IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-07-2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

WP No. 21314 of 2023
AND
WMP NO. 20713 OF 2023,WMP NO. 36498 OF 2023

1. The Management
Copral Energy Private Limited Rep.
By Its Managing Director
S.R. Jeyaprakash No. 12, Sipcot -2,
Industrial Complex, Hosur -635 109,
Krishnagiri District.

Petitioner(s)

Vs

1. The Joint Commissioner Of Labour
SALEM

2.R. Yuvaraj
S/o. Rajappa, Represented By Its
General Secretary, Hosur Copral
Thozhilalar Sangam, 3/758 Bharathi
Nagar, 8th Street, Arasanadi, Sipcot,
Hosur, Krishnagiri District.

3.V. Nanjappa
S/o. Vengadappa Represented By Its
General Secretary, Hosur Copral
Thozhilalar Sangam, 3/758 Bharathi
Nagar, 8th Street, Arasanadi, Sipcot,
Hosur, Krishnagiri District.

4.R. Navichandran
S/o. Ramaswamy, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

5.K.C. Sivakumar
S/o. Krishnappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

6.S. Krishnan
S/o. Soodappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

7.N. Nagesh
S/o. Narayanappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

8.A.M. Nagaraj
S/o. Madhappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

9.K. Chikkaiah
S/o. Kenjappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot,

Hosur, Krishnagiri District.

10.N. Mahadevanna
S/o. Nanjundappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

11.R. Prakash
S/o. Rajendran, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

12.M. Mallesh
S/o. Muniappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

13.N. Srinath
S/o. Narayanappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

14.V. Ramesh
S/o. Vengadaramanappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

15.P. Jayaraman
S/o. Periyapaiyan, Represented By Its

General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

16.C. Arjunan
S/o. Chinnasamy, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

17.C. China Pappa
W/o. Chinnasamy, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

18.S. Prakash
S/o. Sabangiramaiya, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

19.K. Venkatesh
S/o. Kondappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

20.J. Mohan
S/o. Jeyaraman, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

21.V. Manohar
S/o. Vengadesappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

22.Y. Venkatesh
S/o. Yellappan, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

23.N. Kesavamoorthy
S/o. Nagappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

24.B. Manjunath
S/o. Basavaraj, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

25.K. Rajappa
S/o. Krisnappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

26.E. Varalakshmi
W/o. Ravi , Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot,

Hosur, Krishnagiri District.

27.M. Lakshmipathi
S/o. Muniappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

28.V. Nagaraj
S/o. Vengadappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

29.S. Ramamoorthy
S/o. Seenappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

30.C. Kalaimani
S/o. Chinnakuppan, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

31.A. Kesavamoorthy
S/o. Anganappalliyappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

32.K. M. Muniraj
S/o. Muthappan, Represented By Its

General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

33.N. Devaraj
S/o. Naramappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

34.N. Hamshaveni
W/o. Velmurugan, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

35.V. Gopal
S/o. Venkatesh, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

36.M. Nagesh
S/o. Madhanagiriappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

37.D. Prakash
S/o. Dass, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

38.M. Pachaippan
S/o. Murugan, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

39.K. Thimmarayappa
S/o. Kondappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

40.A. Gangappa
S/o. Appaiyappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

41.C. Muralikumar
S/o. Senneerappa. Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

42.M. Krishnan
S/o. Muniraj, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

43.N. Prabhu
S/o. Narasiman, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi

Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

44.A. Srinivas
S/o. Akanapalliyappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

45.M.K. Lokesh
S/o. Krishnappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

46.R. Munisamy
S/o. Rajagopal. Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

47.C. Arputharaj
S/o. Chinnappan, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

48.S. Munikrishnappa
S/o. Soorappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

49.N. Bairaraju
S/o. Nanjappa, Represented By Its

General Secretary, Hosur Copral
Thozhilalar Sangam, 3/758 Bharathi
Nagar, 8th Street, Arasanadi, Sipcot,
Hosur, Krishnagiri District.

50.S. Suresh
S/o. Chithappa , Represented By Its
General Secretary, Hosur Copral
Thozhilalar Sangam, 3/758 Bharathi
Nagar, 8th Street, Arasanadi, Sipcot,
Hosur, Krishnagiri District.

51.K. Jagadeesh
S/o. Krishnan, Represented By Its
General Secretary, Hosur Copral
Thozhilalar Sangam, 3/758 Bharathi
Nagar, 8th Street, Arasanadi, Sipcot,
Hosur, Krishnagiri District.

52.V. Suseela
W/o. Vengadesh, Represented By Its
General Secretary, Hosur Copral
Thozhilalar Sangam, 3/758 Bharathi
Nagar, 8th Street, Arasanadi, Sipcot,
Hosur, Krishnagiri District.

53.M. Rajesh Kumar
S/o. Margandan. Represented By Its
General Secretary, Hosur Copral
Thozhilalar Sangam, 3/758 Bharathi
Nagar, 8th Street, Arasanadi, Sipcot,
Hosur, Krishnagiri District.

54.M.N. Manjunath
S/o. Narayanappa, Represented By Its
General Secretary, Hosur Copral
Thozhilalar Sangam, 3/758 Bharathi
Nagar, 8th Street, Arasanadi, Sipcot,
Hosur, Krishnagiri District.

55.R. Ramachandran
S/o. Raji, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

56.N. Manjunath
S/o. Narayanappa, Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

57.V. Alamelu
W/o. Viswanathan. Represented By Its General Secretary, Hosur Copral Thozhilalar Sangam, 3/758 Bharathi Nagar, 8th Street, Arasanadi, Sipcot, Hosur, Krishnagiri District.

Respondent(s)

WP No. 21314 of 2023

PRAYER : Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, calling for the records of the 1st Respondent in M.W.Case No. 34/2022 and quash its order dated 21.04.2023.

WMP No. 20713 of 2023

PRAYER

To grant interim stay of the order of the 1st Respondent dated 21.04.2023 in M.W.Case No. 34/2022 during the pendency of the writ petition.

WMP No. 36498 of 2023

PRAYER

To vacate the interim stay granted on 19.07.2023 in WMP.No. 20713 of 2023 in WP.No. 21314 of 2023.

WP No. 21314 of 2023
and
WMP No. 20713 and 36498 of 2023

For Petitioner(s): Mr.S.Ravindran, Senior Counsel for Mr.S.Bazeerahamed

For Respondent(s): Mr.L.S.M.Hasan Fizal Additional Government Pleader for R1
Mr.K.M.Ramesh, Senior Counsel for Mr.V.Subramani for for R2 to R57

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent in M.W.Case.No.34 of 2022 dated 21.04.2023, and to quash the same.

2. The respondents 2 to 57 herein have filed an application through their Union before the first respondent under the Minimum Wages Act as per the GO passed by the Government through G.O.No.67(2D) 13.11.2017. The said application was allowed. Aggrieved by the said order, the present writ petition has been filed.

3. According to the respondents 2 to 57, as per GO, for the years 2021, 2022 and 2023, the petitioner management have not paid the minimum wages. Therefore, they have approached the authorities under the Minimum

Wages Act. According to the petitioner, they paid the wages more than the amount fixed by the Government in GO and for the year 2020 and 2021, they paid a sum of Rs.13,414/-, for the year 2021-2022, paid a sum of Rs.13,992/- and for the year 2022-2023 paid a sum of Rs.14,346/-. Therefore, they are not liable to pay any amount. However, the authorities under the payment of Minimum Wages Act, directed the petitioner to pay the minimum amount as per GO, i.e., minimum basic, dearness allowance and other allowances cannot be taken into account to fix the minimum wages.

4. The learned senior counsel appearing for the petitioner submits that the petitioner factory is engaged in manufacturing of Copper and Aluminium Conductors (Wires and Strips). The workmen of the petitioner Management are paid reasonable wages which has been mostly the minimum rates of wages fixed for employment in General Engineering and Fabrication Industry. The workmen of the petitioner are paid component of wages, split as basic, dearness allowance, house rent and other allowances.

5. As per Section 2(h) of the Minimum Wages Act, 1948, 2"(h) "wages" means all remunerations capable of being expressed in terms of money, which would, if the terms of contract of employment, express or implied were fulfilled, be payable to a person employed in respect of the employment or of work done in such employment and includes house rent allowances,

but does not include house-accommodation, supply of light, water and medical attendance; any contribution paid by the employer to any pension Fund or Provident Fund or under scheme of social insurance; any travelling allowance; defray special expenses entitled on him by the nature of the employment; any gratuity payable on discharge.

6. Section 3 of Minimum Payment of Minimum Wages Act enables the appropriate Government to fix minimum rate of wages payable to employees employed in an employment as specified in Part-I or Part-II of the Schedule. The Government of Tamilnadu normally fixes minimum rate of wages consisting of basic pay and variable dearness allowances within an inbuilt mechanism for upward revision of dearness allowances on every April of the year. During September 2022, the respondents 2 to 57 filed applications before the first respondent claiming that they were paid less than the minimum wages fixed for the employment in General Engineering and Fabrication Industry as the emoluments paid by the petitioner as basic pay and dearness allowances should alone be considered for compliance of minimum wages notification by excluding the payment of house rent and other allowances.

7. On the side of respondents 2 to 57, 38th respondent M.Pachaiyappan was examined as P.W.1 and marked exhibits Ex.P.1 to Ex.P.4 through him and

his salary was paid for the month of December 2022 for sum of Rs.14,346/-.

8. As per GO 67 (2D) dated 13.11.2017, the minimum basic wages was fixed separately and the dearness allowance was fixed separately under GO, as Rs.7,708/-. The group of respondents 2 to 57 also have not claimed any wages till 2022 and there is no dispute that they paid more than the basic pay and dearness allowance as fixed by the Government through notification under Rates of Minimum Wages.

9. As per GO, for the period 2020-2021 prescribed minimum wages is Rs.12,859/- whereas the management paid Rs.13414/- for the year 2021-2022 as per GO minimum wages is Rs.13,363/- but the management paid Rs.13,992/- for the period 2022-2023 as per GO minimum wages is fixed Rs.14,346/- , the management paid Rs.14,346/- Therefore, the management paid the wages not less than the minimum wages prescribed in the GO.

10. While so, the first respondent authority under the minimum wages act held that though the petitioner has paid total pay package wages which was not less than the minimum rate of wages fixed under the notification, still it could not be argued the basic pay and dearness allowances, as per notification was not payable by the management and also held that the petitioner has paid wages which was less than the wages prescribed under the Minimum Wages Act and that therefore it should be pay the difference in

emoluments as mentioned in the tabular column.

11. The first respondent reckoned only component of wages paid as basic pay, dearness allowances and house rent allowance, leaving wages paid as other allowances. Thus, the first respondent erroneously determined that the petitioner should pay Rs.22,20,252/- as difference in minimum wages for the period from April 2021 to May 2023. Therefore, the finding of the first respondent that the petitioner was paying wages less than the wages prescribed under the Minimum Wages Act is absolutely perverse and without any application of mind. Therefore, the basis for the calculation sheet mentioned in the impugned order is not correct and the order passed by the authority under the payment of minimum wages act the first respondent is liable to be quashed.

12. The learned counsel appearing for the first respondent submits that the respondents 2 to 57 are working under the petitioner establishment and as per the GO passed by the appropriate Government, fixed the minimum wages for the years 2020, 2021 and 2022, but the petitioner has not paid the minimum basic pay and dearness allowances. Therefore, the Authority the first respondent who is competent person under the Payment of Minimum Wages Act directed the petitioner to pay the difference amount and the order passed by the authorities in order.

13. The learned senior counsel appearing for the respondents 2 to 57 would submit that the respondents 2 to 57 are working under the petitioner management and they have not been paid the Minimum Wages Act as fixed by the Government under the Minimum Wages Act. As per the order passed by the Government the petitioner has to pay the minimum basic pay and minimum dearness allowance, but not paid the minimum wages, basic pay and dearness allowance as fixed by the Govt. Therefore, the respondents 2 to 57 approached the first respondent and he passed the impugned order. As per the Government order, the petitioner has to pay the minimum basic pay and minimum dearness allowance as fixed by the Government, but the basic pay and dearness allowance fixed for the year 2020, 2021 and 2022 are less than the amount fixed by the Government. Though the petitioner paid total amount not less than the total minimum wages fixed by the Government, the respondents are entitled to minimum basic pay and dearness allowance as fixed by the Government on each head separately. Therefore the order passed by the first respondent, is in order

14. This Court heard both sides and perused the records.

15. In this case, there is no dispute in respect of the relationship between the parties and also admitted fact that in total, the respondents 2 to 57 are receiving the gross amount more than the minimum wages amount prescribed

by the Minimum Wages act.

16. According to the respondents 2 to 57, the basic pay and dearness allowance both have to be paid not less than the minimum amount fixed by the authorities. According to the petitioner, there is no need to pay under each head in total, they have to pay the amount not less than the Minimum Wages Act. Therefore, now the question would arise whether the minimum wages fixed by the appropriate Government under the heads of basic and dearness allowance have to be paid separately not less than the amount fixed by the authorities. At this juncture, it is relevant to refer the Section 2(h) of Minimum Wages Act, which reads as follows:

> *" (h) "wages" means all remunerations capable of being expressed in terms of money, which would, if the terms of contract of employment, express or implied were fulfilled, be payable to a person employed in respect of the employment or of work done in such employment [and includes house rent allowances], but does not include:-*
>
> *(i) the value of*
>
> *(a) any house-accommodation, supply of light, water and medical attendance; or*
>
> *(b) any other amenity or 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;

(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"

17. A bare reading of the above said definition, it is clear that the wages include all remunerations, capable of being expressed in terms of money, which would, if the terms of contract of an employment, express or implied were fulfilled, be payable to a person employed in respect of employment or of work done in such employment and includes house rent allowance but does not include house-accommodation, supply of light, water medical attendance, any contribution paid by the employer to any Pension Fund or Provident Fund or under any scheme of social insurance, traveling allowances and any gratuity payable on discharge.

18. In the case on hand, it is an admitted fact that for the particular period by including BASIC + DA, HRA and other allowances, the total amount would come to more than the minimum wages prescribed by the appropriate Government. The respondents are also not denied the above said

payment made by the employer. Their only contention is that the allowances paid in other heads cannot be included and the minimum basic pay and minimum dearness allowance have to be paid on each heads separately.

19. At this juncture, it is relevant to refer the judgment of the Hon'ble Supreme Court in (1999) 6 SCC 567 rendered in ***Airfreight LTD., Vs. State of Karnataka and others*** wherein the Hon'ble Supreme Court in Paragraph No.20. The relevant portion of the said Judgment is extracted here under:

> *"20. As stated above minimum wage must provide not merely for the bare subsistence of life but for the preservation of the efficiency of worker and so it must also provide for some measure of education, medical requirements and amenities of himself and his family. While fixing the minimum wages, the capacity of the employer to pay is treated as irrelevant and the Act contemplates that rates of minimum wage should be fixed in scheduled industries with a dual object of providing sustenance and maintenance for the worker and his family and preserving his efficiency as a worker. So it is required to take into consideration the cost of bare subsistence of life and preservation of efficiency of the workers and for some measure of education, medical requirements and amenities. This cost is likely to vary depending upon the cost prevailing in the market of various*

items. If there are inflationary conditions prevailing in the country, then minimum wages fixed at a particular point of time would not serve the purpose. Therefore, Section 4 contemplates that minimum wages fixed at a particular point of time should be revised from time to time. Section 4 postulates that minimum wage fixed or revised by the appropriate Government under Section 3 may consist of basic rates of wages and special allowance at a rate to be adjusted at such intervals in such manner as the appropriate Government may direct to accord as nearly as practicable with a variation in the cost of living index number applicable to such workers; alternatively, it permits the fixation of basic rate of wages with or without the cost of living allowance and the cash value of the concessions in respect of supplies of essentials commodities at concessional rates where so authorized; or in the alternative, it permits an all inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of concessions, if any. The purpose of Section 4 is to see that minimum wage can be linked with increase in cost of living so that increase in cost of living can be neutralised or all inclusive rates of minimum wage can be fixed. But, from the aforesaid Sections 3 and 4, it is apparent that what is fixed is total remuneration which should be paid *to the employees covered by the Schedule and not for payment of costs of different components which are taken into consideration for fixation of minimum rates of wages. It is thus clear that the concept of minimum wages does not taken in the factor of the prevailing cost of essential commodities whenever such minimum wage is to be fixed. The idea of fixing such wage in the light of the cost of living at a particular juncture of time and of neutralising the rising prices of essential commodities by linking up scales of minimum wages with the cost of living index is providing for in Section 4 but VDA is part and parcel of wages. Once rates of minimum wages are prescribed under the Act, whether as all-inclusive under Section 4(1) (iii) or by combining basic plus dearness allowance under Section4(1)(i), are not amenable to split up. It is one pay package. Neither the scheme nor any provision of the Act provides that the rates of minimum wages are to be split up on the basis of the cost of each of the necessities taken into consideration for fixing the same. Hence in cases where the employer is paying a total sum which is higher than the minimum rate of wages fixed under the Act including the cost of living index (VDA), he is not required to pay VDA separately. However, those higher wages should be calculated as defined in Section 2(h) of the Act. Section 2(h)* *specifically provides that the value of the following items is not required to be computed for finding out whether the employer pays minimum wages as prescribed under the Act:*

(i) the value of any house, accommodation, supply of light, water, medical care, or any other amenity or any service excluded by general or special order of the appropriate Government;

(ii) 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 any person employed to defray special expenses curtailed on him by the nature of his employment; or

(v) any gratuities payable on discharge.

20. It is also relevant to refer the judgment of the Hon'ble Division Bench of this High Court, rendered in ***Madras Port Trust (by Chairman) and Claims Authority (under Minimum Wages Act)*** reported in 1956 1 LLJ, 490-496 wherein the Division Bench of this Court held as follows:

" …….. To test the scope of S.4(1) and that of a

notification issued under S.5(2) the learned Advocate-General invited us to consider a hypothetical case with reference to the public motor transport, for which the Madras Government, as the appropriate Government, has issued a notification prescribing the minimum rates of basic wages and cost of living allowance to the several classes of employees in the public motor transport. Drivers, for instance, have to get a basic wage of Rs.40 a month. The appropriate minimum cost of living allowance for an employee paid Rs.40 a month. The appropriate minimum cost of living allowance for an employee paid Rs.40/- a month is Rs.21. Suppose an employer in the public transport industry paid his driver a monthly wage of pay Rs.75, could it be claimed that Rs.75/- should be treated as the basic wage, the difference between the minimum basic wage and the wage actually paid ignored, and the driver should be paid in addition the prescribed minimum cost of living allowance of Rs.21? That would fundamentally alter the wage structure, as pointed out by the learned Advocate-General. Similarly, if a driver was paid Rs.50 a month as basic wage and Rs.15 a month as dearness allowance, could it be claimed that the difference between Rs.50/-

and Rs.40/- in the basic wage should be ignored, and the difference between the dearness allowance of Rs.15 actually paid and the minimum prescribed cost of living allowance or dearness allowance of Rs.21 alone should be taken into account and ordered to be paid. It should be remembered that the notification issued with reference to the public motor transport industry applies to all employers and all employees in that industry. That the notification dated 21 November 1951, with which we are now concerned, related only to one employer and his employees cannot obviously enlarge the statutory power conferred upon the Government by the relevant provisions of the Minimum Wages Act.

As we pointed out, it was never disputed that the rate at which total wages were paid to each of the employees in the relevant period, 8 January 1954 to 8 July 1954, was not less than the rate of minimum wages prescribed by the notification dated 12 November 1951. Therefore , nothing further was due to any of the employees for that period. The statutory authority was therefore wrong in eliminating every other factor to direct that the difference between Rs.40 and Rs.15 should be paid to each of the employees as dearness

> *allowance. It was not a case of a mere erroneous decision; it was an error apparent on the face of the record, when the statutory authority held that the difference between Rs.40 and Rs.15 was payable to each of the employees.*

The rule is made absolute. The petition is allowed. There need, however, be no order as to costs".

21. A careful perusal of the above said judgements, it is clear that the total wages paid to the employees have to be taken into account to meet the requirement of minimum wages Act and each and every head cannot be tested and the total amount has to be taken into account for calculating the minimum wages under the Act. Once rates of minimum wages are prescribed whereas as all inclusive under Section 4(i)(ii) of the Act or by combining whether basic plus dearness allowances under Section 4(1) (i) of the Act, are not amenable to split up. It is one pay package. Where the employees are being paid a total sum which is higher than the minimum rates of wages fixed under the Act including the costs of living index is not required to pay each and every head minimum wages. When the employer is paying a total sum which is higher than the minimum rate of wages fixed under the Act including the costs of living index, he is not required to pay VDA separately, however those higher

wages should be calculated as defined under Section 2(h) of the Act. Therefore in the case in hand also it is admitted fact that the total wages paid by the petitioner to the respondents are higher than the minimum wages as fixed by the Government in total and in consonance with Section 2(h) of the Act.. Therefore, the minimum wages cannot be split up, but, the authority under the Minimum Wages Act failed to consider the same and erroneously held that the basic pay and dearness Allowance fixed by the appropriate Government as minimum wages have to be paid on each heads and other allowances cannot be included. Therefore, the above said order passed by the first respondent is not in accordance with law and it is liable to be quashed.

22. In the result, the Writ Petition is allowed. No costs. The order passed by the first respondent in M.W.Case.No.34 of 2022 dated 21.04.2023 is quashed and the petition filed by the respondents 2 to 57 before the first respondent in M.W.Case No.34 of 2022 dated 21.04.2023 is dismissed. Consequently, the connected miscellaneous petitions are closed.

28.07.2025

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case: Yes/No

Vv

To

1. The Joint Commissioner of Labour
   SALEM
2. The Section Officer, V.R.Section, High Court, Madras.

P.DHANABAL, J.

Vv

W.P No.21314 of 2023

28.07.2025