
(1964) 03 MP CK 0009
In the Madhya Pradesh High Court

Fajale Hussain

APPELLANT

Vs

Authority under Payment of Wages Act

RESPONDENT

Date of Decision : 25-03-1964

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F, 25FFF
Payment of Wages Act, 1936 — Section 2(vi)(d)

Citation : (1965) ILR (MP) 893 : (1965) JLJ 609 : (1966) 1 LLJ 361

Hon'ble Judges : P.V. Dixit, C.J.;K.L. Pandey, J

Bench : Division Bench

Judgement

P.V. Dixit, C.J.—This is an application under Article 226 of the Constitution for the issue of writs of certiorari for quashing the orders made by the authority for Ujjain constituted under the Payment of Wages Act, 1936, on 11 April 1960, directing the petitioners to pay certain workers of K.S. Nazarali Mills, Ujjain, compensation u/s 25FPF of the Industrial Disputes Act. The orders of the Payment of Wages Authority, which were made on the applications filed by the Payment of Wages Inspector u/s 5 of the Payment of Wages Act, 1936, were upheld in appeal to the Fourth Additional District Judge of Ujjain. The petitioners pray that the decisions of the Additional District Judge, Ujjain, affirming the orders of the Payment of Wages Authority be also quashed by the issue of writs of certiorari.

2. The petitioners contested the claims made by the Payment of Wages Inspector inter alia on the ground that the authority had no jurisdiction to determine whether the petitioners were liable to pay any compensation to the employees of the mills u/s 25FFF of the Industrial Disputes Act, 1947. This objection was overruled by the authority. It was repeated in appeals which the petitioners filed before the learned Additional District Judge, Ujjain. He too overruled the objection relying on the decision of this Court in Ramcharan Tiwari Vs. Dist. Judge and Others, . The learned Additional District Judge also observed that even if a remedy was provided by Section 33C(2) of the 1947 Act for determination of compensation payable to a workman u/s 25FFF of that Act, that did not preclude

the Payment of Wages Inspector from resorting to the alternative remedy provided by Section 15 of the Payment of Wages Act, 1936, for determination of the compensation and for an order with regard to the recovery.

3. This petition was heard along with Surajmal Mehta Vs. Authority under Payment of Wages Act and Another, , in which a writ of certiorari was sought for quashing an order of the authority for Ujjain under the Payment of Wages Act holding that it had jurisdiction to entertain and decide an application made by the Payment of Wages Inspector u/s 15 of the Payment of Wages Act for a direction to the petitioner in that case for payment of compensation u/s 25FF of the Industrial Disputes Act. That petition has been allowed by us today taking the view that compensation payable to a workman u/s 25FF of the 1947 Act is payable to him by virtue of the provisions of Section 25FF and by the fiction created by that provision and not by reason of termination of services as such and that therefore the sum payable to a workman u/s 25FF of the 1947 Act does not fall within the definition of "wages" as given in Section 2(vi)(d) of the Payment of Wages Act. In Miscellaneous Petition No. 31 of 1963 1965 1 L.L.J. 274 we have also expressed the view that the industrial Disputes Act is a special Act dealing with investigation and settlement of industrial disputes and matters provided by various provisions of that Act; that the Payment of Wages Act is also a special Act regulating the payment of wages to certain class of persons employed in any industry and its main purpose is to determine the claims of workers arising out of deductions from their wages or delay in the payment of their wages; and that both these Acts being special Acts, Sections 2(vi)(d) and 15 of the Payment of Wages Act cannot be construed so as to curtail the operation of Section 33C(2) of the Industrial Disputes Act. We have also pointed out that the questions which have to be decided for determining whether in a particular case 3. 25FF is attracted cannot be regarded as in any way incidental to the question which the authority u/s 15 of the Payment of Wages Act is competent to decide, namely, whether there has been a delay in the payment of compensation. We ruled in Miscellaneous Petition No. 31 of 1963 1965 1 L.L.J. 274 (vide supra) that a claim for compensation can be decided by the labour, court only u/s 33C (2) of the Industrial Disputes Act.

4. The reasoning given in Surajmal Mehta Vs. Authority under Payment of Wages Act and Another, equally applies in the determination of the question whether the authority under the Payment of Wages Act can adjudicate upon a claim falling u/s 25FFF of the 1947 Act. So far as the jurisdiction of the labour court to adjudicate upon a claim u/s 25FFF of the Industrial Disputes Act and the exclusion of the jurisdiction of the authority under the Payment of Wages Act is concerned, there is no material difference between the provisions of Sections 25FF and 25FFF of the Industrial Disputes Act. The compensation payable to a workman u/s 25FFF of the 1947 Act is also by virtue of the statutory provisions contained in that section and by the fiction created by it and not by reason of the termination of services as such of the workmen. Section 25FFF nowhere speaks of the termination of services of an employee. It says that on the closure of an

undertaking the workman shall be entitled to notice and compensation in the circumstances and conditions mentioned in that section and "in accordance with the provisions of Section 25F, as if the workmen had been retrenched." The compensation payable to a workman u/s 25FFF does not, therefore, fall within the definition of " wages " given in Section 2(vi)(d) of the Payment of Wages Act. If this amount of compensation is not " wages," then clearly the authority under the Payment of Wages Act has no jurisdiction to adjudicate on any claim u/s 25FFF of the Industrial Disputes Act.

5. For these reasons, and for the reasons given in our order passed today in Surajmal Mehta Vs. Authority under Payment of Wages Act and Another, this petition is allowed and the orders passed by the Payment of Wages Authority on 11 April 1960 in the seven applications filed by the Payment of Wages Inspector u/s 15 of the Payment of Wages Act are quashed. The decisions in the appeals preferred against those orders before the Additional District Judge, Ujjain, are also quashed. In the circumstances of the case, we leave the parties to bear their own costs of this petition. The outstanding amount of security deposit shall be refunded to the petitioners.