



W.A.No.1342 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on	09.09.2024
Pronounced on	19.09.2024

CORAM

THE HONOURABLE Mr.JUSTICE **M.S. RAMESH**

AND

THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN****W.A.No.1342 of 2016****and****CMP.Nos.17216 of 2016 & 943 of 2022**

1. B.Ganesan
2. R.P.Karthikeyan
3. M.Ramamurthy
4. S.Ramu
5. T.P.Rajendran
6. S.Sivakumar
7. P.Vijayakumar
8. A.Arjunan (Died)
9. E.Babu
10. T.G.Kuppusamy
11. S.Mohan
12. N.Parthasarathi
13. R.Rajagopal
14. V.Rameshbabu
15. G.RameshRao
16. S.Santhanaraj (Died)
17. C.Sundaram
18. P.Dinakaran
19. S.Selvaraj



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20. K.Srinivasan
21. E.Ganesan
22. V.Jayavel (Died)
23. A.Kumaravelu
24. S.Masilamani
25. V.Muraligopal
26. K.Neelamohan
27. S.V.Ramki (Died)
28. J.Fathima
29. K.Govindammal (Died)
30. N.Indira
31. M.Maheswari
32. M.Nagammal
33. V.Ramalingam
34. P.Saradha (Died)
35. A.Velankannai
36. N.Venkatamma
37. S.Victoria
38. V.Karunakaran
39. S.Daisy
W/o.Late S.Santhanaraj
40. S.Charles Raj
S/o.Late S.Santhanaraj
41. S.Clinton Raj
S/o.Late S.Santhanaraj
(A39 to A41 brought on record as LR's of the
deceased 16th appellant vide order dated 18.07.2024
made in CMP.Nos.3994, 15397, 18294, 18302,
18318 & 18321/2022)
42. Krishnaveni
W/o.Late V.Jeyavel
43. Kamatchi
D/o.Late V.Jeyavel
44. Varalakshmi
D/o. Late V.Jeyavel
45. Narendrakumar
S/o. Late V.Jeyavel



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46. Bhavani

D/o. Late V.Jeyavel

(A42 to A46 brought on record as LR's of the deceased 22nd appellant vide order dated 18.07.2024 made in CMP.Nos.3994, 15397, 18294, 18302, 18318 18321/2022)

47. R.Tamilselvi

W/o.Late S.V.Ramki

48. Vennila

D/o.late.S.V.Ramki

49. R.Mani

R/o.late S.V.Ramki

(Appellants 47 to 49 are impleaded as LR's of the deceased 27th appellant vide order dated 18.07.2024 made in CMP.Nos.3994, 15397, 18294, 18302, 18318 and 18321/2022)

50. Dinakaran

S/o.Saradha

51. Allirani

D/o.Saradha

52. Haridoss

S/o.Saradha

53. Mahalakshmi, D/o.Saradha

54. Alamelu, D/o.Saradha

55. Mageshwari, D/o.Saradha

(A50 to A55 brought on record as LR's of the deceased 34th appellant vide order dated 18.07.2024 made in CMP.Nos.3994, 15397, 18294, 18302, 18318 & 18321/2022)

56. K.Radhakrishnan, S/o.K.Govindammal

(A29 (died) is substituted by the appellant 56 as LR of the deceased A29 vide order dated 18.07.2024 made in CMP.Nos.3994, 15397, 18294, 18302, 18318 & 18321/2022)

57. S.Umameshwari,

58. M.Sarala

59. A.Mohan



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(A57 to A59 brought on record as LR's of the deceased 8th appellant vide order dated 18.07.2024 made in CMP.Nos.3994, 15397, 18294, 18302 18318 and 18321 of 2022)

C/o.Tamilnadu Thiriyarangu Thozhilalargal Sangam,
Rep. by its General Secretary,
4-A, Rajivgandhi Nagar Main Road,
Rajiv Gandhi Nagar,
Erukancherry, Chennai-600 118.

... Appellants

Vs.

1. M/s.TNK Govindaraju Chetty & Co. Pvt. Ltd.,
Owner of Devi, Devi Paradise, Devi Bala and
Devi Kala Theatres rep. by K.N.Varadarajan,
Executive Director, T.N.K.House,
48, Anna Salai, Chennai-600 002.
2. The Presiding Officer,
II Additional Labour Court,
Chennai.
3. S.Kamal
4. A.L.Balasubramanian
5. M.N.Dev Anand
6. Mohammed Jamaludhin
7. M.Arumugam
8. V.Kannan
9. G.Mohan
- 10.Mohammed Eliyas
- 11.S.Murali
H.Ravi (Deceased)
- 12.C.Susairaj
- 13.N.Varadhan
- 14.D.Vijayakumar
- 15.V.Parthasarathy
- 16.S.K.Saravanan
- 17.A.Kripanandan
- 18.T.Nagarajan



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- 19.S.Perumal
20.C.Satish
21.J.Charles
22.A.Elumalai
23.K.R.Parthiban
24.K.Rajkumar
25.V.Sivakumar
26.S.Suresh
27.K.Govindamma
28.C.Manjula
 S.Kuyini (deceased)
29.R.Sowri
30.R.Kalaiselvi
31.R.Surender
32.H.Damayanthi
33.N.Vasu
34.V.Jayapriya
35.V.Girija

C/o.Tamilnadu Thiraiyarangu Thozhilalargal Sangam,
Rep. by its General Secretary,
4-A, Rajivgandhi Nagar Main Road,
Rajiv Gandhi Nagar,
Erukancherry, Chennai-600 118.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order passed in WP.No.22249 of 2012 dated 16.12.2015.

For Appellants : Mr.SP.Srinivasan

For Respondents : Mr.R.Anand Kumar for R1
R2-Labour Court
F3 to R37 - formal parties



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J U D G M E N T

C.KUMARAPPAN, J.

The “respondents” [hereinafter shall be referred to as “Workmen”] in the writ petition are the appellants herein. The writ petitioners were arrayed as respondents [hereinafter shall be referred to as “Management”] herein. The writ petition was filed assailing the order of the Labour Court passed in C.P.No.84 of 2009.

2. The brief facts which give rise to the instant writ appeal is that, the Management owns Cinema Theaters. The workmen have joined with the Management on different dates and have been working there as permanent employees. It is the further case of the workmen that they are the members of “Tamil Nadu Thiraiyarangu Thozhilalargal Sangam”. It is the further case of the workmen that the Management comes under the Tamil Nadu Shops and Establishments Act, 1947 and are also covered by the Minimum Wages Act, 1948. According to the workmen under the Minimum Wages Act, the Government has been issuing various Government Orders, time to time, revising the minimum wages. The workmen would further state that the wages paid was not in accordance with the Minimum Wages Act and therefore, prayed to compute the money value according to the Government



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Orders.

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3. The said petition was resisted by the Management by contending that the workmen have been drawing monthly wages as per the wage settlement. The Management has also stated that even prior to the settlement period, the workmen were paid wages according to the Minimum Wages Act. The wages which have been paid to the workmen is based upon a settlement under Section 18(1) of the I.D.Act, and that the same is higher than the minimum wages. Hence, would contend that the computation petition is not maintainable, and liable to be dismissed.

4. The Labour Court, though did not find any infirmity in the quantum of wages, has otherwise found infirmity in the mode of calculation. As a concomitant, the Labour Court has computed the disputed difference in salaries.

5. Assailing the said order, the Management preferred a writ petition, wherein, the Writ Court found illegality in the order and set aside the same. Not being satisfied with the order of the learned Single Judge, the workmen



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are before this Court by way of the present Writ Appeal.

6. The learned counsel for the appellants/workmen would vehemently contend that according to the orders issued by the appropriate Government under Section 3 and 5 of the Minimum Wages Act, the minimum wages of an employee has to be calculated as per the mode provided in the Government Order. He would further contend that the Government Order stipulates that while calculating monthly wages, the monthly wages has to be divided by 26 days, and the resultant daily wage again has to be multiplied with 30 days. It is the contention of the workmen that the Labour Court has rightly computed the minimum wages and hence, prayed to restore the order of the Labour Court. In support of his contention, the learned counsel relied upon the judgments in (i) ***Inder Singh and others Vs. Labour Court, Jullundur and another*** reported in ***AIR 1969 Punjab and Haryana 310 (V.56 C 53)***; (ii) ***Cox & Kings (Agents) Ltd., Vs. Their Workmen and others*** reported in ***(1977) 2 SCC 705*** and (iii) ***Sadhu Ram Vs. Delhi Transport Corporation*** reported in ***AIR 1984 SC 1467***.

7. Per contra, the learned counsel appearing for the Management, at



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the first instance would submit that out of 38 workmen, as against 8 workmen, the appeal was dismissed. The learned counsel would further contend that out of the remaining 30 workmen against 29 workmen their claims were settled and they had acknowledged full and final receipt. Thus, it is the contention of the learned counsel for the Management that, if at all there is any claim, it could only be against one Mr.B.Ganesan, but the Union, with an ulterior motive, is contesting the writ appeal. It is the further contention of the learned counsel for the Management that the procedure adopted by the Labour Court is against the mandate of Factories Act and therefore, prayed to interfere with the appeal.

8. We have given our anxious consideration to either side submissions.

9. The sum and substance of the issue is not in respect of the wages being less than the minimum wages, but, the issue is, whether monthly wage was calculated in accordance with the procedures stipulated in the Government orders issued by the appropriate Government under Sections 3 and 5 of the Minimum Wages Act. For ready reference, we deem it appropriate to extract the relevant stipulation in G.O.(2D) No.25, Labour and



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Employment, dated 18.06.1996 relied by the appellants:-

“(v) To arrive at daily rates of wages, the monthly wages shall be divided by 26.

(vi) To arrive at monthly rates of wages, the daily rates of wages shall be multiplied by 30.”

The Labour Court, by relying upon the above clauses stipulated for calculating the monthly wages had found the difference between actual wages paid and the wage as per the above calculation, to be in shortage of the actual monthly wages. In short, the Labour Court found that for every month, 4 days salary was not paid.

10. But, on a plain and literal reading of clauses (v) and (vi) would give lucid enunciation that, wherever a monthly wages paid and in any case, if the same needs to be converted into the daily wages, it has to be divided by 26, as the 4 days are provided as compulsory holidays under Section 52 of the Factories Act. Therefore, factoring such 4 paid compulsory holidays, it was directed to be divided by 26 days.

11. However, if the workman is getting daily wages, and in any case, it needs to be converted into monthly wages, it has to be multiplied by 30 days,



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as the 4 paid holidays should also be construed as working days. Therefore, the clauses (v) and (vi) hold different fields and hence, the argument of the learned counsel for the appellants is not in consonance with the literal and plain meaning of the above clauses. To put it differently, the clauses (v) and (vi) cannot be applied jointly.

12. The learned counsel for the Management relied upon the wage slip, which reflects that the workmen were being paid wages on monthly basis. It is pertinent to mention here that the provisions of the Minimum Wages Act are intended to achieve the object of social justice to the workmen employed in the scheduled employment by prescribing minimum wages. Therefore, in the present case, when the workmen were admittedly paid minimum wages, the rationale followed by the Labour Court, in interpreting G.O.(2D) No.25, Labour and Employment, dated 18.06.1996, is erroneous.

13. Interestingly, the Labour Court was of the view that it had arrived at such conclusion, based upon the admission of the Management witnesses. It is a settled principle of law that there cannot be any estoppel against a Statute and the Government Orders cannot be wrongly applied on the basis of



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a wrong understanding. At this juncture, the workmen relied the judgment mentioned in paragraph 6 of this order. We do not disagree on the ratio of the above precedents. But, the issue here is, the finding of the Labour Court is against law and perverse, which defect can be cured under Article 226 of the Constitution of India. Therefore, we are of the firm view that the order of the learned Single Judge, in interfering the order of the Labour Court, is in order, and does not require any interference.

14. In the result, this Writ Appeal is dismissed. No costs.
Consequently, connected CMPs are also closed.

[M.S.R., J.] [C.K., J.]
19.09.2024

kmi

Index : Yes

Speaking order : Yes

Neutral Citation : Yes

To

The Presiding Officer,
II Additional Labour Court,
Chennai.



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M.S. RAMESH, J.
and
C.KUMARAPPAN, J.

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Pre-Delivery Judgement in
W.A.No.1342 of 2016

19.09.2024