

W.P. No. 4092 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

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RESERVED ON : 28.03.2025
PRONOUNCED ON: 29.04.2025

PRESENT:

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

W.P. No. 4092 of 2020
and
W.M.P. No. 4847 of 2020

V.S.T.Service Station
Rep. by its Authorised Signatory,
Nellikuppam Main Road,
Kondur Post,
Cuddalore – 1

...Petitioner

Vs.

1. Joint Commissioner of Labour-II
Authority Under the Minimum Wages Act
DMS Complex,
Teynampet, Chennai – 6.

2. C.Stanly Prakash,
3. K.Tamilarasan
4. A.Murali
5. R.Rajeshkumar
6. K.Palanivel
Respondents 2 to 6
C/o C.Stanly Prakash,
No.3, Gandhi Street,
Varadharajan Nagar,
Semmandalam, Cuddalore – 1.

...Respondents

Prayer in WP



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To issue a Writ of Certiorari calling for the records of the 1st Respondent, in M.W.No.1/2018 and quash its order dated 15.04.2019 and pass such further or other orders as this Hon'ble Court may deem fit in the interest of justice.

Prayer in WMP

To grant an interim stay of the order of the 1st Respondent dated 15.4.2019 in M.W.1/2018, pending disposal of the Writ Petitioner and pass such further or other orders as this Hon'ble Court may deem fit and proper in the interest of justice.

Appearance of Parties:

For Petitioner : Mr.P.Raghunathan, Advocate
For T.S.Gopalan & Co, Advocates

For Respondent 1 : Mr.R.Kumaravel, AGP

For Respondents 2 and 3 : M/s. K.Arunagiri, R.S.Krishnaswamy and
S.Sathyaraj, Advocates

For Respondents 4 to 6 : Ms.Santhana Lakshmi, Advocate
For Mr.K.Mohanamurali, Advocate

JUDGMENT

Heard.

2. The Petitioner is the Management engaged in the business of operating automobile service stations at various locations. The present dispute concerns their service station situated at Cuddalore, which functioned as an authorized service centre for M/s. Tata Motors. Following the termination of their



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dealership arrangement with Tata Motors, it is claimed that the service station was closed, resulting in the cessation of employment of Respondents 2 to 6, who left their services on 21.12.2016.

3. Respondents 2 to 6, however, filed an application before the 1st Respondent Authority under the Minimum Wages Act, 1948, seeking recovery of alleged unpaid wages in terms of the Minimum Wages Notification, invoking Section 20 of the Act. There was a delay of 3324 days in filing the said application, and therefore, they also filed an interim application seeking condonation of delay. Upon issuance of notice on the interim application, the Petitioner Management filed a counter affidavit, contending that the facts stated therein were erroneous. It was further submitted that the Respondent workmen could not claim that they were paid less than the prescribed minimum wages. Further, it was pointed out that their disputes concerning non-employment were already pending adjudication before the Labour Court in separate proceedings.

4. The Authority condoned the delay and proceeded to hear the matter, registering it as M.W.1/2018. In response, the Petitioner Management filed a counter statement denying the allegation that the workmen were paid less than the minimum wages. During the enquiry, Stanley Prakash, the 2nd Respondent,



was examined as PW1 on behalf of the workmen, while Punarvasudevi was examined as RW1 on behalf of the Management. The claim petitions filed by the workmen were marked as Exhibits A1 to A5. By the impugned order dated 15.04.2019, the Authority upheld the claims of Respondents 2 to 6, computed the wages due to them, and further directed payment of compensation at three times the amount for the delayed payment.

5. The amount ordered by the authority by the impugned order was as follows:-

Sl. No.	EMP Name	Wages due	Compensation	Total
1	C.Stanly Prakash (R2)	127984	383952	511936
2	K.Tamilarasan (R3)	259030	777090	1036120
3	A.Murali (R4)	168596	505788	674384
4	R.Rajeshkumar (R5)	246991.5	740974.5	987966
5	K.Palanivel (R6)	106507	319521	426028
	Total	909108.5	2727325.5	3636434

6. Aggrieved by the said order, the present writ petition was filed. When the matter was listed on 20.02.2020, this Court, while ordering notice to the Respondents, also granted interim stay of the impugned order, subject to the condition that Respondents 2 to 6 be paid the respective wages as indicated in the annexure to the impugned order. However, it was subsequently realized that



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none of Respondents 2 to 6 were in service, a fact which had already been

stated in paragraph 7 of the affidavit filed in support of the writ petition.

Therefore, the interim order was a non-working order.

7. Pursuant to notice, the Respondents entered appearance. Written submissions were also filed on behalf of Respondents 2 and 3. The learned counsel for the Petitioner submitted that during their tenure of service, the workmen had never raised any grievance regarding non-payment of minimum wages, and further, though they were offered employment at the Trichy Service Station, they refused to accept the same. It was also contended that Respondents 2 and 4 were only temporary workers. The Authority, it was argued, erred in condoning the inordinate delay. In support of this submission, reliance was placed on the decision of this Court in **Management, Saveetha Dental College and Hospitals v. Deputy Commissioner of Labour**, reported in 2008 (2) LLJ 90, wherein it was held that unexplained long delays cannot be condoned. The relevant passage from the said judgment reads as follows: –

“From the very reading of the decision, it is quite clear that if such an inordinate delay, that too in the absence of any convincing and acceptable reason is condoned, it is nothing but extending the limitation period on unequitable grounds, which should not be done by the Court. The contention put forth by the learned



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Counsel for respondents 2 to 124, that it is a case where it has got to be looked into liberally, cannot be accepted for the reason that for such an inordinate delay substantial justice or technical consideration should not be taken into consideration and the question of condoning the delay would be nothing but making the claim to have vested interest for injustice being done to set aside, which should not be done in the considered opinion of the Court. Hence the order of the Lower Authority in condoning the delay cannot be justified.”

8. On the issue of grant of compensation, the learned counsel for the Petitioner relied on the decision of this Court in **Bacto Roadways Corporation v. R. Deivanayagam, Assistant Inspector of Labour II, Chennai**, reported in 2014 (1) LLJ 246, wherein a learned Judge set aside the award of ten times compensation ordered by the Authority and made the following observations: -

“From the above said decision, it is clear that awarding of compensation cannot be made without any rhyme or reason. The authority must get satisfied that the employer has paid less wages than the prescribed minimum wages in full in spite of demands from employees or any officer or the authority. In this case, it is seen that no employee of the petitioner had ever come before the court and made such demand and only the inspecting authority under the Minimum Wages Act, 1948 while inspecting the petitioner's premises, has found that the employees therein are not being paid the minimum wages and consequently filed an application before the second respondent as discussed supra. Therefore, in my considered view, there is no demand from the employees and there is no clear cut finding that there was a demand earlier made before the authorities concerned by the employees which has not been done by the petitioner. The second respondent has mechanically imposed compensation of 10 times without there being any specific finding warranting such imposition. Thus, I am of the view that the second respondent is



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not justified in imposing 10 times arrears as compensation payable to the employees. It is represented by the learned counsel for the petitioner that in pursuant to the interim order passed by this Court, the petitioner is paying the minimum wages to its employees all along.

Considering all these facts and circumstances, the writ petition is allowed in part by setting aside the order of the second respondent insofar as the portion of the order directing payment of 10 times of arrears of minimum wages as compensation is concerned. In all other aspects, the impugned order is upheld.”

9. The learned counsel for the 2nd Respondent referred to the judgment of a Division Bench of the Orissa High Court in **M/s. General Security & Information Services (P) Ltd. v. Chief Rolling Stock Engineer of East Coast Railway Administration & others**, reported in 2012 (135) FLR 63, which dealt with the scope of condonation of long delay in filing applications under the Minimum Wages Act by aggrieved workmen, as well as the issue of the burden of proof concerning payment of minimum wages. The counsel specifically relied on the following passages from the said judgment: –

“This Court instead of remanding the matter to the Minimum Wages Authority with regard to the findings of the Authority that minimum wages not paid to the workmen in its order can exercise its power of Minimum Wages Authority to avoid any further delay in the proceedings to get their legitimate statutory dues. The workmen who were employed by the petitioner to execute his contractual work with opposite party No. 1 and not paid the minimum wages to them, thereby the fundamental rights of those workmen were infringed which has been guaranteed under Article 21 of the Constitution of India is one of the reasons assigned in



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the impugned order after referring to the decisions of the Supreme Court referred to supra to award minimum wages and compensation in favour of the concerned workmen. In this regard, it is worthwhile to refer to the principle laid down by the Apex Court on which the power under Article 226 can be exercised by this Court as what the Minimum Wages Authority can do. The relevant paragraph 79 reads thus:-

The basis of this submission, as we conceive it, is the traditional limitations woven around high prerogative writs. Without examining the correctness of this limitation, we disregard it because while Article 226 has been inspired by the royal writs its sweep and scope exceed hidebound British processes of yore. We are what we are because our Constitution framers have felt the need for a pervasive reserve power in the higher judiciary to right wrongs under our conditions. Heritage cannot hamstring nor custom constrict where the language used is wisely wide. The British paradigms are not necessarily models in the Indian Republic. So broad are the expressive expressions designedly used in Article 226 that any order which should have been made by the lower authority could be made by the High Court. The very width of the power and the disinclination to meddle, except where gross injustice or fatal illegality and the like are present, inhibit the exercise but do not abolish the power.

The aforesaid principle laid down by the Supreme Court is aptly applicable to the fact situation of the present case having regard to the illegality, injustice and miscarriage of justice done to the concerned workers by the petitioner in not paying the minimum wages to them for the period in question as mentioned in the order passed by the Minimum Wages Authority and we have to exercise our discretionary power to condone the delay in filing the application for computing the minimum wages and award compensation along with other monetary benefits as the Minimum Wages Authority has done justice to the workmen after placing reliance upon the decisions of the Apex Court. We accordingly condone the delay and supplement to the order passed by the Minimum Wages Authority to render justice to the workmen as their statutory rights has been flagrantly violated.



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The findings of fact were recorded by the Minimum Wages Authority on the basis of the statement of counter and the evidence placed before the Minimum Wages Authority by opposite party No. 3. In the absence of non-production of record by the petitioner-employer, the substantive plea taken in the statement of objection that the minimum wages were paid to the workmen, he has not proved his case. The petitioner should have discharged its duty by producing positive and substantive evidence on record, viz., the Pay Acquittance Register, which was required to be maintained in the Establishment. The same has not been done in the instant case and the minimum wages are not paid to the workers. Adverse inference should have been drawn by the Minimum Wages Authority for non-production of such documentary evidence. However, no adverse inference has been drawn by opposite party No. 4. The finding that minimum wages were not paid to the concerned workmen for the period in question is based on proper appreciation of legal evidence in the absence of positive documentary evidence required to be produced by the petitioner before the Minimum Wages Authority. Therefore, the finding of fact recorded by the Authority on the contentious issue cannot be termed as erroneous.”

10. Per contra, the learned counsel for Respondents 4 to 6 placed reliance on the judgment of this Court in **Venture Power System India Pvt. Ltd. v. The Deputy Commissioner of Labour** in W.P. No. 30777 of 2015, dated 01.02.2016, and referred to the following passages found in paragraphs 8 to 10, which read as follows: –

“8. In fact, a similar issue came up for consideration before this Court, in a Writ Petition, being W.P.No.33738 of 2007, dated 25.10.2007, wherein, a prayer was made to condone the inordinate delay in filing the application for payment of minimum wages, and the Court pointed out that, if the workmen had

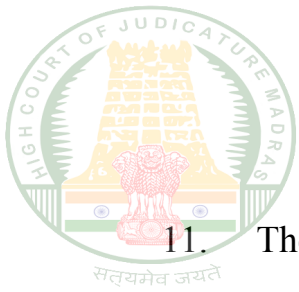


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approached the Labour Court by filing application under Section 33 (2) of the Industrial Disputes Act, 1947, for computing the minimum wages payable, the question of limitation would not arise. The Court further held that the question of payment of minimum wages is continuing cause of action and held that the application should be not thrown out on the ground of delay. This decision was followed by the Hon'ble Judge M.M.Sundresh, J., in W.P.12971 of 2008, in re (Rambal Ltd., referred supra.

9. At this juncture, it is submitted by the learned counsel appearing for the Management that against the said order passed in W.P.No.12971 2008, Writ Appeal has been preferred. In any event, the question, whether the delay in filing the Application has to be condoned or not? has to be considered on a case to case basis, and depends upon the facts and depends upon the facts and circumstances of each case.

10. Thus, the first respondent-Authority considering the purpose of the legislation, exercised power vested under Section 22 of the Minimum Wages Act, and the exercise of discretion by the Authority clearly shows that there is neither arbitrariness in the order condoning the delay in filing the application, nor, there is any deliberate inaction on the part of the workmen to approach the authority at this juncture. It is a settled legal principle that law of Limitation is founded on public policy and not meant to destroy the rights of the parties but to see that the party does not resort to any dilatory tactics, and deliberately approach the forum belatedly. If the party is deliberately negligent, or for certain mala fide reason, has belatedly approached the Court or Forum, then, it could be a case, where, the delay will have to be refused to be condoned. The case on hand is not one such case, nor, there is any such allegation made by the Management that the workmen were guilty of negligence, or had mala fide intention to purposely file the Application belatedly. Thus, in the absence of all these issues in the instant case, this Court is not inclined to interfere with the discretion exercised by the Authority, which cannot be held to be either perverse, nor untenable.”



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11. The above decision was carried in appeal before a Division Bench. The

Division Bench, by its judgment in **Venture Power System India Pvt. Ltd. v.**

The Deputy Commissioner of Labour, reported in 2016 SCC OnLine Mad

14999, dismissed the writ appeal and held as follows: –

“The sole contention of the appellant is that the workers' union has not sought implementation of the Government Orders, fixing minimum wages, within the time and also has not moved the first respondent for implementation of the same in time. Thus, without disclosing proper sufficient cause, the first respondent has no justification to condone the delay.

We have examined the facts of the case. The case of the workers Union was that the workmen came to know about the notification much later. Initially the workmen made a representation directly to the management for the grant of benefits under the Government Orders, i.e., G.O.Ms.No.997, dated 19.05.1988, G.O.(D)No.1051, dated 03.08.1995, G.O.(2D) No.17, dated 24.04.2002, G.O.(2D) No.53, dated 03.07.2007 and G.O.48, dated 05.10.2012. As the same was not implemented by the appellant management and not getting any proper response, the workmen had joined the second respondent union to vindicate their grievance. Thus, the delay caused was on account of justifiable reasons and also on account of the fact of non implementation of Government Orders by the management.

Keeping in view the aforesaid background, the first respondent, exercising his power, found that sufficient cause has been shown to condone the delay. The second proviso to sub-section (2) of Section 20 empowers the authority to consider the application seeking the claim of payment of minimum wages after a period of six months on being satisfied on submission of sufficient cause. Thus, this is a case where the first respondent has exercised his power within his jurisdiction and also had satisfied himself with the reasons which were held as sufficient cause. The writ court has rightly declined to interfere with the order dated 23rd July,



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2015. We do not find any infirmity, irregularity or illegality in the order sought to be impugned in the writ appeal.”

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12. The learned counsel for Respondents 2 to 4 also filed detailed written submissions dated 01.04.2025, after the matter was reserved for orders. A copy of the same was served on the counsel for the Petitioner, as evidenced by the endorsement on the court copy. It is unnecessary to deal with each and every submission made therein, particularly since many of the points raised are repetitive. In the written submissions, reliance was placed on an unreported judgment of this Court in **The Management of Bailey v. The Deputy Commissioner of Labour II, Chennai** in W.P. No. 16970 of 2008, dated 10.12.2008, wherein a learned Judge declined to interfere with the Authority’s exercise of discretion in condoning the delay, holding that such exercise of discretion did not warrant interference.

13. The learned counsel further referred to the judgment of the Gujarat High Court in **Bhavnagar Nagarpalika v. Meghjibhai Ugadbhai**, reported in 1995 (III) LLJ 527 (Guj), wherein, on the issue of payment of compensation, the Court held as follows: –

“Furthermore, the award of compensation under Section 20(3) of the Act is not compulsory or mandatory. Such award would



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depend upon various factors like the nature of employment, the status of the employer, the nature of defaults, the number of defaults, the frequency thereof, the amount involved, the delay in making payment of less than the minimum wages fixed and like matters. All these factors are bound to weigh with the Authority in its decision to award compensation, if any, and its quantum to the concerned workman with respect to the application under Section 20 of the Act”

14. In view of the foregoing, this Court is not inclined to interfere with the impugned order, wherein the Authority, after condoning the delay in filing the application, rightly held that the contesting Respondents were entitled to receive minimum wages in accordance with the Government notifications applicable to their category of employment. The Authority also reasonably awarded compensation at three times the normal wages. Considering that the Petitioner, an authorized service station of an internationally renowned automobile company (Tata Motors), had, despite the applicable notifications, paid wages below the prescribed minimum rates, the award of three times compensation is appropriate and serves as a deterrent, reinforcing the obligation to ensure compliance with minimum wage laws. Non-payment of minimum wages has consistently been held to violate the fundamental rights guaranteed under Article 21 of the Constitution.

15. Accordingly, W.P. No. 4092 of 2020 stands dismissed. Consequently, the



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Miscellaneous Petition in W.M.P. No. 4847 of 2020 is also dismissed.

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

Copy to:

The Joint Commissioner of Labour-II
Authority Under the Minimum Wages Act
DMS Complex,
Teynampet, Chennai – 600006.



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DR. A.D. MARIA CLETE, J

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