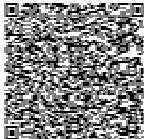


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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

259

CWP-536-2021 (O&M)
Date of Decision : 04.10.2024

MANAGING DIRECTOR, PUNJAB STATE WAREHOUSING
CORPORATION LTD. AND OTHERS

.... PETITIONERS

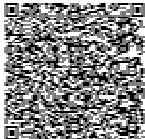
V/S

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, BATHINDA AND
ANR

.... RESPONDENTS

Sr. No.	Case No. (O&M)	Parties Name
1.	CWP-537-2021	MANAGING DIRECTOR, PUNJAB STATE WAREHOUSING CORPORATION LTD. AND OTHERS V/S PRESIDING OFFICER, INDUSTRIAL TRIBUNAL BATHINDA AND ANR
2.	CWP-542-2021	MANAGING DIRECTOR, PUNJAB STATE WAREHOUSING CORPORATION LTD. AND OTHERS V/S PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, BATHINDA AND ANR
3.	CWP-543-2021	MANAGING DIRECTOR, PUNJAB STATE WAREHOUSING CORPORATION LTD. AND ORS V/S PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, BATHINDA AND ANR
4.	CWP-545-2021	MANAGING DIRECTOR, PUNJAB STATE WAREHOUSING CORPORATION LTD. AND OTHERS V/S PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, BATHINDA AND ANR

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5.	CWP-547-2021	MANAGING DIRECTOR, PUNJAB STATE WAREHOUSING CORPORATION LTD. AND OTHERS V/S PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, BATHINDA AND ANR
6.	CWP-549-2021	MANAGING DIRECTOR, PUNJAB STATE WAREHOUSING CORPORATION LTD. AND OTHERS V/S PRESIDING OFFICER, INDUSTRIAL TRIBUNAL BATHINDA AND ANR
7.	CWP-603-2021	MANAGING DIRECTOR, PUNJAB STATE WAREHOUSING CORPORATION LTD. AND OTHERS V/S PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, BATHINDA AND ANR
8.	CWP-630-2021	MANAGING DIRECTOR, PUNJAB STATE WAREHOUSING CORPORATION LTD. AND ORS V/S PRESIDING OFFICER, INDUSTRIAL TRIBUNAL BATHINDA AND ANR
9.	CWP-653-2021	MANAGING DIRECTOR, PUNJAB STATE WAREHOUSING CORPORATION LTD. AND ORS V/S PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, BATHINDA AND ANR
10.	CWP-657-2021	MANAGING DIRECTOR, PUNJAB STATE WAREHOUSING CORPORATION LTD. AND ORS V/S PRESIDING OFFICER, INDUSTRIAL TRIBUNAL BATHINDA AND ANR

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present :- Mr.M.S.Batth, Advocate
for the petitioners (in all the petitions).

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Mr. D.R.Bansal, Advocate
for respondent No.2 (in CWP Nos. 536, 537, 542, 543, 549,
603, 630, 653 & 657 of 2021.

JAGMOHAN BANSAL, J. (Oral)

1. By this common order, the above said petitions are hereby adjudicated as issues involved and prayer sought in all the petitions are common. For the sake of convenience and with the consent of parties, the facts are borrowed from CWP-536-2021.

2. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of order dated 26.09.2019 (Annexure P-4) whereby Labour Court has accepted claim of respondent-workman and directed them to pay minimum wages.

3. The respondent is claiming that he worked with petitioner from 01.07.2009 to 31.07.2014. The petitioner did not pay mandatory minimum wages. The respondent approached Labour Court in terms of Section 33-C (2) of Industrial Disputes Act, 1947 (for short 'ID Act') claiming that management should be directed to pay minimum wages. The application came up for consideration before Labour Court which vide order dated 26.09.2019 allowed application of the workman. The management was directed to pay differential wages to the tune of Rs.1,73,314/-. The Labour Court considered provisions of Contract Labour (Regulation and Abolition) Act, 1970 (for short '1970 Act') and came to a conclusion that principal employer is equally responsible to pay minimum wages as contractor. Labour Court further held that the

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argument of management that they have already paid minimum wages to contractor cannot be countenanced because principal employer is responsible to make sure that minimum wages are paid to workman.

4. Mr. Batth submits that the Labour Court has wrongly exercised power conferred by Section 33-C (2) of ID Act. The said provision is a sort of execution. In the absence of undisputed liability of the management, the workman cannot approach the Labour Court in terms of Section 33-C (2) of ID Act. The question of minimum wages cannot be determined Section 33-C of ID Act.

5. Per contra, Mr. D.R.Bansal submits that there is no infirmity in the impugned order. The petitioner was equally responsible to pay minimum wages. The contractor had not paid prescribed minimum wages, thus, the Labour Court has rightly directed the management to pay differential amount of wages.

6. I have heard the arguments of counsel for the parties and perused the record.

7. The workman is claiming that during 01.07.2009 to 31.07.2014, the management did not pay minimum wages. The workman was engaged through contractor and as per 1970 Act, the principal employer is equally responsible to comply with provisions of The Minimum Wages Act, 1948 (for short '1948 Act'). In case of non-payment of minimum wages or non-compliance of any other provisions of 1948 Act, the workman has remedy to approach the authorities appointed under the said Act. The 1948 Act is a complete Code in itself.

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It creates liability of management and provides mechanism for redressal of grievance of the workman. Section 20 of 1948 Act specifically provides that in case of non-payment or short payment of wages, the workman can approach the appointed authorities. For the ready reference, Section 20 of 1948 Act is reproduced as below :

“20. Claims -(1) The appropriate Government may, by notification in the Official Gazette, appoint any Commissioner for Workmen's Compensation or any officer of the Central Government exercising functions as a Labour Commissioner for any region, or any officer of the State Government not below the rank of Labour Commissioner or any other officer with experience as a Judge of a Civil Court or as stipendiary Magistrate to be the Authority to hear and decide for any specified area all claims arising out of payment of less than the minimum rates of wages or in respect of the payment of remuneration for days of rest or for work done on such days under clause (b) or clause (c) of sub-section (1) of Section 13 or of wages at the overtime rate under Section 14, to employees employed or paid in that area.

(2) Where an employee has any claim of the nature referred to in sub-section (1), the employee himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector, or any person acting with the permission of the Authority appointed under sub-section (1), may apply to such Authority for a direction under sub-section (3):

Provided that every such application shall be

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presented within six months from the date on which the minimum wages or other amount became payable: Provided further that any application may be admitted after the said period of six months when the applicant satisfies the Authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the Authority shall hear the applicant and the employer, or give them an opportunity of being heard, and after such further inquiry, if any, as it may consider necessary, may, without prejudice to any other penalty to which the employer may be liable under this Act, direct—

(i) in the case of a claim arising out of payment of less than the minimum rates of wages, the payment to the employee of the amount by which the minimum wages payable to him exceed the amount actually paid, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount of such excess,

(ii) in any other case, the payment of the amount due to the employee, together with the payment of such compensation as the Authority may think fit, not exceeding ten rupees,

and the Authority may direct payment of such compensation in cases where the excess or the amount due is paid by the employer to the employee before the disposal of the application.

(4) If the Authority hearing any application under this section is satisfied that it was either malicious or vexatious, it may direct that a penalty not exceeding fifty rupees be paid to the employer by the person

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presenting the application.

(5) Any amount directed to be paid under this section may be recovered—

(a) if the Authority is a Magistrate, by the Authority as if it were a fine imposed by the Authority as a Magistrate, or

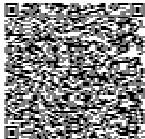
(b) if the Authority is not a Magistrate, by any Magistrate to whom the Authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

(6) Every direction of the Authority under this section shall be final.

(7) Every Authority appointed under sub-section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such Authority shall be deemed to be a Civil Court for all the purposes of Section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (5 of 1898).”

8. From the perusal of above-quoted Section, it is evident beyond the pale of doubt that in case of non-payment or short payment of wages prescribed under 1948 Act, the workman has remedy to approach the authorities notified under Section 20 of 1948 Act. The workman cannot approach Labour Court in terms of Section 33-C of ID Act seeking payment of differential amount of wages. It is authority under 1948 Act which has to determine quantum of wages not paid or short paid and thereafter pass an appropriate order. The Labour Court cannot

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determine quantum of minimum wages payable under 1948 Act. The Labour Court travelling beyond its jurisdiction has passed order under Section 33-C (2) of ID Act which is a sort of execution provision.

9. In the wake of above discussion and findings, the instant petitions deserve to be allowed and accordingly allowed. The impugned order(s) are hereby set aside. The respondent-workmen are at liberty to avail remedies as permissible under 1948 Act. If the workmen approach the authority under 1948 Act, it while considering question of limitation, shall consider factum of pendency of matter before the Labour Court and thereafter before this Court.

10. Pending miscellaneous application (s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

04.10.2024
anju

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No