

15.05.2025
Item No.11
Ct. No. 30
Aloke

WPA 2471 of 2015

**Shila Singh
Vs
The Authority under the Minimum Wages Act,
1948 & Ors.**

Mr. Uddipan Banerjee
Mr. Subhrakanti Samanta
... for the petitioner

Ms. Malabika Saha
Ms. Aphipha Khan
... for the respondent no. 2

Both parties have filed their written notes.

The present writ application has been preferred praying for setting aside of the order dated 10th December, 2014, passed by the Authority under the Minimum Wages Act, 1848 and the Regional Labour Commissioner (Central), Kolkata in Claim Application No. 47/34/L-Union/2024 E.I.

Vide the order under challenge the petitioner has contended that he being a contractor was engaged for deployment of “gate help” and “gun man” (as and when required) vide an order dated 14.05.2013. Subsequently, vide an order dated 12.07.2013, the order dated 14.05.2013 was amended wherein the contract for deployment of gun man was deleted and, as such, it is stated that the responsibility of the contractor/petitioner herein was to only provide “gate attendant”.

The authority concerned in its order under challenge held as follows:-

*“It appears from the records, documents, various statements, averments, submissions, contentions and allegations made in their applications and found that the Applicant’s union had rightly filed the instant claim application to decide and hear the same under the provisions of the Minimum Wages Act, 1948 by the present Authority. The identify cards issued by the different Contractors/Vendors of the OP-2 along with the work orders and payment documents etc., as submitted by Applicant’s union amply testifies the fact that nomenclature of work issued during the year 2000 for deployment of workers had been **abruptly changed during the year 2013 as “Gate Attendant, Office help and Caretaker” in place of “deployment of security service” by OP-2 with the intention to deprive the workers from claiming the Central Government notified wages for “Employment of Watch & Ward”, which categorises as “Semi-skilled” worker.** The nature of work for workers whose name appended in the claim application remained same since initial stage of deployment in the estt. of OP-2 under various contractors/vendors. The vendors keep on changing in tender documentation process by the OP-2, but the contractual workers remained same as a phenomenon. It is nothing but a camouflage and the workers duly deployed by opponents have been rendering services for past few decades without regularisation of their service. The mere change of name as “Gate Attendant,*

Office help and Caretaker” cannot deprive the workforces from getting the wages of “watch and ward”, for which minimum rates of wages have been fixed by the Central Government vide Notification S.O. 2288 (E) dtd. 18.9.2012 of Ministry of Labour & Employment with periodical revision of variable dearness allowances. Further, OP-2 continued to take the services of the workforces of the applicant’s union till date under employment of different vendors/contractors/OP-1. It can also be safely assumed that the Opponents were fully satisfied with the services rendered by the workforces of the applicant’s union as security guards.”

Heard the contention and arguments of the Applicant’s union as well as Opponents in the present claim application. Considering the facts on record, it is an admitted fact that the employees/workers of the Applicant’s union have not received their lawful wages arising out of payment of less than the minimum rates of wages fixed by appropriate Govt. Hence, I decided that the workforces of the Applicant’s union have rendered services under opponents is held to be employees under notified schedule employment of “Watch & Ward”. The 29 nos. of workers, whose name appeared in the instant claim application are entitled to wages @ Rs.328.00 per day as fixed by the “Central Government” vide above notification of “Employees employed in Watch & Ward (without arms)” under schedule employment during the relevant period as mentioned in claim application. I also found that the Opponents have failed to pay the lawful minimum rates of wages to the eligible category of workers i.e. in respect of 29 nos. of

workers for the period between w.e.f. 1.10.2013 to 31.3.2014 amounting to Rs.1,28,648.00. Hence, I direct the Opponents to pay differential wages amounting to Rs.1,28,648.00 arising out of less payment of lawful wages. I also observed that the 29 employees/workers of Applicant's union have suffered economic injury and financial hardship for not getting their statutory wages in due time. Considering the period of delay, I allow compensation @ Rs.500.00 in respect of each of the 29 nos. of workers, whose name appeared in the instant claim application altogether Rs.1,43,146.00 (Claimed amount Rs.1,28,648.00 + Compensation Rs.14,500.00) would be appropriate to meet the ends of justice."

Finally, the authority held as follows :-

"I, therefore, direct the OP-1/OP-2 under Sec. 20 (3) of M.W. Act, 1948 to disburse a sum of Rs.1,43,146.00 (Rs. One Lakh Forty three Thousand one hundred forty six only) either by means of Demand Draft drawn or by cash in favour of each worker/employee of Applicant's union as appeared in the instant claim application within a period of 30 days from the receipt of this order under intimation to the present authority. Accordingly, the present claim application is disposed off at this stage."

The respondents could not produce any documents to substantiate that any contract was given to the petitioner herein for the modified work/deployment.

It appears that the nomenclature was changed to avoid paying higher wages. It is on record as submitted by the workers that they have been working under the employment of different vendors/employers but it is on record that the principal employer has remained the same being the respondent nos. 2 and 3 herein.

Accordingly, the order under challenged dated 10th December, 2014, passed by the learned Authority under the Minimum Wages Act, 1848 and the Regional Labour Commissioner (Central), Kolkata in Claim Application NO. 47/34/L-Union/2024 E.I ., **is modified to the extent that the payment as directed by the authority in the order dated 10th December, 2014 shall be made by the Opposite Party Nos. 2 and 3.** The Opposite Party no. 1 being not liable for payment of enhanced wages due to change of nomenclature of work **without any fresh contract** is held not to be liable for the said payment.

The order under revision dated 10th December, 2014 stands modified accordingly.

WPA 2471 of 2015 stands disposed of.

There will be no order as to costs.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

Urgent Photostat certified copy of this order,
if applied for, be supplied to the parties expeditiously
after due compliance.

(Shampa Dutt (Paul), J.)