



WEB COPY

W.A.No.9



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and**

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A.No.915 of 2024

and

C.M.P.No.6385 of 2024

1. Food Corporation of India,
rep. by its Managing Director,
No.16-20, Khadya Sadan,
Barakhamba Lane Road,
Barakhamba Road, New Delhi – 110001.
2. The General Manager,
Tamil Nadu Food Corporation of India,
Regional Office Chennai,
No.8, Mayor Sathyamurthy Road,
Chetpet, Chennai – 600 031.
3. The Divisional Manager,
Food Corporation of India,
Coimbatore, Divisional Office,
No.264, Dr.Rajendra Prasad Road,
Tatabad, Coimabtoire – 641 012.
4. The Divisional Manager,
Food Corporation of India,
Thanjavur Divisional Office, Sembarankoil Depot,
Pudukottai Road, Nirmala Nagar,
Thanjavur, Tamil Nadu – 613 007.

... Appellants



Vs.

1. The Assistant Labour Commissioner,
Ministry of Labour and Employment,
O/o. Deputy Chief Labour Commissioner (Central),
No.4, Haddows Road, Shastri Bhavan,
Chennai – 600 006.

2. Food Corporation of India Workers Union,
Represented by its Vice President, I.Selvaraj,
Chennai Branch, having its Office at
No.23/2, Avadanam Pappaaiah Road,
2nd Lane, Choolai, Vepery, Chennai – 600 007.

... Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 17.08.2023 passed in W.P.No.9800 of 2023.

For Appellants : Mr.C.K.Chandrasekar

For R2 : Mr.P.Ebenezer Paul

J U D G M E N T

(Judgment of the Court was made by **S.M.SUBRAMANIAM, J.**)

Present Intra-Court appeal has been instituted against the order dated 17.08.2023 passed in W.P.No.9800 of 2023.

2. The Food Corporation of India, represented by its Managing Director/
respondent in the writ proceedings is an appellant before us.



WEB COPY

3. Mr.C.K.Chandrasekar, learned counsel appearing on behalf of the appellants would mainly contend that excess wages were paid to the workmen over and above the minimum wages, as contemplated under the Act. The workmen has given an undertaking to repay the excess amount, if any identified. Thus, the Management has initiated action to recover the excess wages paid to the workmen.

4. The learned counsel appearing on behalf of the respondent Union, Mr.P.Ebenezer Paul would oppose by stating that no such excess wages were paid to the members of the Union, who all are workmen. The wages were paid in accordance with the provisions of the Minimum Wages Act, 1948 and the calculations made by the Management is erroneous and not in accordance with the provisions of the Act. Initially, the respondent Union approached the Conciliation Officer. Before concluding the proceedings, a Writ Petition was instituted and therefore, the said proceedings was abandoned.

5. Admittedly, the parties have not adjudicated the issue before the competent authority under the Minimum Wages Act, 1948. Disputed facts raised between the parties require examination of documents and evidences. A roving enquiry cannot be conducted in writ proceedings or in Writ Appeal. The issues



mainly raised between the parties are that the minimum wages paid to the workmen, members of the Union is in accordance with the provisions of the Minimum Wages Act, 1948 or not? Though the Management claims that excess wages were paid, it is disputed by the workmen. That being so, an adjudication is imminent with reference to the documents and the provisions of the Act and Rules.

6. The findings of the competent authority under the Act would be of paramount importance for the High Court to exercise the powers of judicial review in an effective manner. In the absence of any such factual findings, either by the original authority or by the appellate authority, it may not be possible to deal with the disputed facts and merely based on certain averments in the affidavit, High Court cannot form a final opinion .

7. The scope of judicial review cannot be expanded for adjudication of such disputed issues between the parties. Thus, we are inclined to relegate the parties to go before the competent authority under the Minimum Wages Act, 1948 for effective adjudication of issues, more specifically with reference to the correctness of the minimum wages fixed and paid to the workmen.



8. In view of the facts and circumstances, the order under challenge dated 17.08.2023 in W.P.No.9800 of 2023 is quashed. The respondent Union is at liberty to file a petition before the competent authority under the provisions of the Minimum Wages Act, 1978. In the event of filing any such petition, the competent authority is directed to conduct an enquiry by affording opportunity to all the parties and pass orders on merits and in accordance with law, as expeditiously as possible. Till such time the petitions to be filed before the competent authority under the Minimum Wages Act, 1948 are disposed of, the appellant Management is directed not to recover the alleged excess wages paid to the members of the respondent Union.

9. With the above directions, the Writ Appeal stands disposed of. Consequently, the connected Miscellaneous petition is closed. No costs.

(S.M.S.,J.) (K.R.S.,J.)
20.03.2024

skr
Index : Yes
Speaking order
Neutral Citation : Yes

To

1. The Assistant Labour Commissioner,



W.A.No.9



Ministry of Labour and Employment,
O/o. Deputy Chief Labour Commissioner (Central),
No.4, Haddows Road, Shastri Bhavan,
Chennai – 600 006.

2. Food Corporation of India Workers Union,
Represented by its Vice President, I.Selvaraj,
Chennai Branch, having its Office at
No.23/2, Avadanam Pappaaiah Road,
2nd Lane, Choolai, Vepery, Chennai – 600 007.



WEB COPY

W.A.No.9



S.M.SUBRAMANIAM, J.
and
K.RAJASEKAR, J.

skr

W.A.No.915 of 2024

20.03.2024