



WEB COPY



W.P.No.26260 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **24.07.2025**

CORAM

THE HONOURABLE MR.JUSTICE **P.DHANABAL**

**W.P.No.26260 of 2022**

**and**

**WMP.No.25343 of 2022**

Kalyanapuram Panchayat,  
represented by the Special Officer/President of Panchayat,  
Melacheri Post,  
Chetpet Taluk,  
Thiruvannamalai District. .... Petitioner

Vs

S.Elumalai .... Respondent

**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, to call for the records pertaining to C.P.No.46 of 2019 dated 21.10.2020 on the file of the Presiding Officer, Principal Labour Court, Vellore and quash the same.

For Petitioner : Mr.B.Vijay

For Respondent :Mr.Balan Haridos



W.P.No.26260 of 2022

WEB COPY

**ORDER**

This writ petition has been preferred as against the award passed by the Principal Labour Court, Vellore in C.P.No.46 of 2019 dated 21.10.2020, wherein the respondent herein filed a computation petition before the Labor Court to compute the amount and to direct the respondent to pay a sum of Rs.1,69,581/- to the workman towards the arrears of minimum wages.

2. The Labor Court allowed the above said Claim Petition. The Labour court further directed the writ petitioner-Panchayat, to pay the difference of wages to the petitioner as under:-

(A) by fixing workman's monthly basic wages at Rs.8,000/- as on 11.10.2017

(B) along with the prescribed dearness allowances for the relevant period and

(C) after deducting the pay actually paid to him at Rs.2750/- per month from 11.01.2017 till October 2018

(D) and at Rs.4690/- per month from November 2018 till march



W.P.No.26260 of 2022

2019;

**WEB COPY** (E) and subsequent payment of Rs.81,000 made by the respondent has to be deducted.

(F) Failing which, the amount will carry the 9% interest.

Aggrieved by the said order the present writ petition has been filed.

3. The learned counsel for the writ petitioner would submit that the respondent-workman was appointed as overhead tank operator in the Kalyanapuram Panchayat on 05.01.1998. The workman raised an Industrial Dispute in I.D.No.208 of 1999 on the file of Labour Court, Vellore, challenging the denial of employment to him. The Labour Court passed award by directing the Panchayat to reinstate the respondent into service with back wages as on 6. 12.1991. The petitioner Panchayat reinstated the respondent into service on 11.02.2002. The petitioner-Panchayat has revised the pay scale in terms of G.O.Ms.No.303 Labour and Employment (J1) Department dated 11.10.2017. The respondent-workman has been receiving the monthly wages from the Panchayat in term of G.O as stated supra.



W.P.No.26260 of 2022

WEB COPY

3.1. The Block Development Officer, Peranamallur, has also issued consequential proceedings dated 29.06.2018 in Na.Ka.No.3/3647/2017, whereby, the respondent-workman's salary had been revised with effect from 01.10.2017 for a sum of Rs.4690/- per month from November 2018 onwards. While so, the respondent-workman has filed a claim petition towards arrears of minimum wages. The workman also claimed the minimum wages as per G.O.(2D).No.62 dated 11.10.2017. He is claiming that he is a semi skilled worker and falls under Grade II category and entitled to be fixed with basic wage of Rs.8,000/- and Dearness Allowances of Rs.4023/- totalling to Rs.12,023/-. Even in the claim petition, he pleaded that he is entitled to monthly salary of Rs.9623/- per month from 11.10.2017 till March 2019 and sought for arrears of minimum wages to the tune of Rs.1,69,582/- as per G.O.No.62.

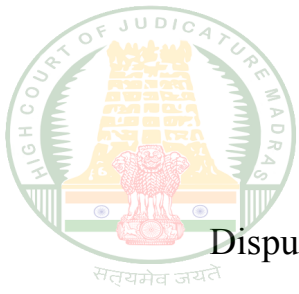
3.2. According to the learned counsel for the petitioner, actually, the respondent-workman is entitled to wages as per G.O.303 dated 11.10.2017. But the Labour Court, without considering the same allowed the claim petition and directed the petitioner-Panchayat to fix monthly wages of Rs.8000/- as per the G.O.303, which inter alia



W.P.No.26260 of 2022

prescribed salary for the overhead tank operator appointed in the Village Panchayat. The scale of pay for the skilled and semi skilled workers employed in the village Panchayat has been prescribed by the Government in the above said G.O. And accordingly the District Collector, Tiruvannamalai by proceedings dated 08.05.2019, has issued direction to the Block Development Officer for revision of pay scale for the overhead tank operators appointed in the village Panchayat. The village Panchayat has revised the salary from 2500/- to 4690/- per month from November 2018 and the same was suppressed by the respondent in the claim petition.

3.3. The learned counsel for the petitioner further contended that G.O.No.62 dated 11.10.2017 does not apply to an overhead tank operator appointed in the village Panchayat and the said workman were covered under the G.O.303. Therefore, the order passed by the Labour Court is liable to be quashed. The workman has to file petition under the Minimum Wages Act and not under the section 33(C)(2) of the Act. Therefore, there is a dispute in respect of the applicability of G.O and the same is to be adjudicated by the Labour Court by raising Industrial



W.P.No.26260 of 2022

Dispute and not through the claim petition. Therefore, the impugned order passed by the Labour Court is liable to be quashed.

3.4. The learned counsel for the petitioner, to support his contentions, placed reliance on the following judgements:

*1.Bombay Chemical Industries Vs.Deputy Labour Commissioner and Another reported in (2022) 5 SCC 629.*

*2.State of U.P and another Vs.Brijpal Singh reported in (2005) 8 SCC 58.*

*3.Municipal corporation of Delhi Vs.Ganesh Razak and another reported in (1995) 1 SCC 235.*

*4.Commissioner, Thirukkazhukundram Panchayat Union and Authority appointed under Minimum Wages Act and others reported in 2003 (2) LLN 708.*

*5.K.G.Seshadri Vs.Presiding Officer, Central Government Industrial Tribunal Cum Labour Court and others reported in 2019 SCC online Mad 30093:(2020) 3 LLJ 379.*

*6.Sumati V.Andrekar and others Vs.Tolbro International and others reported in 1980 SCC online Bom 318: (1980) 40 FLR 369 (BOM)*

*7. Nathan's Press Vs.K.Krishnan and others made in W.P.No.6557 of 1980 dated 21.01.1987.*

*8. The Commissioner, Minjur Panchayat Union Minjur and*



W.P.No.26260 of 2022

*another Vs.The Presiding Officer, II Additional Labour Court, Chennai made in W.P.Nos.9797 to 9799 of 2011 dated 08.09.2023.*

*9. The Management of Khilari Medical System Vs.The Presiding Officer, III Additional Labour Court, Chennai and others made in W.P.No.10507 of 2014 dated 08.09.2023.*

4. The learned counsel for the respondent-workman would submit that the respondent was employed by the petitioner-Panchayat since 05.01.1998 on a monthly salary of Rs.150/-. Thereafter, due to denial of employment, he raised an industrial dispute before the Labour Court Vellore. After trial, award was passed on 06.12.1999. Thereafter, the respondent was reinstated and the Panchayat paid wage to the tune of Rs.400/- per month. On 11.10.2017, the Government issued G.O.No.62 to the Panchayats to pay minimum wages from 11.10.2017 till March 2019. Based on the same, the respondent filed claim petition. The petitioner Government relied upon the G.O.Ms.303 dated 11.10.2017.

4.1. Before the Labour Court, on the side of the workman, PW1 was examined and Ex.P1 to P5 were marked. On the side of the Panchayat, the Secretary of the Panchayat was examined as RW1 and marked Ex.R1 and R2. The Labour Court, after considering the materials,



W.P.No.26260 of 2022

passed the award directing the petitioner to pay Rs.8000/- and to pay the minimum wages as per G.O.No.62. The petitioner-Panchayat did not raise any issue of maintainability before the Labour Court since the dispute in respect of applicability of the G.O and the same cannot be adjudicated by the Labour Court and the Labour Court can compute the claim amount.

4.2. As far as maintainability of petition under section 33(C)(2) of ID Act is concerned, the workmen has to choose either remedy under section 33(C)(2) of the ID Act or under Section 20 of the Minimum Wages Act. Therefore, the choice is of the workman. Therefore, the claim petition filed before the Labour court is maintainable. As far as the order of the Block Development Officer dated 29.06.2018 and the order of District Collector dated 8.2.2018 are concerned, the same are passed by the authorities without basis and the same are void in terms of Section 25 of Minimum Wages Act. The petitioner-Panchayat failed to file or produce G.O.No.303 before the Labour Court. The overhead tank operator being semiskilled grade II category, such workman are entitled to minimum wages per month as has been mentioned in G.O.No.62.



W.P.No.26260 of 2022

Therefore, the Labour Court has rightly applied the G.O and directed to pay the amount.

4.3. The learned counsel for the respondent-workman relied on the following judgements:-

*1.Ambika Tobacco Company, Gondia Vs.Labour Court Nagpur and others made in Special Civil Application No.110 of 1966 dated 17.03.1967.*

*2.The Central Bank of India Ltd Vs.S.Rajagopalan etc. reported in AIR 1964 SCC 743.*

*3.Anoop Sharma Vs.Executive Engineer Public Health Division No.1 Panipat reported in (2010)5 SCC 497.*

*4.Syed Yakoob Vs.K.S.Radhakrishnan and others reported in 1963 SCC online Sc 24 : (1964) 5 SCR 64: AIR 1964 SC 477.*

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

6. In this case, the writ petitioner-Panchayat relied upon G.O.MS.303 dated 11.10.2017; whereas, the respondents relied upon G.O.2D.No.62 dated 11.10.2017. Therefore, the Court has to decide which G.O. is applicable to the respondent-workman. As far as the G.O.No.303 is concerned, the same has not been produced before the



W.P.No.26260 of 2022

Labour Court. Thereby there is no occasion to the Labour Court to consider the said G.O. Whereas the respondent-workman has produced G.O.No.62 dated 11.10.2017. Therefore, there is a dispute in respect of applicability of G.Os. Since the petitioner-Panchayat failed to produce G.O.No.303 before the Labour Court, the Labour Court was not in a position to analyze the G.Os.

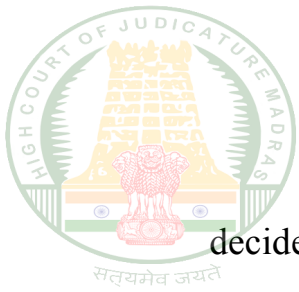
7. The main dispute is in respect of the minimum wages. The Government already fixed the minimum wages for certain departments. In G.O.No.303, the Government has fixed the salary to overhead tank operators and also passed G.O in respect of revision of pay. Based on the same, the Collector issued proceedings to the Block Development Officer and thereafter BDO issued the proceedings dated 29.06.2018. According to the workman, the overhead tank operators are covered under the G.O.MS.62 which fixed the minimum wages for the employment under any local authority on village Panchayat, Panchayat unions and District Panchayat. In respect of semi skilled grade II, it was fixed as Rs.8,000/- per month. The overhead tank operators comes under the grade II semiskilled.



W.P.No.26260 of 2022

**WEB COPY** 8. At this juncture, the learned counsel for the petitioner-Panchayat relied upon judgment of this Court in the case of *Commissioner, Thirukkazhukundram Panchayat Union vs. Authority for Minimum wages Act and others*, wherein this Court held that part time panchayat overhead tank pump operators, who are not pump drivers, cannot maintain application for payment of minimum wages based on the notification, wherein, Notification in G.O.Ms.No.449, dated 6.06.1997 was challenged.

9. In the case on hand also, the respondent-workman relied upon G.O.No.62 i.e., in respect of overhead tank operators, but the Writ petitioner relied the G.O. No.303 and the Inspector of Panchayat revised the wages for the workman as per G.O.. As per the Section 57(3) of Tamilnadu Panchayats Act, the Inspector of Panchayats is competent to issue directions such as revision of wages etc. Therefore, whether the minimum wages prescribed in G.O.No.62 are applicable to the respondent-workman or they are covered by proceedings under the Black development officer, Inspector of Panchayats is the main question to be



W.P.No.26260 of 2022

decided.

WEB COPY

10. As far as maintainability of the claim petition under section 33(C) (2) of the Act is concerned, the learned counsel for the petitioner-Panchayat vehemently argued that there is a dispute in respect of the applicability of G.Os and thereby, it has to be adjudicated by the Labour Court and the Labour Court cannot adjudicate the matter under Section 33(C)(2) of the Industrial Disputes Act.

10.1. In support his contentions, learned counsel appearing for the has relied upon on the following judgments:

***1. Bombay Chemical Industries vs. Deputy Labour Commissioner and another reported in (2022) 5 Supreme Court Cases 629.***

***2. State of U.P. and another vs. Brijlal Singh reported in (2005) 8 Supreme Court Cases 58.***

***3. Municipal Corporation of Delhi vs. Ganesh Razak and another reported in (1995) 1 Supreme Court Cases 235.***

***4. K.G. Seshadri vs. Presiding Officer, Central Government Industrial Tribunal cum Labour Court and others reported in 2019 SCC Online Mad 30093.***



W.P.No.26260 of 2022

**5. *Sumati V. Andrekar and others vs. Tolbro International and***

***others reported in 1980 SCC Online Bom 318.***

**6. *The Commissioner, Minjur Panchayat Union and another vs.***

***The Presiding Officer, II Additional Labour Court, Chennai in W.P.***

***Nos.9797 to 9799 of 2011.***

**7. *Nathan's Press and K. Krishnan and others reported in 1988***

***II LLN 95.***

11. On a perusal of the aforesaid judgements, it is clear that the Labour Court has no jurisdiction to adjudicate the dispute in respect of entitlement or basis of claim of workmen, but, can only interpret the award or settlement on which claim is based. Without prior adjudication or recognitions of disputed claims of workmen, proceedings for computation of arrears of wages and or differences of wages claimed by workman is not maintainable and the benefits sought to be enforced under section 33(C)(2) must necessarily be pre-existing benefit or one flowing from pre-existing right.

12. In the case on hand, according to the writ petitioner-Panchayat, G.O pertaining to minimum wages is not applicable to the respondent



W.P.No.26260 of 2022

-workman and the competent authority passed order by revising the pay scale. Therefore, it has to be adjudicated by the competent Authority and through petition under section 33(C)(2) of the Industrial Disputes Act, the Labour Court had adjudicated the case. Therefore, in view of the aforesaid case laws, the Labour Court has no jurisdiction to decide the disputed questions while deciding the case under Section 33(C)(2) of the Industrial Disputes Act.

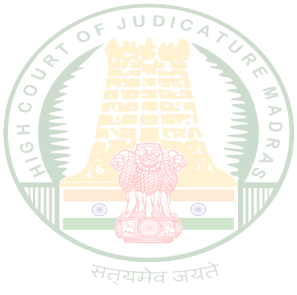
13. The learned counsel appearing for the respondent has also relied the following judgments:-

***1. Syed Yakoob vs. K.S. Radhakrishnan and others reported in 1963 SCC Online SC 24.***

***2. Anoop Sharma vs. Executive Engineer, Public Health Division No.1, Panipat (Haryana) reported in (2010) 5 Supreme Court Cases 497.***

***3. The Central Bank of India Ltd., vs. P.S. Rajagopalan reported in AIR 1964 Supreme Court 743.***

***4. Town Municipal Council, Athani vs. Presiding Officer, Labour Courts, Hubli and others reported in (1969) 1 Supreme Court Cases 873.***



W.P.No.26260 of 2022

**WEB COPY 5. *Ambika Tobacco Company, Gondia vs. Labour Court, Nagpur*  
*and others reported in 1968 MH LJ 10.***

14. As far as the judgments referred by the learned counsel for the respondent-workman are concerned, it is clear that if a petition is filed under section 33(C)(2) of Industrial Disputes Act by the workers against the same employer and the workers claiming the difference between the wages actually paid and the wages payable at the minimum rate of wages fixed under the minimum wages act, the petition filed under section 33(C)(2) of the Industrial Disputes Act is maintainable. The Labour Court has jurisdiction to determine whether the workman has a right to receive benefit or not and can interpret the award or settlement on which the workmen rights is based through the petition filed under Section 33(C)(2) of the Industrial Disputes Act.

15. In the case on hand, there is a dispute about the applicability of the G.Os and each parties referred separate G.Os. Therefore, it has to be adjudicated by the appropriate Forum. Therefore, the order passed by the Labour Court while exercising the jurisdiction under Section 33(C)(2) of the Industrial Disputes Act by directing the writ petitioner to pay



W.P.No.26260 of 2022

minimum wages based on the disputed G.O. is without jurisdiction and the same is liable to be quashed.

16. In the light of the above reasonings, the writ petition is allowed and the order passed by the Labour Court is quashed. However, the respondent Union is at liberty to approach the appropriate Forum in accordance with law in respect of the issue of applicability of Government orders issued in two different orders. The respondent is entitled to the benefit of Section 14 of Limitation Act for the period of pendency of the proceedings. No costs. Consequently, the connected miscellaneous petition is closed.

**24.07.2025**

Index : Yes/No  
Neutral citation : Yes/No  
mpa

To  
The Presiding Officer, Principal Labour Court, Vellore.



WEB COPY



W.P.No.26260 of 2022

**P.DHANABAL,J.**

Mpa

**W.P. No.26260 of 2022**  
**and WMP.No.25343 of 2022**



WEB COPY



W.P.No.26260 of 2022

**24.07.2025**