(2016) 09 KAR CK 0049

In the Karnataka High Court

Case No : Writ Petition Nos. 43384 to 43428 of 2016 (L-MW)

Federation of Karnataka APPELLANT

Vs

Government of Karnataka RESPONDENT

Date of Decision : 06-09-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Minimum Wages Act, 1948 — Section 5

Citation : (2017) 1 CLR 1061 : (2017) 152 FLR 875 : (2017) 1 KantLJ 57

Hon'ble Judges : Raghvendra S. Chauhan, J.

Bench : Single Bench

Advocate : Sri D. Aswathappa, Additional Government Advocate, for the Respondents; Sri S. Santhosh Narayan, Advocate, for the Petitioner

Final Decision : Dismissed

Judgement

Raghvendra S. Chauhan, J. - The petitioners have challenged the legality of the notification dated 4-8-2015 issued by the Government of Karnataka, whereby the Government has prescribed the minimum wages for the workers and staff officers who are working in the Agarbathi Industries in the State of Karnataka.

2. The brief facts of the case are the that minimum wages for the workers of the Agarbathi Industries was prescribed by notification dated 2-3-2009. Ever since 2009, the minimum wages were not revised. Therefore, considering the fact that minimum wages need not be revised periodically, by order dated 17-5-2014, the State Government constituted a sub-committee in order to review the minimum wages applicable to the workers of the Agarbathi Industries. Subsequently, the Additional Labour Commissioner, who is also the Secretary of the Karnataka State Minimum Wage Advisory Board, issued notices with regard to holding of the committee meetings in order to hear the views of the stakeholders. Consequently, the representatives of the employers, the representatives of various trade unions, and independent members held several rounds of discussions with regard to the proportionality of increase in the minimum wages.

3. The petitioners also submitted representations, dated 19-9-2014 and 11-11-2014, wherein they highlighted the difficulties faced by them, if there were increase in the wages of the workmen. According to the petitioners, they agreed to increase the minimum wages to a certain limit. Thereupon, the committee made its recommendations. According to the recommendations, the committee advised the Government to increase the minimum wages for the post of Supervisor, Lab Technician and Lab Assistant as Rs. 7,900/-, Rs. 7,600/- and Rs. 7,400/- per month respectively. However, notwithstanding the recommendations of the committee, by notification dated 4-8-2015, the State Government has increased the recommendations of the committee by Rs. 1,000/- in the cases of Supervisor, Lab Technician and Lab Assistant, and similarly, increased the minimum wages by Rs. 1,000/- from the recommendations of the committee for Office Staff and Driver. Hence, these petitions before this Court.

4. Mr. S. Santhosh Narayan, the learned Counsel for the petitioners, at the outset, submits the that petitioners are aggrieved only by increase in the minimum wages in the category of Supervisor, Lab Technician and Lab Assistant, and for increase of the minimum wages of Office Staff and Driver. They are not aggrieved by the minimum wages prescribed for the Agarbathi Grinders, Agarbathi Packers, Packets, Pouches and Bundle Packing. Therefore, their challenge is limited only to the categories specified above.

Secondly, according to Section 5 of the Minimum Wages Act, 1948 (for short, ''the Act''), the State is bound by the advice tendered by the committee, and especially so, when the advice was passed upon the understanding reached between the stakeholders and the committee.

Thirdly, no reason has been assigned by the Government for disagreeing with the recommendations of the committee, and for increasing the minimum wages by Rs. 1,000/- from the recommendations of the committee.

Fourthly, according to Section 5(2) of the Act, the notification prescribing the minimum wages shall come into effect on the expiry of three months from the date of its issuance. However, the impugned notification comes into effect retrospectively from 1-4-2016. Therefore, the notification deserves to be set aside.

5. Heard the learned Counsel for the petitioner, and perused the impugned notification.

6. Section 5 of the Act is an under:

"5. Procedure for fixing and revising minimum wages. -

(1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act or in revising minimum rates of wages so fixed, the appropriate Government shall either.-

(a) appoint as many committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision, as the case may be; or

(b) by notification in the Official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.

(2) After considering the advice of the committee or committees appointed under clause (a) of sub-section (1), or as the case may be, all representations received by it before the date specified in the notification under clause (b) of that sub-section, the appropriate Government shall, by notification in the Official Gazette, fix, or, as the case may be, revise the minimum rates of wages in respect of each scheduled employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue:

Provided that where the appropriate Government proposes to revise the minimum rates of wages by the mode specified in clause (b) of sub-section (1), the appropriate Government shall consult the Advisory Board also."

7. A bare perusal of the said provision clearly reveals that according the Section 5(l)(a), the State is free to appoint committees and sub-committees in order to hold enquiries and to advice the State in respect of revision or fixation of minimum wages. According to Section 5(2): "After considering the advice of the committee, the State Government shall in the Official Gazette, fix, or, revise the minimum rates of wages in respect of each scheduled employment". Since Section 5(2) of the Act uses the word "considering the advice of the committee", it cannot be held the that advice of the committee is mandatory in nature, and such advice totally binds the discretion of the State Government in revision, or fixation of the wages, Therefore, the contention raised by the learned Counsel that advice of the committee is binding on the State Government is clearly belied by Section 5 of the Act.

8. There is no requirement in law that while establishing an economic policy, the Government is required to give reasons for deviating, or for overlooking the recommendations of the committee. The Government is free to accept, modify, or reject the recommendations of the committee, Therefore, the contention raised by the learned Counsel, that reasons need to be stated in the notification if the State disagrees with the advice tendered by the committee, is clearly untenable.

9. In catena of cases, the Hon''ble Supreme Court has clearly opined that economic policies are prerogative of the Government. While the High Courts, under its writ jurisdiction, may examine "the legality" of economic policy, but they are not to examine the "soundness" of the economic policy. The jurisdiction for interfering with the economic policy by the Government is, thus, extremely narrow. It is an arena where angels fear to tread; the High Courts, under its writ

jurisdiction, is not expected to rush in like a fool where angels fear to tread.

10. The Directive Principles of State policy contained in the Constitution of India clearly state that: "these Articles are fundamental in the governance of the country, and it shall be the duty of the Government to apply its principles in making the laws". Article 38(2) of the Constitution of India clearly imposes a responsibility upon the State to minimise the inequalities in the income. Similarly, Article 43 of the Constitution of India imposes a duty upon the State to ensure that workers in the Industries receive a living wage, the conditions of work is decent, and the thaty are assured of a decent standard of life. Likewise, Article 47 of the Constitution of India requires the State to raise the level of nutrition, and to improve the standard of living of the people. Thus, while deciding the minimum wages of the workers, and the Officers of the Agarbathi Industries, the State is duty bound to keep in mind the requirements laid down by the Articles, mentioned above, in the Constitution of India.

11. Admittedly, the minimum wages for the Agarbathi Industries were last revised in the year 2009. They have not been revised for the last seven years. Meanwhile, with the flux of time, the prices of essential commodities have sky rocketed, and to say the least, the workers and the other staff members of the Industries find it extremely difficult to make both the ends meet. Keeping in mind the ever increasing inflation rate, keeping in mind the sky rocketing prices, keeping in mind the constitutional responsibilities imposed upon the State, if the State has increased the minimum wages by merely Rs. 1,000/- from the recommendations made by the committee, the decision of the State Government cannot be faulted. Being the paterfamilias of the people, it is the responsibility of the State to ensure the that standard of living, the standard of nutritional intake, the working condition of the people improves with the march of time. Since the State is merely discharging its constitutional duties by increasing the wages of Agarbathi Industries, that too, after a lapse of seven years, the notification dated 4-8-2015 cannot be faulted.

For the reasons stated above, this Court does not find any merit in the present petitions. They are, hereby, dismissed.