

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212 (14 cases)

CWP-19738-2013

Date of decision: 22.01.2020

Executive Engineer, PWD, Water Supply and Sanitation Division, Sirsa
.....Petitioner

versus

The Authority under the Minimum Wages Act, Sirsa and others
....Respondents

CWP-6427-2014 (O&M)

Executive Engineer, PWD, Sirsa

.....Petitioner

versus

Authority under the Minimum Wages Act Sirsa and others
....Respondents

CWP-19739-2013

Executive Engineer, PWD, Sirsa

.....Petitioner

versus

Authority under the Minimum Wages Act Sirsa and others
....Respondents

CWP-19740-2013

Executive Engineer, PWD, Sirsa

.....Petitioner

versus

Authority under the Minimum Wages Act Sirsa and others
....Respondents

CWP-19745-2013

Executive Engineer, PWD, Sirsa

.....Petitioner

versus

Authority under the Minimum Wages Act Sirsa and others
....Respondents

Executive Engineer, PWD, Sirsa
.....Petitioner

CWP-19762-2013

versus

Authority under the Minimum Wages Act Sirsa and others
....Respondents

Executive Engineer, PWD, Sirsa
.....Petitioner

CWP-19868-2013

versus

Authority under the Minimum Wages Act Sirsa and others
....Respondents

Executive Engineer, PWD, Sirsa
.....Petitioner

CWP-11690-2014

versus

Authority under the Minimum Wages Act Sirsa and others
....Respondents

Executive Engineer, PWD, Sirsa
.....Petitioner

CWP-26295-2014 (O&M)

versus

Authority under the Minimum Wages Act Sirsa and others
....Respondents

Executive Engineer, PWD, Sirsa
.....Petitioner

CWP-26301-2014

versus

Authority under the Minimum Wages Act Sirsa and others
....Respondents

CWP-26309-2014

Executive Engineer, PWD, Sirsa

.....Petitioner

versus

Authority under the Minimum Wages Act Sirsa and others

....Respondents

CWP-26345-2014

Executive Engineer, PWD, Sirsa

.....Petitioner

versus

Authority under the Minimum Wages Act Sirsa and others

....Respondents

CWP-26467-2014

Executive Engineer, PWD, Sirsa

.....Petitioner

versus

Authority under the Minimum Wages Act Sirsa and others

....Respondents

CWP-26194-2014

Executive Engineer, PWD, Sirsa

.....Petitioner

versus

Authority under the Minimum Wages Act Sirsa and others

....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

**Present: Ms. Safia Gupta, AAG, Haryana
for the petitioner(s).**

**Mr. S.K. Verma, Advocate
for the workman/respondent.**

**Mr. Dheeraj Kumar Narula, Advocate
for the respondents.**

GIRISH AGNIHOTRI, J. (Oral)

1. This order shall dispose of all the above said writ petitions. Facts have been taken from **CWP-19738-2013**.

2. The present writ petition has been filed by the Executive Engineer, P.W.D., Water Supply and Sanitation Division, Sirsa *inter alia* with a prayer to quash the order dated 22.02.2013 (Annexure P-58), passed by respondent No.1.

3. Perusal of the order dated 22.02.2013, reveals that Ram Chand and 42 others had filed claim application under the Minimum Wages Act, 1948. In this claim application, difference of wages for the period from 01.03.2007 to 29.02.2008 amounting to Rs.26,03,137.68/- with ten time compensation under Section 20(3) of the Minimum Wages Act, 1948, was filed. The case put up by the claimants were that they were employed by the respondent as Tubewell Operator . It was their case that they are entitled to receive minimum rate of wages as fixed by the Haryana Government. In support of this case, it was submitted that the wages fixed by the Government were Rs.2553.56/- from 01.03.2007 to 30.06.2007 and Rs.3510/- from 01.07.2007 to 29.02.2008. It was also the case of the claimants that the respondents have paid them only Rs.1,000/- per month during this period. Therefore, they claimed the difference of the wages.

The stand of the petitioner-Department before the authority as noticed in the order dated 22.02.2013 was that the claimants never worked under their control and they have never engaged the applicant for any work. It was the case of the respondents that the work was done through the

Thekedar as per rule and procedure of the department.

It is further case of the petitioner that all the payments were released to the Contractor/Thekedar and if there is any fault, the same lies with the contractor. The petitioner had also objected that the claimants had not impleaded the contractor as party, who was in fact their employer and had to disburse the difference of payment. Counsel for the petitioner has further argued that the Department had in fact invited tenders from the contractor for engaging part time labour for running of Tubewell and operating pumps installed in the water works.

4. The authority under the Minimum Wages Act, 1947 vide order dated 22.02.2013, had held that the claimants are entitled to receive balance amount of wages as paid less than the minimum rate fixed by the Haryana Government from 01.03.2007 to 29.02.2008.

5. Learned counsel for the respondents has placed reliance upon the conditions, which have been attached as Annexure P-56. Condition No.8(b) read with Condition No.10 makes it clear that Government was obliged to pay compensation to the workman employee through the contractor. Reliance has also been placed upon the judgment of the Hon'ble Supreme Court of India in “**Senior Regional Manager, Food Corporation of India, Calcutta vs. Tulsi Dass Bauri and others 1997(3) RST 511,**”. Relevant Para Nos.5, 6 & 7 are reproduced hereunder:-

“5. postulates the responsibility for payment of wages. Under sub-section (1) a contractor shall be responsible for payment of wages to each worker employed by him as contract labour and such wages shall be paid before the

expiry of such period as may be prescribed. Under sub-section (4), in case the contractor fails to make payment of wages within the prescribed period or makes short payment, then the principal employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be, to the contract labour employed by the contractor and recover the amount so paid from the contractor either by deducting from any amount payable to the contractor under any contract or as a debt payable by the contractor. That liability has been prescribed under sub-section (2) thereof which says that every principal employer shall nominate a representative duly authorised by him to be present at the time of disbursement of wages by the contractor and it shall be the duty of such representative to certify the amounts paid as wages in such manner as may be prescribed.

6. Thus it could be seen that the principal employer is statutorily responsible to ensure payment of the wages as per the law. In case the contractor commits default in the wages, the principal employer is made responsible for due payment and in case such payment is made, he is entitled to have it recovered by deducting from any amount payable to the contractor under the contract or as a debt payable by the contractor.

7. Thus, it is clear that the principal employer is required to pay the wages. The term 'wages' includes the balance of wages or arrears thereof. Under these circumstances, we do not think that it is a case warranting interference."

6. In view of the above, this Court is of the considered view that the Department i.e. petitioner would be at liberty to recover the difference of

wages so paid to the claimants from the contractor. In this regard in the conditions, it has been stipulated that the Government under Section 12 subsection (2), shall be at liberty to recover amount or any part by deducting it from the security deposited. By giving the petitioner right to recovery from the contractor, this Court deems it appropriate to uphold the order dated 22.02.2013 (Annexure P-58), passed by the authority under the minimum wages act 1947.

Writ petitions are therefore dismissed.

No order to costs.

(GIRISH AGNIHOTRI)
JUDGE

22.01.2020

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Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No