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W.P.No.4006 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.06.2024

PRONOUNCED ON : 04.07.2024

CORAM:

THE HONOURABLE Dr. JUSTICE D. NAGARJUN

W.P.No.24420 of 2019

and

WMP.No.24158 of 2019

The Management
M/s. Consolidated Construction Consortium Limited
No.5, 2nd Link Road, CIT Colony
Mylapore
Chennai 600 007.

...Petitioner

-Vs-

1.S.Srivithya Lakshmi

2.Joint Commissioner of Labour-1/
Controller of payment of wages act
Commissioner of Labour
DMS Campus
Teynampet, Chennai 600 006.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, Writ of Certiorari, to call for the records relating to the order passed in P.W.No.10 of 2019 dated 02.04.2019 on the file of the second respondent and quash the same.

For Petitioner : Mr.S.Karthikei Balan

For Respondents : Mr.T.V.G.Kartheeban for R1

Mr.R.U.Dinesh Rajkumar for R2
Additional Government Pleader

ORDER

This Writ Petition is filed seeking for Writ of Certiorari, to call for the records relating to the order passed in P.W.No.10 of 2019 dated 02.04.2019 on the file of the second respondent and quash the same.

2. The petitioner Company is a Public Limited Company incorporated under the provisions of Companies Act, 1956 and it has been carrying on business in construction sector for many years. The first respondent was appointed as an Associate member on 05.11.2007 and she voluntarily resigned from the job on 10.09.2013 and was relieved on 14.09.2013.



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3. The first respondent has submitted a representation to the Labour Commissioner stating that she worked in the petitioner company from 05.11.2007 until 14.09.2013 and the petitioner Corporation has not paid the full settlement amount of Rs.34,972/- and Loyalty Reward Amount of Rs.50,000/-. The said representation was taken on file by the second respondent Joint Commissioner and numbered as P.W.No.10 of 2019 and after adjudicating the issue finally ordered the first respondent to pay an amount of Rs.34,972/- within 30 days by way of Demand Draft. Aggrieved by the same, the present Writ Petition is filed.

4. It is submitted by the learned counsel for the petitioner that as per Section 15 (2) of the Payment of Wages Act, 1936, any application seeking for payment of wages shall be filed within 12 months from the date on which the payment of wages falls due, and that the first respondent has not sought for any amount for the past 5 years and therefore, the claim of the first respondent is barred by limitation. It is further submitted that the first respondent was paid salary of Rs.18,975/- per month, on date of submission of resignation.



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5. According to the petitioner, the provisions of Payment of Wages Act are not applicable to this case. As per Section 1 (6) r/w Section 2 (vi) of the Payment of Wages Act if the wages are more than Rs.24,000/- then jurisdiction of Payment of Wages Act will be lost.

6. Section 1 (6) of Payment of Wages Act reads as follows:

“1. Short title, extent, commencement and application.

.....

(6) This Act applies to wages payable to an employed person in respect of a wage period if such wages for that wage period do not exceed [twenty four thousand rupees] per month or such other higher sum which, on the basis of figures of the Consumer Expenditure Survey published by the National Sample Survey Organisation, the Central Government may, after every five years, by notification in the Official Gazette, specify.”

7. A cumulative of reading of Sections 1(vi) and 2 (iv) of the Act, it is clear that the Payment of Wages Act applies to wages payable to the employer in respect of a wage premium, employed to a person who proceeds the wage not



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exceeding of Rs.6,500/- per month. This Rs.6,500/- per month, the ceiling of the wage limit has been periodically revised on the basis of consumer expenditure survey brought out by the National Sample Survey Office, after every five years. Finally the Central Government has enhanced the wage of ceiling from Rs.18,000/- to Rs.24,000/- with effect from 29.08.2017.

8. It is submitted by the learned counsel for the second respondent that as on the date of retirement, the petitioner was drawing an amount of Rs.18,975/- thereby, the provisions of Payment of Wages Act is applicable. It is to be seen that this amendment of enhancing from Rs.18000/- to Rs.24000/- came into force as per the Gazette publication issued on 28.08.2017. The learned counsel for the petitioner has filed copy of the Gazette which enhanced the ceiling from Rs.18000/- to Rs.24000/- and it will effect from only on 28.08.2017. Subsequently, the petitioner in this case has submitted the resignation voluntarily on 10.09.2013 which came into effect from 14.09.2013 that means as on the date of resignation, the amendment of 2017 was not in force. Therefore, the enhance ceiling limit of Rs.24,000/- is not applicable to the first respondent.



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9. On the contrary, the amendment made on 11.09.2012 is applicable to the first respondent. The petitioner has also filed a copy of the Gazette dated 28.09.2012 which published a notification of Ministry of Labour Employment dated 11.09.2012 to show that the ceiling under Sections 1(vi) & 2(vi) of the Payment of Wages Act is enhanced to Rs.18,000/- per month.

10. Since the first respondent resigned from service in the year 2013 the amendment which came into force on 11.09.2012 is applicable to the facts of the case. Thereby, the provisions of Payment of Wages Act can be applied to the persons who draw the wages maximum to the extent of Rs.18,000/-. The petitioner in this case has admittedly drawing Rs.18,975/- thereby, the provisions of Payment of Wages Act are not applicable.

11. In view of the above, on this count itself, the provisions of Payment of Wages Act are not applicable. Therefore, the impugned order passed by the first respondent under the Payment of Wages Act, also not liable to be sustained.



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12. In the result, this Writ Petition is allowed the impugned order dated 02.04.2019 passed by the first respondent are hereby set aside. No costs.

Consequently, connected Miscellaneous Petition is closed.

04.07.2024

Index:Yes/No
Internet:Yes/No
dna

To

The Joint Commissioner of Labour-1/
Controller of payment of wages act
Commissioner of Labour
DMS Campus, Teynampet, Chennai 600 006.



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Dr.D. NAGARJUN,J.,

dna

**Pre-Delivery Order made in
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and
WMP.No.24158 of 2019**

04.07.2024