



W.P.Nos.15148 to 15152 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.15148 to 15152 of 2015

And

M.P.Nos.1, 2, 2, 2 and 2 of 2015

The Management
Hotel Abu Palace
No.926, Poonamallee High Road
Chennai 600 084. ... Petitioner in all the W.Ps.

Vs.

1.The Deputy Commissioner of Labour I
DMS Compound
Teynampet
Chennai 600 006. ... Respondent in all the W.Ps.

2.P.Rajinikanth	... Respondent in W.P.15148/2015
2.G.Kalidass	... Respondent in W.P.15149/2012
2.I.Mujibur Rahman	... Respondent in W.P.15150/2012
2.M.Christopher Solomon	... Respondent in W.P.15151/2012
2.S.Arul Manavalan	... Respondent in W.P.15152/2012

Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the concerned records from the first respondent, quash the order of the first respondent dated 27.04.2015 bearing Na.Ka.No.B2/2149/15 in not entertaining the petition to set aside the exparte order as illegal, arbitrary and contrary to law and consequently direct the first



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respondent to entertain the petition dated 09.03.2015 filed in P.W.Case Nos.20, 21, 22, 23 and 24 of 2014 respectively, to set aside the exparte order dated 18.02.2015 and decide the same on its merits and in accordance with law.

For Petitioner : Mr.Balan Haridass
for M/s.T.R.Sivakumarnath

For Respondents : Mr.K.Surendran for R1
Additional Government Pleader
Mr.R.Sachithanandan for R2
for M/s.K.Udayakumar &
DJ.Adinarayanan

COMMON ORDER

The writ petitions have been filed seeking issuance of Writ of Certiorarified Mandamus, calling for the records from the first respondent, quash the order of the first respondent dated 27.04.2015 bearing Na.Ka.No.B2/2149/15 in not entertaining the petition to set aside the exparte order as illegal, arbitrary and contrary to law and consequently direct the first respondent to entertain the petition dated 09.03.2015 filed in P.W.Case Nos.20, 21, 22, 23 and 24 of 2014 respectively, to set aside the exparte order dated 18.02.2015 and decide the same on its merits and in accordance with law.

2.Since the issue involved in these writ petitions are interrelated, they are heard together and disposed of by way of a common order.

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3.The learned counsel appearing for the petitioner submitted that the respective second respondent filed petition under Section 15(2) of the Payment of Wages Act, 1936 in P.W.Case Nos.20, 21, 22, 23 and 24 of 2014 respectively, before the first respondent. P.W.Case No.20 of 2014 was filed by P.Rajinikanth claiming a sum of Rs.1,06,670/- for non payment of salary, earn leave encashment, bonus and compensation for non payment of salary; P.W.Case No.21 of 2014 was filed by G.Kalidass claiming a sum of Rs.84,000/- for non payment of salary, bonus and compensation for non payment of salary; P.W.Case No.22 of 2014 was filed by I.Mujibur Rahman claiming a sum of Rs.1,06,667/- for non payment of salary, earn leave encashment, bonus and compensation for non payment of salary; P.W.Case No.23 of 2014 was filed by M.Christopher Solomon claiming a sum of Rs.3,33,000/- for non payment of salary and compensation for non payment of salary; and P.W.Case No.24 of 2014 was filed by S.Arul Manavalan claiming a sum of Rs.2,20,000/- for non payment of salary and compensation for non payment of salary.

4.The learned counsel appearing for the petitioner further submitted that the first respondent passed an exparte order dated



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18.02.2015 allowing the claim of the respective second respondent.

Aggrieved by the same, the petitioner filed petition before the first respondent seeking to set aside the exparte order, however, the first respondent passed the impugned order returning the petition filed by the petitioner.

5.The learned counsel appearing for the petitioner further submitted that it is true that the petitioner not paid salary, however, the compensation for non payment of salary awarded to the respective second respondent is ten times the unpaid salary, which is highly excessive. Hence, this Court may fix minimum compensation in terms of the order passed by this Court in ***W.P.No.587 of 2007 dated 02.01.2012 [Mohandas Vs. Authority under the Minimum Wages Act, 1948 – 2/ Deputy Commissioner of Labour – 2 and two others]***. The learned counsel further submitted that during the pendency of the writ petitions, the petitioner deposited a sum of Rs.1,17,337/- before the first respondent vide cheque bearing no.727680 dated 15.06.2015.

6.Per contra, the learned counsel appearing for the respective



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second respondent submitted that the petitioner Management did not disburse salary to the respective second respondent and hence, they filed petition under Section 15(2) of the Payment of Wages Act, 1936 in P.W.Case Nos.20, 21, 22, 23 and 24 of 2014 respectively, before the first respondent and the first respondent exercised its discretionary power under Section 15 (3) of the Payment of Wages Act and allowed the claim made by the respective second respondent.

7.Heard the arguments advanced on either side and perused the materials available on record.

8.Admittedly, the petitioner Management did not disburse salary to the respective second respondent and hence, they filed petition under Section 15(2) of the Payment of Wages Act, 1936 in P.W.Case Nos.20, 21, 22, 23 and 24 of 2014 respectively, before the first respondent and the first respondent allowed the claim made by the respective second respondent. The grievance of the petitioner is that the compensation for non payment of salary awarded to the respective second respondent is ten times the unpaid salary and the same is highly excessive.



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9. Similar issue has already been considered by this Court in

W.P.No.587 of 2007 dated 02.01.2012 [Mohandas Vs. Authority under the Minimum Wages Act, 1948 – 2/ Deputy Commissioner of Labour – 2 and two others], the relevant portion of which reads as follows:

"10. In normal circumstances, when the Act gives power to the authority to levy penalty and also gives the discretion to levy penalty depending upon the fact situation and the authority exercise statutory power, it may not be proper for this Court to interfere with the quantum of penalty. Non-payment of wages notified under the Minimum Wages Act will result in forced labour prohibited under Article 23 of the Constitution of India. In People's Union for Democratic Rights Vs. Union of India reported in AIR 1982 SC 1473 as well as in Sanjit Vs. State of Rajasthan reported in AIR 1983 SC 328, the Supreme Court emphasised the High Courts and Subordinate Courts to be sensitive in the matters of non-payment of Minimum Wages Act and also held that the Courts should not treat penalties as trivial and appropriate penalties must be imposed on the employer for default in payment of minimum wages.



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11. In any event, in the order impugned in the writ petition, the authority had not given any reason for levying the maximum penalty because the penalty ranges from amount equivalent to the non payment of Minimum Wages and go up to the maximum of 10 times and therefore, when there is a discretion vested with the authority, he should normally exercise the discretion in a particular manner. Therefore, going by the principle adopted by the Supreme Court in the judgment in Prerna Sahygo Vs. Authority under Minimum Wages and others reported in (2001) 9 SCC 247, this Court is of the view that instead of remanding the matter for a decision on the question of penalty (for which reliance was placed upon the judgment in the case of C.G. Igarashi Motors Ltd., Tambaram Vs. Deputy Commissioner of Labour II, Chennai and another reported in 2006 Vol 3 LLJ 733), it will further delay the issue. Hence, this Court decides to order the compensation as per the ratio laid down by the Supreme Court in the Prerna Sahygo Vs. Authority under Minimum Wages and others reported in (2001) 9 SCC 247. If the penalty is ordered by the authority



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is upheld, ultimately, the monies will have to be credited to the Tamil Nadu Labour Welfare Fund Board created by the State Government in Notification No.36/1972 in terms of Section 3(2)(i) of the Minimum Wages Act, 1948 and by that process, no useful purpose will be served to the employees covered by the impugned order. Therefore, reducing the penalty amount equivalent to the amount computed by the authority, the penalty thus, will also commensurate with the Minimum Wages."

10.The decision cited supra makes it clear that the authority must assign valid reason for awarding maximum compensation of ten times the unpaid salary, however, in the present case, the first respondent has not assigned any valid reason for awarding maximum compensation of ten times the unpaid salary. Hence, this Court is inclined to reduce the compensation awarded for unpaid salary. This Court awards three times the unpaid salary, however, the amount of Rs.1,17,337/- already deposited by the petitioner need not be refunded to the petitioner.



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11. Accordingly, the petitioner Management is directed to deposit;

(a) a sum of Rs.50,670/- [Rs.8,000/- + Rs.10,670/- + Rs.8,000/- + Rs.24,000/- = Rs.50,670/-] to the credit of P.W.Case No.20 of 2014 on the file of the first respondent, within a period of four weeks from the date of receipt of a copy of this order;

(b) a sum of Rs.35,000/- [Rs.7,000/- + Rs.7,000/- + Rs.21,000/- = Rs.35,000/-] to the credit of P.W.Case No.21 of 2014 on the file of the first respondent, within a period of four weeks from the date of receipt of a copy of this order;

(c) a sum of Rs.50,667/- [Rs.8,000/- + Rs.10,667/- + Rs.8,000/- + Rs.24,000/- = Rs.50,667/-] to the credit of P.W.Case No.22 of 2014 on the file of the first respondent, within a period of four weeks from the date of receipt of a copy of this order;

(d) a sum of Rs.1,20,000/- [Rs.30,000/- + Rs.90,000/- = Rs.1,20,000/-] to the credit of P.W.Case No.23 of 2014 on the file of the first respondent, within a period of four weeks from the date of receipt of a copy of this order; and

(e) a sum of Rs.80,000/- [Rs.20,000/- + Rs.60,000/- = Rs.80,000/-] to the credit of P.W.Case No.24 of 2014 on the file of the



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first respondent, within a period of four weeks from the date of receipt of a copy of this order.

12.On such deposit being made, the first respondent shall disburse the amount in favour of the respective second respondent and the first respondent shall also disburse the amount of Rs.1,17,337/- already deposited by the petitioner vide cheque bearing no.727680 dated 15.06.2015 along with interest accrued thereon to the respective second respondent proportionately, within a period of four weeks from the date on which the petitioner makes the deposit.

13.The writ petitions are disposed of with the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

06.03.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Deputy Commissioner of Labour I
DMS Compound
Teynampet
Chennai 600 006.

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M.DHANDAPANI,J.
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