
(2001) 10 P&H CK 0036

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 15791 of 1999

Divisional Forest Officer

APPELLANT

Vs

Assistant Labour Commissioner-cum-Authority under
Minimum Wages Act, 1948 and Others

RESPONDENT

Date of Decision : 04-10-2001

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Minimum Wages Act, 1948 — Section 20(3)

Citation : (2001) 10 P&H CK 0036

Hon'ble Judges : S.S. Nijjar, J

Bench : Single Bench

Advocate : Gopal Mahajan, for the Appellant; Dinesh Kumar and H.S. Sran, DAG, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Nijjar, J.—This Writ Petition under Articles 226/227 of the Constitution of India seeks the issuance of writ in the nature of Certiorari quashing the order dated 17.7.1998 passed by Assistant Labour Commissioner-cum-Authority under Minimum Wages Act, 1948 (hereinafter referred to as "the Act").

2. By this order, the petitioner-Management (Divisional Forest Officer, Forest Division) has been directed to make payment of Rs. 31,829.04 alongwith compensation amount i.e. Rs. 31,829.04. This amount represents the actual wages which falls short of the minimum wages as fixed by notifications dated 19.10.1995, 22.7.1996, 6.8.1997 and 25.1.1997. A number of workmen who are members of respondent No. 2-Union, namely, Forest Labour Union, Ropar have been working on daily wages in different ranges i.e. Kharar range etc. under the Forest Division Ropar. It is the practice of the Forest Department that daily wagers are employed during rainy seasons in Forest/Nursery subject to availability of work. These workers are not issued any appointment letter. They are paid the wages fixed by the Deputy Commissioner from time to time for

actual number of days they work. It is not disputed even by the respondent No. 2 that the work is of seasonal nature. It is also not disputed that the wages have to be paid in accordance with the rates fixed by the Deputy Commissioner under the Act. It appears that there was some delay in the receipt of the notification from the Office of the Deputy Commissioner by the Forest Department. Therefore, the wages have been paid to the workmen, without taking into consideration the rates fixed in the notification mentioned above. The workmen, therefore, made an application before the Assistant Labour Commissioner under Section 20(3) of the Act for fixation of the minimum wages and for an order directing the Forest Department to make the payment. Notices of this application were issued to the Department. None appeared before the Assistant Labour Commissioner. Therefore, ex parte proceedings were ordered.

3. At this stage, it may be noticed that on the last date of hearing of this case i.e. on 4.7.2001, it was brought to the notice of this Court by the learned counsel for the petitioner that perhaps there has been some tampering in the judicial record. It was stated that the petitioner had got a photostat copy of the order dated 2.1.1998 wherein file next date was fixed on 2.11.1998. Subsequently, however, by making interpolation in the aforesaid order, the date was changed to 2.2.1998. Taking these to be serious allegations, this Court on 4.8.2001 impleaded the Assistant Labour Commissioner S.S. Pandher as respondent No. 3. Notice was also directed to be issued to him for 20.8.2001. However, no further action can be taken on the basis of the aforesaid averments as unfortunately, the aforesaid Officer has passed away in the meantime. Thus, the writ petition is decided on merits.

4. A perusal of the award shows that the respondent-workman had made a number of representations for payment of wages in accordance with the notifications issued by the Deputy Commissioner under the Act. These notifications have been endorsed by the Deputy Commissioner on the basis of the notification issued by the Assistant Labour Commissioner, the notified authority under the Act. The representations made by the respondent-workmen are dated 12.3.1996, 15.9.1996, and 24.10.1996 and the Punjab Government notifications are dated 30.10.1996 and 28.7.1997. The Assistant Labour Commissioner has fixed the wages on the basis of the rates mentioned in the aforesaid notifications. Learned counsel for the petitioner submitted that the payment of the minimum wages could only be made on the receipt of the notification. Since there was delay in the receipt of the notification, the petitioner cannot be held responsible for not making the payment in accordance with the notification. The learned counsel may be right in stating that initially, the workmen had been paid the wages in accordance with the directions available. However, once it was brought to the notice of the petitioner that the workmen were entitled to increased rates on the basis of the notification issued by the Punjab Government, the petitioner was duty bound to pay the increased wages. This is precisely what has been ordered by the impugned award.

5. In view of the above, I do not find any error apparent on the face of the award to justify interfering with the same "white exercising writ jurisdiction under Articles 226/227 of the Constitution of India. Hence this writ petition is dismissed. No costs. Let the workmen to be paid in accordance with the award within a period of two weeks of the receipt of a copy of this order.

6. Petition dismissed.