first respondent bound by the contract entered between the Union and the Management. Thus, contended that they are not liable to pay wages, as contemplated under the Minimum Wages Act.

5. At this juncture, the learned counsel for the petitioner would rely upon Section 25 of Minimum Wages Act. Wherein, it has been categorically stated that, any contract or agreement, whether made before or after the



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commencement of the Minimum Wages Act, whereby an employee either relinquishes or reduces his right to a minimum rate of wages or any privilege or concession accruing to him under this Act, shall be null and void insofar as it purports to reduce to minimum rate of wages fixed under this Act. Therefore, it is amply clear that even for argument sake, if we accept the case of the respondent that there is a contract between the employee and Management, such contract becomes null and void in view of Section 25 of the Minimum Wages Act. It is also appropriate to refer Section 19 of the Minimum Wages Act, where the appropriate Government has notified that the Inspector of Factory is the competent Authority to determine the minimum wages.

6. In this regard, if we look at the order of the Inspector of Factories, he has categorically found that the respondent is paying shortage of Rs.50.27/- from the rate fixed under the minimum wages. Therefore, this Court is of the firm view that the impugned order passed by the first respondent is contrary to Section 25 of the Minimum Wages Act. Therefore, the order of the first respondent is liable to be set aside.

7. At this juncture, the learned counsel would also submit that the



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petitioner has got an appeal remedy before the Labour Court. However, in view of the fact that the writ petition has been filed during 2011, and has been pending for more than a decade at this length of time this Court does not find it appropriate to relegate the parties to approach appropriate forum.

8. In the result, this writ petition is allowed with a direction to the first respondent to pay minimum wages as ordered by the Inspector of Factories vide order dated 17.03.2010 within a period of three(3) months from the date of receipt of a copy of this order. No costs.

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Index : Yes /No

Speaking order : Yes/No

Neutral Citation : Yes/No



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