



CWP-1895-2018
and other connected cases

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

232 (1) CWP-1895-2018
Date of decision: 04.11.2024

MAAN SINGHPETITIONER
Vs.

AUTHORITY UNDER THE MINIMUM WAGES ACT, 1948 AND
ASSISTANT LABOUR COMMISSIONER PATIALA AND ORS
...RESPONDENTS

Sr. No	Case Nos.	Name of parties
2.	CWP-1896-2018	BALWINDER SINGH V/S AUTHORITY UNDER THE MINIMUM WAGES ACT, 1948 AND ASSISTANT LABOUR COMMISSIONER PATIALA AND ORS
3.	CWP-1897-2018	BHOLA KHAN V/S AUTHORITY UNDER THE MINIMUM WAGES ACT, 1948 AND ASSISTANT LABOUR COMMISSIONER PATIALA AND ORS
4.	CWP-1898-2018	PARKASH CHAND V/S AUTHORITY UNDER THE MINIMUM WAGES ACT, 1948 AND ASSISTANT LABOUR COMMISSIONER PATIALA AND ORS
5.	CWP-5063-2018	KAKA SINGH V/S AUTHORITY UNDER THE MINIMUM WAGES ACT, 1948 AND ASSITANT LABOUR COMMISSIONER PATIALA AND ORS
6.	CWP-5066-2018	GURMUKH SINGH V/S AUTHORITY UNDER THE MINIMUM WAGES ACT, 1948 AND ASSITANT LABOUR COMMISSIONER PATIALA AND ORS
7.	CWP-5067-2018	JAMUNA PRASAD V/S AUTHORITY UNDER THE MINIMUM WAGES ACT, 1948 AND ASSITANT LABOUR COMMISSIONER PATIALA AND ORS
8.	CWP-5068-2018	RAJINDER SINGH V/S AUTHORITY UNDER THE MINIMUM WAGES ACT, 1948 AND ASSITANT LABOUR COMMISSIONER

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		PATIALA AND ORS
9.	CWP-5069-2018	RANBIR SAHOTA V/S AUTHORITY UNDER THE MINIMUM WAGES ACT, 1948 AND ASSITANT LABOUR COMMISSIONER PATIALA AND ORS
10.	CWP-5070-2018	SURESH KUMAR V/S AUTHORITY UNDER THE MINIMUM WAGES ACT, 1948 AND ASSITANT LABOUR COMMISSIONER PATIALA AND ORS

3. The petitioner claims that he worked from March' 2002 to 31.05.2013 with respondent-Animal Husbandry Department of the State of Punjab. He was paid lesser amount of salary than prescribed under 1948 Act. He preferred an application on 13.01.2014 before Assistant Labour Commissioner under 1948 Act seeking differential amount of wages i.e. wages actually paid

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and payable under 1948 Act. The matter came up for consideration before Assistant Labour Commissioner, Patiala who vide impugned order dated 28.07.2017 has rejected claim of the petitioner on account of limitation and non-joinder of contractors.

4. Mr. Neeraj Sharma, Advocate submits that it was responsibility of principal employer to ensure payment of minimum wages. The principal employer in terms of Section 2(e) of 1948 Act read with Section 21(4) of the Contract Labour (Regulation and Abolition) Act, 1970 (for short '1970 Act') was bound to ensure payment of minimum wages. The Labour Court has wrongly rejected claim of the petitioner. It was a recurring cause, thus, limitation period was inapplicable. As per judgments of Hon'ble Supreme Court, an employee is entitled to claims of last 38 months.

5. Per contra, Mr. Aman Dhir, DAG, Punjab submits that claim of the petitioner as per Section 20 of 1948 Act was time barred. General principles of limitation cannot be applied when there is a specific provision. The respondent-employer has made payment to contractor who in turn made payment to petitioner. If there is short payment, it was on the part of contractor and respondents cannot be held responsible.

6. I have heard the arguments of both sides and with the able assistance of learned counsel perused the record.

7. The petitioner was concededly engaged through a contractor. Neither petitioner nor respondent has disclosed name of the contractor, though, respondent-employer is claiming that payment was made to contractor who had made payment to petitioner. The Authority has rejected claim of the petitioner on the ground that contractor was not made a party. As per Section 21(4) of 1970

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Act read with Section 2(e) of 1948 Act, the principal employer was duty bound to ensure payment of wages to workman. It has right to recover short payment from the contractor, if it pleads that due amount was paid to the contractor. The principal employer has right to proceed against contractor, however, he is responsible to ensure full payment to workman.

8. The petitioner is claiming that period of limitation is inapplicable. The contention of petitioner is misconceived because as per proviso to Section 20 (2) of 1948 Act, application can be presented within 6 months from the date on which minimum wages become payable. The Competent Authority may entertain application beyond 6 months if it is satisfied that there was sufficient cause for not making application within prescribed period. The petitioner did not file application seeking condonation of delay, thus, there was no occasion to invoke second proviso to Section 20(2) of 1948 Act, however, entire claim could not be rejected because there was part of claim which was within 6 months period of limitation.

9. The respondents are instrumentalities of State, thus, they carry more responsibility towards its employees than private entities. As per 1970 Act, being principal employer, it is duty bound to ensure payment of minimum wages to workman. The parties have not disclosed credentials of contractor. There is nothing on record disclosing whether principal employer has made payment to contractor equal to minimum wages or lesser amount was paid. Further, it can not be culled out from the record whether contractor had withheld differential amount or had paid amount which was actually received by him. In the absence of contractor, the matter could not be adjudicated in true spirit. The Authority



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under 1948 Act was bereft of status of contractor, thus, it is necessary that
respondent as well as contractor be heard and actual position be ascertained.

10. In the wake of aforesaid facts and findings, this Court finds it appropriate to remand the matter back to Assistant Labour Commissioner, Patiala to determine amount payable to petitioner which was within limitation, consider quantum of payment made by principal employer to contractor and the payment made by contractor to workman as well as the amount of minimum wages payable and actually paid. The principal employer shall bring on record details of the concerned contractor. In the absence of contractor, the liability would be of respondent i.e. principal employer. The parties at the first instance shall appear before Assistant Labour Commissioner on 18.11.2024 and thereafter as directed by said Authority. The Authority is further directed to adjudicate the matter as expeditiously as possible.

11. Disposed of accordingly.

04.11.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No