

(2021) 06 CHH CK 0038
In the Chhattisgarh High Court
Case No : Writ Petition (227) No. 651 Of 2009

Bhaiya Lal Yadav

APPELLANT

Vs

Sub Divisional Officer

RESPONDENT

Date of Decision : 15-06-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 421, 421(1)
Minimum Wages Act, 1948 — Section 20, 20(1), 20(5)

Citation : (2021) 06 CHH CK 0038

Hon'ble Judges : Rajendra Chandra Singh Samant, J

Bench : Single Bench

Advocate : R.S. Baghel, Gurudev I. Sharan

Final Decision : Allowed

Judgement

1. This petition has been brought being aggrieved by the order dated 8.8.2008 passed by respondent No.3 rejecting the application of the petitioner

filed under Section 421 (1) of CrPC for issuance of direction to respondent No.3 to proceed on the application filed by the petitioner.

2. It is submitted by the counsel for petitioner that the Court of the Authority, Minimum Wages Act, Korba (Annexure-P1) vide order dated 6.11.2007

passed in Claim Case No.25/MW/KRB/2006 has directed the respondent No.1 to make payment of difference of wages to the petitioner within 30

days of that order, along with orders of consequences of non-payment. The petitioner filed the application (Annexure-P2) before the respondent for

compliance of the order Annexure-P1, but the same was not complied with. Therefore, application was filed before respondent No.3 i.e. the Labour

Court, Korba, praying for execution of the order passed on 29.5.2008. Respondent No.3. By the impugned order it has been held that application filed

by the petitioner is of civil nature, therefore, it cannot be registered as a criminal case and on this basis the same was rejected.

3. It is submitted by the learned counsel for petitioner that there is a clear direction under Section 20 (5) of the Minimum Wages Act, 1948 (henceforth

'the Act of 1948'), that any amount directed to be paid under this Section may be recovered as a fine imposed by the Authority as a Magistrate.

Hence, the impugned order is erroneous, illegal and not sustainable. Therefore, the impugned order be set aside and the respondent No.3 be directed

to proceed in accordance with sub-section (5) of Section 20 of the Act of 1948.

4. In reply, it is submitted by the learned counsel for State/respondents, that the respondent No.3 has not committed any error and the impugned order

does not suffer from any infirmity, therefore, the petition is without any substance which may be dismissed.

5. Considered on the submissions.

6. Sub-section 5 of Section 20 of the Minimum Wages Act of 1948 provides as follows:-

'(5) Any amount directed to be paid under this section may be recovered--

(a) if the Authority is a Magistrate, by the Authority as if it were a fine imposed by the Authority as a Magistrate, or

(b) if the Authority is not a Magistrate, by any Magistrate to whom the Authority makes application in this behalf, as if it were a fine imposed by such

Magistrate.'

7. The Court of Authority, Minimum Wages Act, Korba has passed order on 7.11.2007, the operative part of that order reads as under:-

'The non-applicant is directed to pay the applicant employee the difference of Wages, i.e. the amount by which minimum wages (pay scale of

Rs.2550-55-26-60-3200 alongwith payable allowance) payable to him exceed the amount actually paid (what has been paid), within thirty days from

the date of this order. The non-applicant is further directed to pay the employee the amount of compensation within sixty days from the date of this

order under intimation to this Court. Failure to pay the wages and compensation within the stipulated period shall cause the non-applicant to pay

compound interest @ 10% per annum on the amount of unpaid wages or compensation, as the case may be, to the employee till the date of actual

payment.'

8. Section 20 (1) of the Act of 1948 prescribes that the authority, who shall hear on the claims made by the persons concerned regarding payment of

wages less than the minimum rates of wages prescribed. As per this provision, the Labor Commissioner is one of such authorities. Claim case

No.25/MW/KRB/2006 has been decided by the Assistant Labour Commissioner, Korba and the order has been clearly passed in the exercise of

powers vested in him under Section 20 of the Act of 1948. The very opening words of sub-section (5) of Section 20 are these that 'any amount

directed to be paid under Section may be recovered by the authority in capacity of Magistrate or its own capacity as if it were a fine imposed by the

authority as a Magistrate'. The mode of recovery under Section 20 (5) of the Act, 1948 is not provided. Further, there is no bar on the applicability of

provision of CrPC, therefore, the provisions of CrPC become applicable in such circumstance.

9. Section 421 of CrPC provides that when an offender is sentenced to pay a fine, the Court passing the sentence may take action for recovery of fine

in the manner provided therein. Section 20 (5) of the Act of 1948 empowers the Court or the authority to make recovery of the amount ordered to be

paid under Section 20 of the Act. A fine is recoverable by a criminal Court. The petitioner had simply filed an application before the respondent No.3

praying to invoke its power under Section 20 (5) of Act of 1948, which has been rejected on erroneous consideration that registering a case for

recovery would amount to registering a civil case. The Act itself has empowered the respondent No.3 to take action for recovery of the amount

ordered in the manner as mentioned herein before, therefore, the respondent No.3 has clearly committed an error in rejecting application filed by the

petitioner.

10. On the basis of discussions made herein-above on facts and law applicable in the present case, I am of this view that this petition deserves to be

allowed, which is allowed. The impugned order passed by respondent No.3 is set aside. Respondent No.3 is directed to consider on the application

filed by the petitioner, for proceeding to make recovery of the amount ordered by the Court of Authority, Minimum Wages Act in accordance with the

provisions under Section 20 (5) of the Act of 1948.