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W.P.No.9738 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.07.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 9738 of 2023

&

W.M.P.No. 9820 of 2023

Corporation Labour Union,

Rep. by its President, Beulah John Selvaraj

Having office at 39, Water Tank Road,

Poonga Nagar, Chennai-600 079

...Petitioner

Vs.

1.State of Tamil Nadu

Rep. by its Secretary to Government,

Municipal Administration and Water Supply Department,

Fort St. George,

Chennai-09.

2.Commissioner,

Greater Chennai Corporation,

Ripon Building, Chennai-03.

3.Superintending Engineer



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Solid Waste Management Department,
Greater Chennai Corporation,
Ripon Building, Chennai-03.

4.The City Health Officer
Greater Chennai corporation,
Rippon Building, Chennai-03.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to implement GO (2D) Ms. No.62 (Labour and Employment (J1) Department) dated 11.10.2017 with effect from 11.10.2017 and consequently pay the arrears of pay and other benefits to the NULM workers of the petitioner Union whose names are found in Annexure A to this affidavit.

For Petitioner : Ms. N.S.Thanvi

For Respondent 1: Mr. C.Selvaraj
Additional Government Pleader

For Respondents : Mr. S.Gopinathan
2 to 4 Standing Counsel



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ORDER

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The Writ Petition has been filed seeking the following relief:

“Directing the respondents to implement GO (2D) Ms. No.62 (Labour and Employment (J1) Department) dated 11.10.2017 with effect from 11.10.2017 and consequently pay the arrears of pay and other benefits to the NULM workers of the petitioner Union whose names are found in Annexure A to this affidavit”.

2. The facts which has compelled the petitioner union to approach this Court invoking the jurisdiction of this Court under Article 226 of the Constitution of India is herein below set out.

3. The petitioner union is registered under the Trade Unions Act and affiliated to the AITUC. The union was started in the year 1995 and its members mainly consists of Class IV employees of the Greater Chennai Corporation, herein after called the GCC. The GCC on its rolls had over 2778 members spread across different zones.



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4. The members of the petitioner union work in the Medical Department, Road Department and Amma Canteen and other Class IV employment of the various zones of the GCC. Some of these members are permanent employees and others are working as daily wagers working for several years without any break in service.

5. By and large work in the Malaria Department, Road Department and Amma Canteen of the Greater Chennai Corporation has been outsourced to contractors however the work has been performed by the members of the union and the works performed by these workers are perennial in nature and is part of the core duties and responsibilities of the GCC.

6. It is the contention of the petitioner union that though the names of contractors have changed the workers continued to remain the same. The workers of the GCC have been working for several years under the National Urban Livelihood Mission (NULM) scheme from



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the year 2011, continuously in various zones of the GCC.

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7. The petitioner would submit that the contract workers performed the same work as permanent employees of the GCC. However, their wages are less and in fact on many an occasions they have been compelled to do more work by GCC and these workers are compelled to do work under the threat of immediate termination on non renewal of contract. In many department these workers are working seven days working from 6 AM to 8 PM.

8. During the Covid 19 lock down it was these contract workers who were the front line workers who had been handling the delivery of medicines to Covid 19 infected persons, helping to admit the Covid patients etc., Many of them also handled the disposal of the body of the Covid 19 patients. These duties were in addition to their regular duties.

9. It was long standing grievances of the workers that they were



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not paid notified minimum wages. The GCC is also not choosing to implement the notified minimum wages till date. Exercising the powers under Section 31 (1) (b) r/w 5 (2) of the Minimum Wages Act, herein after called the Act, the State had notified revised minimum wages for those employed in local authority. The GCC being a local authority is bound by this notification.

10. The latest revision of minimum wages was done vide GO (2D) MS.No.62 (Labour and Employment (J1) Department dated 11.10.2017 in and by which GO.Ms.No.449 dated 06.06.1977 was superseded. This would clearly indicate that for 40 long years the minimum wages of these workmen under the local authorities have not been revised. As per this GO the minimum wages notified for unskilled workers working for local authorities like corporation was a sum of Rs.500/- per day + DA. Therefore, the total wages payable to unskilled NULM contract workers working in the department of GCC was around Rs.18,000/-. However, for the reasons best known to the authorities the minimum wages have not been implemented.

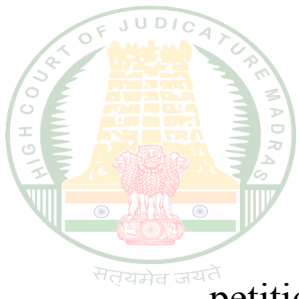


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11. At present the workers in the local authorities are being paid a sum of Rs.424/- per day which works out only to a sum of Rs.12,720/- per month. The petitioner union would submit that the GCC has not implemented the minimum rate of wages whereas the local authorities of Erode, Thiruppur, Thiruvallur, Coimbatore have implemented the notified minimum wages. In fact Coimbatore corporation had passed a Special Resolution in December 2022 to increase the daily wages of the workers to Rs.648/- a day from 01.01.2023 which means that the NULM contract workers of Coimbatore corporation would receive a sum of Rs.19,440/- as a monthly wages, where the worker in the GCC are receiving only a sum of Rs.12,720/- or lesser.

12. This denial of the minimum wages despite its notification and implementation by some of the local authorities is arbitrary and violative of the Act. Therefore, the petitioner has come forward with the present writ petition.



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13. Ms.N.S.Thanvi learned counsel appearing on behalf of the petitioner would contend that though minimum wages have been notified the District Collector, Chennai had issued an order dated 14.07.2021 in ROC.No.C2/16317/2021 stating that they are revising the wages payable per day for different category of employment for year 2021 – 2022 for the Chennai District with effect from 01.04.2021. The said order contain an annexure whereby the wages payable toward each category had been revised.

14. The order of the District Collector further read that daily wages fixed by virtue of her order would not be applicable to workers who are getting minimum wages under the Minimum Wages Act. Earlier a Writ Petition had been filed praying for a direction to the respondents 1 and 2 to pay minimum / scale salary for permanent conservancy / sanitary workers working in Zone 7 unit 20 Division 92 of the GCC. This Court had disposed of the Writ Petition with a direction to the respondents to formulate a comprehensive scheme for bringing the NULM workers employed continuously for considerable



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length of time without any break in a regular scale of pay or wages which is rationale, reasonable and equitable. While formulating the scheme, the respondents were directed to take into account the work extracted from workers and the time scale of pay that has been paid to the regular employees for doing the same work. The appropriate orders for formulating a scheme was directed to be done within 12 weeks and in the interregnum the respondents were directed to pay minimum wages fixed by the Government in respect of conservancy / sanitary workers and on such fixation the respondents were directed to pay the NLUM workers.

15. The learned counsel would submit that thereafter the minimum wages was once again re-worked and by GO.(2D).No.36 dated 16.06.2023 the minimum wages was once again re fixed in respect of the employees under the local authority. She would submit that even this amount has not been paid to all the workers.

16. The learned counsel would submit that from 2019 – 2023 the



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members of the petitioner union has not received wages as per the minimum wages fixed. She therefore prayed that the Writ Petition may be allowed.

17. Per contra, Mr. C.Selvaraj, Additional Government Pleader, appearing on behalf of the 1st respondent would submit that the local authorities were finding it very difficult to pay minimum wages and therefore they had sought to have the minimum rate of wages fixed in 2017 to be revised and ultimately it was revised on 2023. He would therefore submit that the petitioners are not entitled to claim minimum rate of wages as per GO.(2D).No.62 dated 11.10.2017.

18. Heard the learned counsels on the either side and perused the records.

19. The minimum wages Act had been enacted for fixing



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minimum rate of wages in respect of certain employments. The Act binds the appropriate Government to fix the minimum rate of wages payable to employees in certain employment specified in part I and part II of the Schedule and in respect of the employment added to either of the part by notification under Section 27.

20. However, the proviso to Section 3 (a) of the Act gives right to the appropriate Government to fix different minimum rate of wages for a part of the State or for any specified class or classes of such employment in the whole State.

21. Section 3 (b) of the Act further provides that the minimum wages have to be reviewed once in five years.

22. Section 4 defines what is minimum wages and Section 5 gives the procedure for fixing and revising the minimum wages. Section 5 is more relevant for this discussion.

23. Section 5 of the Act reads as follows:



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“(1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act or in revising minimum rates of wages so fixed, the appropriate Government shall either-

(a) appoint as many committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision, as the case may be, or

(b) by notification in the Official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.

(2) After considering the advice of the committee or committees appointed under clause (a) of sub-section (1), or as the case may be, all representations received by it before the date 'Specified in the notification under clause (b) of that sub-section, the appropriate Government shall, by notification in the Official Gazette, fix, or, as the case



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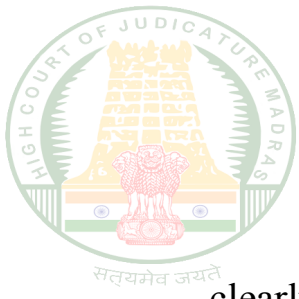


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may be, revise the minimum rates of wages in respect of each schedule employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue:

Provided that where the appropriate Government proposes to revise the -minimum rates of wages by the mode specified in clause (b) of sub-section (1), the appropriate Government shall consult the Advisory Board also.

24. A reading of the above clearly indicates that before minimum rate of wages is fixed there are several procedures prior to that. Committees are appointed who interact with the Stake holders, hold enquiries and ultimately fix the rate. The committee while undertaking this exercise interacts with the workman and management and after collating the demands / misgivings of the parties, proceeds to fix the minimum wages which thereafter would be notified.



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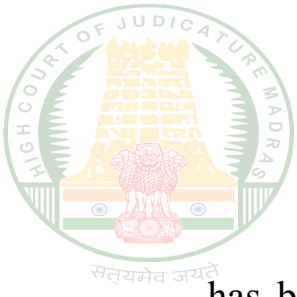
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25. A perusal of the Government Order dated 11.10.2017 would clearly indicate that such an exercise had been undertaken. The order would read as follows:

“The said committee conducted various meetings with the employers and employees and submitted a report to the commissioner of Labour.

2.The Commissioner of Labour in his letter third read above has sent the report of the said Committee along with his recommendations to the Government for the revision of minimum rates of wages for the employment under any local authority”.

26. After receiving the report the Government has examined the same and taken into account the recommendation of the Commissioner of the Labour. The appendix sets out in detail the minimum rate of wages payable toward each workman and the categories of workman which are skilled / semi skilled and unskilled.



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27. The arguments and the records would indicate that this GO has been given effect to in some parts of the state. In fact the local authorities at Coimbatore has enhanced the minimum rate of wages over and above the minimum rate of wages. It is the city of Chennai that is reluctant to adopt the minimum wages. The District Collector has suo motu taken it up to reduce the minimum rate of wages through her proceedings dated 14.07.2021. There is no explanation as to how Government stand on separate footing.

28. Admittedly from the year 2017 the minimum wages had not been paid to the members of the petitioner union. The provisions of the Act makes it very clear that the once minimum wages have been fixed the same has to be disbursed.

29. In fact Section 12 of the Act clearly states that the employer should not pay wages at a rate lesser than the minimum rate of wages



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advised by the notification. The respondents are therefore in violation of these provisions. The non payment of the minimum wages also attracts criminal consequences. There is no explanation as to how the District Collector has chosen to rewrite the minimum wages after the notification dated 11.10.2017. Admittedly the amounts have not been paid. Therefore, the respondent being one limb of the Government is bound to give effect to the notification.

30. Therefore, a mandamus is issued directing the respondents to implement GO (2D) Ms. No.62 (Labour and Employment (J1) Department) dated 11.10.2017 with effect from 11.10.2017 and consequently pay the arrears of pay and other benefits to the NULM workers of the petitioner Union whose names are found in Annexure A to the affidavit.

31. The Writ Petition is allowed with the above directions. Consequently, the connected miscellaneous petition is closed. No



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Index : Yes/No

Internet : Yes/No

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To

1.State of Tamil Nadu

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