



W.P.No.13493 of 2018

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.13493 of 2018

and

W.M.P.No.15889 of 2018

The Management of
M/s.Steel Strips Wheels Ltd.,
A.10, SIPCOT Industrial Growth Centre,
Oragadam, Vallam Village,
Sriperumpudur Taluk,
Kanchipuram District – 602 105,
Rep. by its Chief General Manager (Works) ... Petitioner

Vs.

- 1.The Joint Commissioner of Labour – II,
Authority under the Minimum Wages Act,
DMS Compound, Chennai – 600 006.
- 2.Chennai Yetrumathi Valaga Uzhiyargal
Matrum Pothu Thozhilalar Sangam,
No.15, Kannan Street,
Kadaperi, Tambaram,
Chennai – 600 045.
Rep. by the General Secretary ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the record of the first respondent in MW Case No.3 of 2015, quash the order dated 25.04.2018.



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For Petitioner : Mr.Anand Gopalan
for M/s.Agam Legal Advocates

For Respondents : Labour Court [R1]
Mr.V.Ajoy Khose [R2]

ORDER

This Writ Petition has been filed by the petitioner seeking for issuance of a Writ of Certiorari, to call for the records of the first respondent in MW Case No.3 of 2015 and quash the order dated 25.04.2018.

2. The case of the petitioner is that it is engaged in the business of manufacture of automotive wheels. The 2nd respondent union filed an application under the Minimum Wages Act, 1948 (in short 'the MV Act') along with condone delay petitions before the 1st respondent stating that the wages paid to the workmen of the petitioner factory was much less than what was being prescribed by the Government. The application was filed in September 2014 and the claim related from October onwards. The delay was more than 7 years. The 2nd respondent filed the condone delay petition claiming that the delay was only 1470 days, whereas the

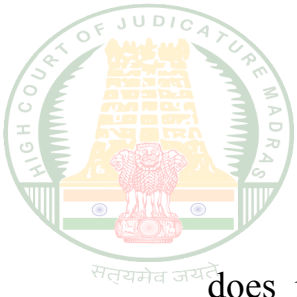


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delay was more than 7 years in certain cases. As per the MV Act, application should be filed within six months and being so, the delay of more than 2400 days was inordinate and therefore, the delay should not be condoned, however the 1st respondent has condoned the delay and taken up the case filed by the 2nd respondent as M.W.No.3 of 2015. Thereafter, the 1st respondent has passed the impugned order dated 25.04.2018 directing the petitioner to pay Rs.79,86,233/- as arrears in minimum wages and Rs.2,39,58,699/- as compensation to the 161 employees as described in the annexure. Challenging the same, the present writ petition has been filed.

3. Learned counsel appearing for the petitioner submitted that the 1st respondent having condone the delay of 1470 days could not have granted any relief for the period beyond 1470 days. The 1st respondent ought to have restricted the relief if at all to 1470 days and could not have granted the relief for nearly 2465 days. Further, he submitted that the 1st respondent failed to appreciate the manufacturing process in the petitioner's factory commenced only on 26.02.2009 and therefore, the question of payment of minimum wages for the period prior to the same



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does not arise. He further submitted that the 1st respondent failed to appreciate that the payment of wages for National and Festival Holidays would arise only when an employee report for work in terms of Tamil Nadu Industrial Establishments (National and Festival holidays) Act, 1958 and no additional wages is payable for weekly holidays, national or festival holidays. Therefore, the order passed by the 1st respondent is erroneous and the same is liable to be set aside. Accordingly, he prays for allowing the writ petition.

4. Learned counsel appearing for the 2nd respondent submitted that as per second proviso to Section 20(2) of the Minimum Wages Act, claim applications can be admitted even after the prescribed period of limitation of six months when the applicant satisfies the Authority that he had sufficient cause for not making the application within such period. Therefore, the labour court has condoned the delay. Further, he submitted that the labour court on analyzing all the materials available before it, allowed the application filed by the 2nd respondent, which is perfectly in order and the same does not require any interference. Accordingly, he prays for dismissal of the writ petition.

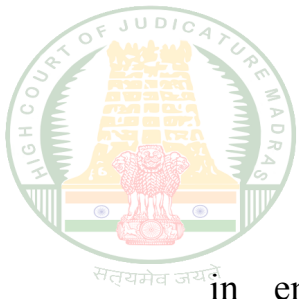


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5. Heard the learned counsel for the parties and also perused the materials available on record.

6. A perusal of the materials available on record reveals that the claim related to the period October 2007 and thereafter, but the petition has been filed only during September 2014 with a delay of almost 2465 days. As per Section 20(2) of the MV Act, an employee ought to make an application within a period of six months from the date on which the minimum wages become payable. However, the petition has been filed after a lapse of seven years, which delay has been condoned. Though the said condonation has not been put in issue, it is the specific case of the petitioner that the delay condonation petition was ordered on 31.03.2015 and the order in the main case has come to be passed on 25.04.2018. Though the petitioner has not questioned the condonation of delay by filing a separate writ petition, however the fact remains that the reason for filing the petition after a lapse of seven years, more particularly, with reference to the findings recorded by the labour court does not go hand in hand. It is the finding of the labour court that all the workmen have been



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in employment of the petitioner even during the year 2007 notwithstanding the fact that the factory was put in operation only in the year 2009, which is evident from the license issued permitting the starting of production from the year 2009. True, it is that the persons would be in employment of the factory even prior to starting of production, but not necessarily all the persons who have claimed minimum wages can claimed to be an employee of the factory with the specific designation which has been given to them. Only on the commencement of production, persons are employed in the various positions in the factory to manage the factory and prior to the starting of production, the construction of the factory will not require the appointment of the persons in the respective designation. Reference had been taken by the labour court to one N.Ramar, who is said to have joined in the year 2007. The designation of the said individual is shown as Senior Operator. When the factory itself was in the construction stage during 2007, the requirement of the said individual has a Senior Operator in the factory does not inspire this Court to endorse the said finding that all the persons who have claimed minimum wages were on the roles of the petitioner in the year 2007.



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7. Coming to the finding relating to trainees being treated as employees/workmen for the purpose of Minimum Wages Act for claiming minimum wages, the labour court has mulcted the responsibility on the petitioner herein to place the contract of employment to prove that the said persons were trainees. It is to be pointed out that the petition was filed on behalf of the workmen by the 2nd respondent union and it is the union which has to prove that they have been employed as workmen and not as trainees and fastening the liability on the petitioner herein, who was the respondent before the labour court, to prove that the employees were trainees is wholly unreasonable. The labour court has further held that there have been infraction of the various provisions of law with regard to employment of trainees as no specific material has been placed by the petitioner herein to show that the permission was obtained for employing the said persons as trainee. When the workmen have not proved the nature of their employment with the petitioner herein and they having not claimed infraction of the provisions of various law with regard to their appointment as trainees, the labour court was not justified in questioning their appointment and granting them the status of a



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workmen contrary to the claim of the petitioner herein that they were trainees in the absence of any specific materials placed by the said workmen to prove their employment. Therefore, the said finding also does not merit acceptance.

8. The last of the grounds which prevailed upon the labour court to grant the benefit of minimum wages was by placing reliance upon the fact that dearness allowance was not granted separately and therefore, wages paid to the workmen cannot be said to be the minimum wages as directed by the Government. To appreciate the aforesaid finding, it is relevant to advert to Section 2(h) of the Act, wherein wages has been defined as under :-

“wages” means all remunerations, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment and includes house-rent allowance, but does not include-

(i) The value of-

(a) Any house-accommodation, supply of light, water, medical attendance, or



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- (b) Any other amenity of any service excluded by general or special order of the appropriate Government;*
- (ii) Any contribution paid by the employer to any Pension Fund or Provident Fund or under any scheme of social insurance;*
- (iii) Any travelling allowance or the value of any travelling concession;*
- (iv) Any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or*
- (v) Any gratuity payable on discharge;*

9. From the above definition of wages, it is clear that all remunerations which are capable of being expressed in terms of money on the basis of express or implied contract of employment are fulfilled and payable to a person in employment and it includes house-rent allowance. However, the exclusion have also been provided. From the above definition, it is evident that house-rent allowance and other allowances are part of the term 'wages'. The labour court has held that no separate dearness allowance has been granted to the workmen as could be evident from the payslips which have been submitted as documentary



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evidence and therefore, the wages paid cannot part take the minimum wages as defined under the Act. As per the definition of wages extracted above, all remunerations which are capable of being expressed in terms of money would fall under the term of wages. There is no specific mandate under the Act specifying as to what are all the allowances that would fall within the term 'wages', which are to be paid to a workman. Section 4(1) of the Act only prescribes that the allowances should be paid on the basis of Cost of Living Index and the wages so paid should be equal to or higher than the minimum wages fixed by the Government.

10. It is the specific case of the petitioner that apart from basic wages, certain other allowances are being paid to the workmen, like uniform allowances, special allowances, etc. and on a whole, the total wages paid to the workmen is over and above the minimum wages fixed by the Government. The workmen have not disputed the said fact. The only ground is that no dearness allowances has been paid and therefore, the wages paid are not equivalent to the minimum wages notified by the Government. When there is no specific mandate under the Act to the employer to pay minimum wages, if the employer is paying its workmen

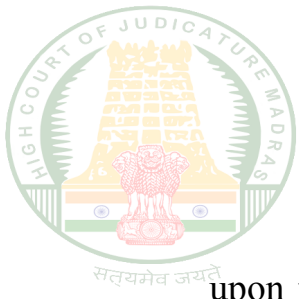


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allowances under various other heads apart from basis pay, exclusion of dearness allowances in the wages alone cannot be taken to mean that the minimum wages is not being paid to a workman. Had the employer broken the other wages and granted dearness allowances separately and arrived at the minimum wages, it would have been in better harmony insofar as the workmen are concerned. But, not paying any allowances under the head dearness allowances alone would not mean that the minimum wages as notified by the Government had not been paid.

11. A decision of this Court in W.P.Nos.16970 & 16971 of 2008 (*The Management of Baily Hydropwer Pvt. Ltd., Vs. The Deputy Commissioner of Labour & Anr.*) dated 10.12.2008, has been relied upon by the labour court to render a finding that non-payment of dearness allowances would only be held that the minimum wages has not been paid. However, a careful perusal of the said decision reveals that this Court in the said decision has merely held that the split up figure of the various amount paid under the head other allowances has not been clearly spelt out and that dearness allowances is linked with the Cost of Living Index and it is not shown to have been paid and this has prevailed

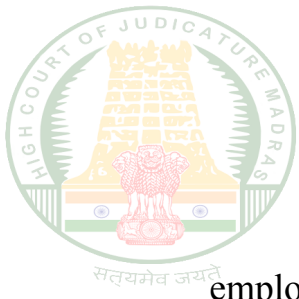


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upon this Court, the labour court, to render a finding that the minimum wages had not been paid. However, in the case on hand, the plea of various allowances were paid to the workmen have been shown in the payslips which have been marked as evidence and merely because dearness allowances does not form part of the wage structure cannot be taken to mean that minimum wages had not been paid. On a careful consideration of the materials and in the light of the reasoning aforesaid, this Court is of the view that the finding with regard to dearness allowances not having held to be paid would only be construed as minimum wages not paid is grossly erroneous and unreasonable.

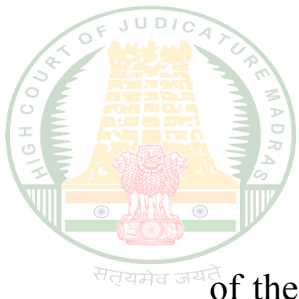
12. The other finding relating to non-payment of wages for weekly holidays, national and festival holidays has been arrived at by the labour court on the basis that no documents relating to such payment has been filed by the petitioner/employer, the labour court has held that the wage slip does not disclose any separate payment for the said holidays and it only shows the minimum wages to a workman for the month and on the aforesaid reasoning, the labour court has held that no separate payment has been paid for the said holidays and for the said holidays, the



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employer is bound to pay wages. However, the said finding is patently erroneous for the simple reason that no material has been filed by the employees to claim that they have worked during the said holidays, for which they are entitled for additional pay. During national holidays, weekly holidays and festival holidays, only if the employees discharge additional work, they would be entitled for additional wages and not otherwise. In the present case, there is no material on the part of workmen to show that they have worked during national holidays, festival holidays/weekly holidays. In the absence of any material to substantiate that the workmen have discharged additional work during the said holiday period, there arises no necessity for the employer to compensate the workmen as generally, the wages given to the workmen is for the entire month and additional wages would be entitled for a workman only if he does additional work. The workmen without proving that they have discharged additional work, they cannot claim that they have not been paid any additional wages on the basis of the wage slip and an erroneous interpretation has been arrived at by the labour court holding that no additional wages have been paid for the said leave period, for which the workmen have discharged duties. The said finding



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of the labour court is not based on any proper reasoning or material, but only on surmises and conjecture and therefore, the said finding also does not deserve to be affirmed.

13. For the reasons aforesaid, the impugned order dated 25.04.2018 passed by the 1st respondent in M.W. Case No.3 of 2015 is erroneous, unsustainable and unreasonable and accordingly, the same is set aside and this Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

03.04.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

To

The Joint Commissioner of Labour – II,
Authority under the Minimum Wages Act,
DMS Compound, Chennai – 600 006.



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M.DHANDAPANI, J.

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