
(1996) 07 AHC CK 0023
In the Allahabad High Court
Case No : C.M.W.P. No. 9328 of 1987

D.C.M. Limited

APPELLANT

Vs

Prescribed Authority (Payment of Wages Act) and Others

RESPONDENT

Date of Decision : 12-07-1996

Acts Referred:

Payment of Wages Act, 1936 — Section 15, 15(2)

Citation : (1996) 74 FLR 2697 : (1997) 1 LLJ 1082 : (1997) 1 UPLBEC 230

Hon'ble Judges : A.B. Srivastava, J

Bench : Single Bench

Advocate : Tarun Agarwala, for the Appellant;

Final Decision : Allowed

Judgement

A.B. Srivastava, J.—By means of this writ petition, the petitioner has sought a declaration that the respondent No. 1 has no jurisdiction to act as the Prescribed Authority under the Payment of Wages Act and for quashing the order dated September 12, 1984 of the Prescribed Authority accepting the claims of the respondent Nos. 4 to 29 to be within limitation and order dated March 31, 1987 awarding a total sum of Rs 11,51,150/- to the respondent Nos. 4 to 29. The break up being Rs 1,04,650/- towards payment of deductions made from the wages of these respondents and Rupees 10,46,500/- being compensation at ten times of the said amount. The amount awarded to each of the respondent being Rs. 40,250/-.

2. The respondent Nos. 4 to 29 made application u/s 15 of the Payment of Wages Act, 1936 to the respondent No. 1, the prescribed authority alleging that they are employed in the Daurala Sugar Works, Meerut, a unit of M/s Delhi Cloth and General Mill Ltd as Palledars. Their terms of employment and conditions are governed by the I and II Sugar Wage Board reports. The petitioner employer has not paid the wages of the respondents Nos. 4 to 29 for the period October 1, 1981 as fixed by the II Sugar Wage Board. For the period June 1, 1980 to September 30, 1981 they have been paid less amount of Rs. 100/- per month

besides Rs. 550/- reward and bonus Rs. 1200/- total amount of Rs. 3375/- per respondent. A claim of compensation at the rate of ten times of the amount due was also made. A prayer for condonation of delay in filing the claim was also made.

3. The petitioner contested the claim of the respondents alleging that they are not its employees rather they are labourers of the contractor, who used to provide their services to the petitioner Mill in terms of the contract. Being employees of the contractor, it is the contractor, and not the petitioner, who is liable to pay salary and other dues to the respondents, no deduction from the wages has been made and the claim is not maintainable before the prescribed authority under the Payment of Wages Act.

4. Before the prescribed authority both the parties led the oral and documentary evidence holding that the respondent Nos. 4 to 29 are employees of the petitioner and further finding that they are entitled to the wages from October 1981, difference of wages from June 1, 1981 to September 30, 1981 at the rate of Rs. 100/- per month, reward at Rs. 550/- per annum and bonus at the rate of Rs. 1200/- per annum which has been illegally deducted from their wages. The prescribed authority awarded the amount of wages and compensation amounting to Rs. 11,51,150/- as stated above. Aggrieved, the petitioner has come up before this Hon''ble Court.

5. The main contention on behalf of the petitioner upon which the impugned orders of the prescribed authority have been assailed is that the claim laid by the respondents was not cognizable by the prescribed authority u/s 15 of the Payment of Wages Act, in so far as the grant of claim involved adjudication as to whether or not the respondents were employees of the petitioner. The scope of Section 15 does not envisage an enquiry into a contentious question of existence of relationship of employer and employee between the parties, such matter being within the jurisdiction of a Labour Court under the provisions of Industrial Disputes Act. Factually also it is contended that the findings and the conclusions of the prescribed authority are bad in view of overwhelming evidence indicating that the respondents were employees of a contractor who under the terms of the contract was responsible to provide the services of Palledars to the petitioner's Mill and was employer of the respondents, directly responsible for making payment of wages to them.

6. On behalf of contesting respondents, on the other hand, it is contended that it is not each and every disputed question relating to status of an employee, or the terms of employment, which is beyond the jurisdiction of the prescribed authority u/s 15 of the Payment of Wages Act. In the instant case it is contended that the prescribed authority had jurisdiction to determine such question and has rightly held the respondents to be employees of the petitioner. The amounts claimed, it is contended, is the amount deducted by the employer from the wages due to the respondents, as such their claim has rightly been accepted with compensation equivalent to ten times of the same.

7. A perusal of the provisions of Section 15 of the Payment of Wages Act would go to show that it confers jurisdiction on the prescribed authority to hear and decide the claims arising out of deduction from wages or delay in payment of wages, including all matters incidental to such claims. In its very nature exercise of jurisdiction u/s 15 envisages the existence of relationship of employer and employees between the parties and consequent entitlement to the wages claimed as having been deducted from the same, or delayed payment thereof by the employer.

8. Law in this regard has been categorically laid down by the Supreme Court in *Payment of Wages Inspector Vs. Surajmal Mehta and Another*, . While interpreting the scope of the proceedings u/s 15 of the Payment of Wages Act, the Supreme Court has laid down that when in an application u/s 15(2) claiming compensation u/s 25FF of the Industrial Disputes Act, the defence taken by the ex-employer was that he was not the person responsible for payment of compensation and that the right of workman was defeated by reason of provision to Section 25FF being applicable, in view of the limited jurisdiction of the authority u/s 15(2) of the Payment of Wages Act, it was not intended to deal with such questions, which in some case might raise complicated problems of both facts and law. What has been observed as a principle in the matter of claim u/s 25FF before the authority under the Payment of Wages Act, is equally applicable to a case where claim is based on deduction of wages. Supreme Court further observed in the above noted authority that where a right of workman was disputed by his employer, the Labour Court can go into the question as to whether he had a right to receive such a benefit.

9. Further the Supreme Court observed that it is true that the authority has jurisdiction to try the matters which are incidental to the claim in question. It is also true, while deciding that a particular matter is incidental to the claim or not, care will be taken neither to unduly extend, nor curtail, the jurisdiction of the authority, but it is at the same time to be kept in mind that the jurisdiction u/s 15 is a special jurisdiction.

10. In *Shri Ambica Mills Co. Ltd. Vs. S.B. Bhatt and Another*, cited by the respondents also no different view has been expressed. It has been observed therein that if claim is made by an employee on the ground of alleged illegal deduction or alleged delay in payment of wages, several relevant facts would fall to be considered; is applicant an employee of the opponent? And that refers to the subsistence of relation between employer and employee. If the said fact is admitted, then question would be what are the terms of an employment? Is there any contract of employment in writing or is the contract oral. If it is not a point of dispute between the parties, then it would be necessary to enquire into what are the terms of the contract. The Supreme Court however, in the said did not lay down any principle at variance with the law laid down in *Payment of Wages Inspector Vs. Surajmal Mehta and Another*, and proceeded further in the matter because relationship of employer and employee was not in dispute.

11. In the instant case as already stated above, there is a serious dispute between the parties as to whether the respondents are employees of the petitioner or of the contractor. The prescribed authority, the respondent No. 1 has decided the question of existence of relationship of employer and employee in the affirmative in favour of respondents by referring to the evidence led before him, but since it was not merely an incidental question rather went to the very root of the matter, and required in-depth enquiry and consideration of questions of law and facts, the same could not be decided in summary proceedings u/s 15 of the Payment of Wages Act, rather could validly be a subject of reference to a Labour Court under the provisions of the Industrial Dispute Act, such court possessing wider powers for deciding the contentious question of the nature raised in this case.

12. In this view of the matter, the impugned order of the prescribed authority being without jurisdiction is unsustainable and deserves to be quashed.

13. The writ petition is accordingly allowed. The impugned orders of the described authority are set aside. It shall however, be open to the respondent Nos. 4 to 29 to seek reference of their claim to the competent Labour Court under the provisions of Industrial Disputes Act. The interim order as modified on July 17, 1987 is hereby recalled. There shall be no order as to costs.