
(1970) 05 MP CK 0002

In the Madhya Pradesh High Court

Case No : M. P. No. 194 of 1970

Junior Labour, Inspector (Central), Jabalpur and Inspector
under the Payment of Wages Act

APPELLANT

Vs

The Authority Under The Payment Of Wages Act, Presiding
Officer, Labour Court No. 2, Jabalpur and others

RESPONDENT

Date of Decision : 01-05-1970

Acts Referred:

Payment of Bonus Act, 1965 — Section 21, 22

Citation : (1975) ILR (MP) 978 : (1970) JLJ 716 : (1970) MPLJ 610

Hon'ble Judges : Bishambhar Dayal, C.J;A.P. Sen, J

Bench : Division Bench

Advocate : K. K. Dubey, Govt, for the Appellant;

Final Decision : Allowed

Judgement

Bishambhar Dayal, C. J.

This is a petition against an order of the Authority under the Payment of Wages Act. An inspector under the Payment of Wages Act made an application that some amount had not been paid by the employer which was due under the Payment of Bonus Act, 1965. The employer contested that the Authority under the Payment of Wages Act had no power to go into that matter and decide whether any bonus under the Payment of Bonus Act was due or not. That application has been dismissed by the Authority concerned on the ground that this bonus under the Payment of Wages Act is not covered within the definition of "wages" under the Payment of Wages Act and, therefore, no application lay to that Authority. The definition of "wages" in the Payment of Wages Act has been quoted in the order as follows:-

"Wages" means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable

to a person employed in respect of his employment or of work done in such employment, and includes-

(a) * *

(b) * *

(c) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);

(d) * *

(e) * *

but does not include-

(1) any bonus (whether under a scheme of profit sharing or otherwise) which does not form-part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a Court."

The last paragraph of the definition quoted above indicates quite clearly that any bonus which does not form part of the remuneration payable under the terms of employment is excluded from the term "wages". In this case the bonus is payable under the Payment of Bonus Act and not under the terms of employment. Such a bonus is, therefore, clearly outside the purview of the Payment of Wages Act.

Moreover, the Payment of Bonus Act itself provides a remedy if an employer does not discharge his liability under the Act. Section 22 of the Act is as follows:

Where any dispute arises between an employer and his employees with respect to the bonus payable under this Act....., then, such dispute shall be deemed to be an industrial dispute within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), or of any corresponding law relating to investigation and settlement of industrial disputes in force in a State and the provisions of that Act or, as the case may be, such law, shall, save as otherwise expressly provided, apply accordingly.

Under this section, whenever an employer disputes the liability to pay any bonus under the Payment of Bonus Act, such a dispute is deemed to be an industrial dispute and has to be dealt with under the industrial law as an industrial dispute. Section 21 provides for the further remedy and is as follows:-

When any money is due to an employee by way of bonus from his employer under a settlement or an award or agreement, the employee himself or any other person authorized by him in writing in this behalf, or in the case of the death of the employee, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him.....

The scheme under the Payment of Bonus Act, therefore, is that if an employer does not dispute his liability and pays the amount as provided by the Act, the matter ends there. But if the employer disputes his liability to pay, it becomes an industrial dispute and after the industrial dispute is settled, either by a settlement or agreement or an award, the award is enforceable either under the industrial law or by the method provided u/s 21 of the Act by an application to the Government. A complete machinery having been provided by the Payment of Bonus Act, 1965, there is no justification for trying to take the advantage of the Payment of Wages Act which has no application to the matter.

We see no force in this petition and reject the same.