

(2010) 10 MAD CK 0111

In the Madras High Court

Case No : Writ Petition (MD) No. 962 of 2007 in M.P. (MD) No. 1 of 2007

A. Victor

APPELLANT

Vs

Bharat Heavy Electrical Limited

RESPONDENT

Date of Decision : 05-10-2010

Acts Referred:

Tamil Nadu Contract Labour (Regulation and Abolition) Rules, 1975 — Rule 25

Citation : (2010) 10 MAD CK 0111

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : R. Govindaraj, for the Appellant; K. Jayaraman, for Respondents R2 and R3 and I. Anaiyappar, for Respondent-4, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—Admittedly, the petitioner is working as a contract labour and his service has been lent by the 4th respondent Labour

Contractor's Society, Trichy.

2. In the present writ petition, he seeks to implement the circular dated 28.07.2005, before the true employer, wherein the wages for the persons,

who were engaged contract labour, were revised in the various establishments of BHEL, as directed by the Headquarters. It is the contention of

the petitioner that equal pay for equal work will apply and persons doing similar work must get same wages.

3. Notice of motion was ordered on 06.02.2007. On notice from this Court, the 3rd respondent has filed a counter affidavit dated 20.08.2007,

disputing the locus-standi of the petitioner from claiming any amount more than what is fixed by the Headquarters. It is also stated that the

petitioner was not directly employed by them and the Circular, which is

impugned, is the internal circular between the Headquarters and the Unit.

In any event, in case where a contract workman is paid less than the wages payable to a similarly placed workman by the principal employer the

act itself is provided for a remedy under Rule 25(v)a of the Tamil Nadu Contract Labour Rules, 1975. In such circumstances, it is for the

registering authority to go into the question as to whether the workmen employed by the contractor performed the same or similar kind of work, as

the workman directly employed by the principal employer. It is necessary to extract Rule 25(v)(a)(b) of the said Rules, which reads as follows:

(v)(a) in cases where the workmen employed by the contractor perform the same or similar kind of work as the workmen directly employed by

the principal employer of the establishment, the rates of wages, holidays, the hours of work and other conditions of service of the workmen of the

contractor shall be the same as applicable to the workmen directly employed by the principal employer of the establishment. In case of any

disagreement with regard to the same or similar kind of work, the same shall be decided by the Registering Officer having jurisdiction over the

area. Any person aggrieved by the decision of the Registering Officer may prefer an appeal to the Commissioner of Labour within thirty days from

the date of receipt of such decision and his decision shall be final.

(b) in other cases [the rates of wages, holidays, the hours of work] and conditions of service of the workmen of the contractor shall be such as

may be specified in this behalf by the Commissioner of Labour.

4. In the light of the same, the present writ petition is clearly not maintainable and hence, the writ petition stands dismissed. The dismissal of the writ

petition will not dis entitle the petitioner from approaching the appropriate forum under law. No costs. Consequently, connected miscellaneous

petition is also dismissed.