APHC010078942025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3333]**
(Special Original Jurisdiction)

THURSDAY, THE 29th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

WRIT PETITION NO: 4222/2025

Between:

1. THE STATE BANK OF INDIA, REP. BY ITS ASSISTANT GENERAL MANAGER, TUNI REGIONAL BUSINESS OFFICE (RBO), TUNI TOWN, KAKINADA DIST, A.P
2. THE BRANCH MANAGER,, THE STATE BANK OF INDIA TUNI BRANCH, TUNI, KAKINADA DIST., A.P

...PETITIONER(S)

AND

1. THE AUTHORITY UNDER THE PAYMENT OF WAGES ACT, 1936 AND THE REGIONAL LABOUR COMMISSIONER (C) AT HYDERABAD GOVT, OF INDIA, M/O LABOUR AND EMPLOYMENT, SIVAM ROAD, VIDHYA NAGAR, HYDERABAD. 500 007
2. M/S KARTHIKEYA SECURITY SERVICES, MAMATA TOWERS, FLAT NO. A1 GROUND FLOOR, BESIDES SBI M COLLEGE ROAD, VIJAYAWADA - 520010
3. Y ARJUN, , SAFAI KARMACHARI / SUB-STAFF H.NO. 8-14-23 YETI VODDU STREET, TUNI, KAKINADA DIST. 533401.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased tomay be pleased to issue any writ, order or direction more particularly in the nature of Certiorari calling for the records pertaining to the order dated- 18-12-2024 passed by the Ld. Authority under Payment of

Wages Act, 1936 and The Regional Labour Commissioner (C) at Hyderabad, the Respondent No.l, In Application No. 22/11/2023-El/RLC and set aside the said order on the grounds of jurisdiction, error apparent on the face of record and violation of principles of natural justice and to pass

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to suspend the operation of the impugned order dated: 18-12-2024 passed by the Ld. Authority under Payment of Wages Act, 1936 and The Regional Labour Commissioner (C) at Hyderabad, the Respondent No.l herein, in Application No. 22/11/2023- El/RLC pending disposal of the above writ petition and to pass

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to vacate the interim order dated passed by this Hon'ble Court on 19.02.2025 in WP.No. 4222 of 2025 in the interest of justice and pass

Counsel for the Petitioner(S):

1. T KOTESWARA RAO

Counsel for the Respondent(S):

1. KALEPU YASHWANTH
2.
3. V SANTHISREE

The Court made the following:

ORDER:

The present Writ Petition came to be filed under Article 226 of the Constitution of India seeking the following relief:-

> *"…to issue any writ order or direction more particularly in the nature of Certiorari calling for the records pertaining to the order dated 18.12.2024 passed by the Ld. Authority under Payment of Wages Act, 1936 and The Regional Labour Commissioner (C) at Hyderabad, the Respondent No.1 in Application No.22/11/2023-EI/RLC and set aside the said order on the grounds of jurisdiction, error apparent on the face of record and violation of principles of natural justice…."*

2. The brief facts of the case are as follows:

a) The 3rd respondent was engaged as a Safai Karmachari/Sub-Staff at the State Bank of India, Main Branch, Tuni, through the 2nd respondent-contractor. The 3rd respondent filed Application No.22/11/2023-E1/RLC, dated 17.03.2023, before the 1st respondent, claiming that bonus had not been paid to him for the period from 2016 to 2022. He claimed an amount of Rs.80,680/- towards bonus, along with compensation equivalent to ten times the amount of bonus, contending that the bonus payable to him constituted wages under the relevant labour enactments.

b) The petitioners filed their reply statement dated 01.03.2023, contending that the Payment of Wages Act, 1936 (for short, 'the PW Act') was not applicable to the banking industry in the Central Sector and that bonus

does not fall within the definition of wages under the PW Act and the Minimum Wages Act, 1948.

c) It is further stated that the 2nd respondent-contractor neither appeared nor filed any reply statement before the 1st respondent. Though the petitioners filed an interlocutory application seeking to secure the presence of the contractor and the same was allowed, no effective steps were taken to ensure his appearance. Thereafter, the petitioners filed their written arguments reiterating their objections with regard to the jurisdiction of the Authority, the applicability of the relevant enactments and the delay in raising the claim.

d) However, the 1st respondent, vide impugned order dated 18.12.2024, directed the petitioners-Bank to pay an amount of Rs.80,680/- towards bonus and Rs.14,000/- towards compensation, totalling Rs.94,680/-, after condoning the delay in filing the claim. Aggrieved by the said order, the petitioners have filed the present Writ Petition on the ground that the 1st respondent had no jurisdiction to entertain and decide the claim and that the impugned order was passed contrary to law and in violation of the principles of natural justice.

3. While ordering notice before admission on 19.02.2025, this Court passed the following interim order:

> *".....there shall be an interim suspension of operation of the impugned order dated 18.12.2024 passed by the Ld. Authority under Payment of Wages Act, 1936 and The Regional Labour Commissioner (C) at Hyderabad/Respondent No.1 herein, in*

Application No.22/11/2023-E1/RLC for a period of four (04) weeks."

4. The 2nd respondent, represented by its Managing Partner, filed a counter-affidavit stating that it is a security and manpower services agency and that the petitioners-Bank had engaged its services for providing housekeeping/Safai Karmachari services at their Tuni Branch. Accordingly, the 3rd respondent-workman was engaged by the 2nd respondent and deployed at the Bank premises. It is further stated that the 2nd respondent has complied with all statutory obligations towards the workman. It is contended that the impugned order dated 18.12.2024 does not grant any relief or issue any direction against the 2nd respondent and, therefore, the Writ Petition is liable to be dismissed insofar as the 2nd respondent is concerned. It is also contended that bonus does not fall within the definition of wages under the Payment of Wages Act, 1936, or the Minimum Wages Act, 1948, and that the Authority has no jurisdiction to adjudicate the claim for bonus.

5. The 3rd respondent-workman filed a counter-affidavit along with a vacate stay petition, denying the allegations made by the petitioners and submits that he filed an application claiming bonus at the rate of 8.33% on the minimum wages payable to him for the period from 2016 to 2022. It is contended that the definition of 'wages' under Section 2(h) of the Minimum Wages Act, 1948, is wide enough to include bonus, as bonus is not specifically excluded under the said provision. He further submits that bonus

has to be calculated on the basis of minimum wages and that the petitioners cannot avoid their liability by raising technical objections with regard to the jurisdiction of the Authority. He also contends that the petitioners-Bank, being the main employer, cannot deny the benefits available to the workman under the labour welfare legislation. Therefore, prays to dismiss the writ petition.

6. Heard learned counsel for the petitioners and the learned counsel appearing for respondent No.3.

7. Learned counsel for the petitioners submits that the 1st respondent has no jurisdiction to entertain a claim for payment of bonus under the Payment of Wages Act, 1936, as such a claim is governed by the Payment of Bonus Act, 1965. It is further contended that bonus does not fall within the definition of wages under the PW Act and that any dispute relating to payment of bonus has to be raised in accordance with the procedure contemplated under Section 22 of the Payment of Bonus Act, 1965. Learned counsel also submits that the 1st respondent erred in condoning the delay in filing the claim and failed to secure the presence of the 2nd respondent-contractor, who engaged the workman. Hence, the impugned order is liable to be set aside on the ground of lack of jurisdiction and violation of principles of natural justice.

8. On a perusal of the material available on record, it can be observed that the 3rd respondent-workman raised a claim for payment of bonus for the period from 2016 to 2022 before the 1st respondent under the Payment of

Wages Act, 1936. The main objection raised by the petitioners is that the 1st respondent has no jurisdiction to entertain and adjudicate a claim relating to payment of bonus, as such a dispute is governed by the provisions of the Payment of Bonus Act, 1965.

9. In this regard, it is relevant to refer to Section 22 of the Payment of Bonus Act, 1965, which is extracted hereunder:

> *"**Section 22-Reference of disputes under the Act**:- Where any dispute arises between an employer and his employees with respect to the bonus payable under this Act or with respect to the application of this Act to an establishment in public sector, then such dispute shall be deemed to be an industrial dispute within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), or of any corresponding law relating to investigation and settlement of industrial disputes in force in a State and the provisions of that Act or, as the case may be, such law shall, save as otherwise expressly provided, apply accordingly."*

10. A reading of the above provision makes it clear that any dispute between an employer and its employees with regard to bonus payable under the Payment of Bonus Act, 1965, is deemed to be an industrial dispute and has to be adjudicated in accordance with the provisions of the Industrial Disputes Act, 1947, or the corresponding law in force in the State. Therefore, an independent claim relating to payment of bonus cannot be adjudicated by the Authority under the Payment of Wages Act, 1936.

11. In this regard, learned counsel for the petitioners places reliance on the judgment of the Hon'ble Supreme Court in ***Hamdard (Wakf) Laboratories v. Deputy Labour Commissioner and others***[1], wherein the Hon'ble Supreme Court categorically held that bonus does not fall within the definition of 'wages' under the Payment of Wages Act, 1936. The Hon'ble Supreme Court further held that an independent claim for bonus can be raised as an industrial dispute in terms of Section 22 of the Payment of Bonus Act, 1965, and cannot be pursued by invoking a statutory remedy intended for a different purpose. The relevant observations made by the Hon'ble Supreme Court in paragraphs 21 and 36 to 39 of the said judgment are extracted hereunder:

> *"21.Definition of "wages" within the meaning of the Act does not include "bonus". It, however, includes allowance. The Payment of Bonus Act also excludes bonus for the purpose of calculating the amount of bonus to be determined in terms of Section 10 thereof.*
>
> *29. Bonus may be a deferred wage but the same must be construed in a different context. When used in the context of "back wages" and that too 50% of it, the same would not include back wages. It is expected that had the Labour Court intended to include the same, he would have explicitly said so. Even now, under the Payment of Wages Act, bonus does not come within the purview of wages. The decision was rendered when the Payment of Bonus Act had not been enacted.*
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> *36. When the second application was filed, the same was dehors the award. It was an independent claim. Such an independent claim, thus, on a plain reading of Section 22 of the Payment of Bonus Act could have been raised as an industrial dispute in the light of the decision of this Court in Sanghi Jeevaraj Ghewar Chand (supra). The decision of the Full Bench of the Bombay High Court in Kohinoor Tobacco Products Pvt. Ltd (supra), in our opinion, to that extent is not*

[1] *(2007) 5 SCC 281*

correct. When the statute provides for a remedy in a particular manner, the same cannot be achieved by filing an application which subserves a different purport and object.

37. Such an application was, thus, not maintainable under Section 6-H(1) of the Act which corresponds to Section 33-C(1) of the Industrial Disputes Act. Even the jurisdiction of a Labour Court in terms of Section 33-C(2) of the Industrial Disputes Act would be limited.

38. An application under Section 33-C(1) of the Industrial Disputes Act, 1947 must be for enforcement of a right. If existence of right, thus, is disputed, the provisions may not be held to have any application.

39. The Labour Commissioner in view of the decision of this Court in Muir Mills Co. Ltd (supra) has evidently committed a manifest error in opining that bonus is deferred wages. Once it is excluded from the purview of the term 'wages' under the Act, such a view was impermissible in law, particularly, when the appellant denied and disputed the right of the workmen to claims. Both the learned Single Judge and the Division Bench of the High Court also fell to the same error. The learned Judges even did not address themselves the right questions. They, thus, misdirected themselves in law.

40. We, therefore, are of the opinion that the impugned judgment cannot be sustained which is set aside accordingly. The appeal is allowed. No costs."

12. In the present case, the 3rd respondent claimed bonus for the period from 2016 to 2022 at the rate of 8.33% on the minimum wages payable to him. However, merely because the bonus is calculated on the basis of minimum wages, it cannot be treated as wages under the Payment of Wages Act, 1936. The claim is for payment of bonus and not for unpaid wages.

Therefore, the 3rd respondent has to pursue his claim before the appropriate forum in accordance with the provisions of the Payment of Bonus Act, 1965.

13. The contention of the 3rd respondent that bonus is not excluded from the definition of wages under Section 2(h) of the Minimum Wages Act, 1948, cannot be accepted. The claim made by the 3rd respondent is before the 1st respondent under the Payment of Wages Act, 1936. Therefore, the definition of wages under the Minimum Wages Act cannot be relied upon to give the 1st respondent the power to decide a claim for bonus under the Payment of Wages Act. Similarly, even if the petitioners-Bank is the main employer and is responsible for providing labour welfare benefits to the workman, that fact alone does not give the 1st respondent the power to decide a claim for bonus under the Payment of Wages Act, 1936.

14. In view of the above discussion and having regard to the law laid down by the Hon'ble Supreme Court in *Hamdard (Wakf) Laboratories* (supra), this Court holds that the claim made by the 3rd respondent towards bonus cannot be adjudicated by the 1st respondent under the Payment of Wages Act, 1936. The 1st respondent, therefore, exceeded its jurisdiction in entertaining and allowing the claim and directing the petitioners-Bank to pay Rs.80,680/- towards bonus and Rs.14,000/- towards compensation. Therefore, the impugned order dated 18.12.2024 is contrary to law and is liable to be set aside.

15. Accordingly, the Writ Petition is allowed, setting aside the order dated 18.12.2024 passed by the 1st respondent in Application No.22/11/2023-E1/RLC. However, the 3rd respondent-workman is at liberty to approach the competent forum in accordance with Section 22 of the Payment of Bonus Act, 1965, to raise his claim. There shall be no order as to costs.

Consequently, all pending miscellaneous applications, if any, shall stand closed.

JUSTICE V.SUJATHA

Dated: 29.10.2026
KGR/GCD