
(1992) 09 P&H CK 0038
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 3137 of 1989

Manmohan Singh and Another	Vs	APPELLANT
State of Punjab and Another		RESPONDENT

Date of Decision : 24-09-1992

Acts Referred:

Constitution of India, 1950 — Article 226
Minimum Wages Act, 1948 — Section 27, 3, 9

Citation : (1993) 2 LLJ 155

Hon'ble Judges : G.R. Majithia, J;A.S. Nehra, J

Bench : Division Bench

Advocate : J.K. Sibal and Sanjiv Sharma, for the Appellant; Gulshan Sharma, D.A.G., for the Respondent

Final Decision : Dismissed

Judgement

G.R. MAJITHIA, J.—Since common questions of law arise in this Civil Writ Petition No. 3137 of 1989 and the connected civil writ petitions, i.e., C.W.P. No. 4254 of 1988, 3707 of 1989, 5503-A of 1989, and 3599 of 1988, these are being disposed of by this common judgment. In all these petitions the challenge is to the addition to the Schedule appended to the Minimum Wages Act of the workers employed in private educational institutions and to the fixation of minimum wages for various categories of employees.

2. Reference to the relevant facts has been made from the pleadings in C.W.P. 3137 of: 1989: Petitioners Manmohan Singh and Neelam Rani are the proprietors and Principals of Saini Public School, Atam Nagar, Ludhiana and Best High Model Saini School, Kartar Nagar, Ludhiana respectively. The challenge to the Schedule appended to the Minimum Wages Act, 1948 (for short, the Act) is on the ground that the State Government has to fix the minimum wages for certain categories of employees on the recommendation of the committee constituted u/s 9 of the Act. The State Government did not nominate any of the representatives of the unaided and unaffiliated schools. The representatives nominated on the

Committee did not watch the interests of the unaided and unaffiliated schools. The Act only applies to industrial institutions and not to the institutions imparting education to the young generation; that while fixing the minimum wages the State Government did not take into consideration the nature of job or the duration for which the employment was given.

3. Written statement has been filed on behalf of respondent No. 1 by Mrs. Harsimrat Gill, I.A.S., Labour Commissioner, Punjab. She took a positive stand that the object of fixing minimum rate of wages for the employees working in the private educational institutions was to save them from exploitation. Reports had been received from the Inspectorate Staff of the Labour Department as well as complaints from different employees. These indicated that meagre doles were paid to the employees which could not be termed as wages as compared to the wages paid to unscheduled labour in scheduled employments. Due to the heavy unemployment, the supply of educated trained/untrained teachers is much more and this led to exploitation by the managements/employers as is unfolded in the reports of the Labour Inspectorate for the year 1985-86. An instance is cited where Matriculate teachers were paid Rs. 100-150/-p.m. whereas unskilled workers in other scheduled employments were paid Rs. 401/- P.M. in 1985 and Rs. 424/- P.M. from January 1, 1986. Most of the private educational institutions are run on commercial basis as the fees and other charges are much more than the fees and the charges of the institutions run by the State Government and thus the necessity to fix the minimum wages was felt to safeguard the service conditions of the employees engaged in private educational institutions.

4. The Act purports to prevent exploitation of labour and for that purpose authorises the appropriate Government to take steps to prescribe minimum rate of wages for employments covered by the Schedule appended thereto. In an under-developed country, which faces the problem of unemployment on a very large scale, it is not unlikely that labour may offer to work even on starvation wages. The policy of the Act is to prevent the employment of such sweated labour in the interest of general public and so in prescribing the minimum wage rates, the capacity of the employer need not be considered. What is being prescribed is minimum wage rate which a welfare State assumes every employer must pay before he employs labour. (See S.A. Venkataraman Vs. The State,)

5. The statement of objects and reasons for the enactment of the Act was given in the Gazette of India dated April 20, 1946, Part V, at page 331 and the same reads thus:-

"The justification for statutory fixation of minimum wages is obvious. Such provisions which exist in more advanced countries are even more necessary in India, where workers' organisations are yet poorly developed and the workers' bargaining power is consequently poor.

(2) The Bill provides for fixation, by the Provincial Government, of minimum wages: for employments covered by the Schedule to the Bill. The items in the

Schedule are those where sweated labour is most prevalent or where there is a big chance of exploitation of labour. After a time when some experience is gained, more categories of employees can be added and the Bill provides for additions to the Schedule. A higher period is allowed for fixation of minimum wages for Agricultural labour as administrative difficulties in this case will be more than in the other employments covered by the Schedule. The Bill also provides for periodical revision of the wages fixed.

(3) Provision has been made for appointment of Advisory Committees and Advisory Boards, the latter for co-ordination of work of the Advisory Committees. The Committees and Boards will have equal representation of employers and workmen. Except on initial fixation of minimum wages, consultation with the Advisory Committee will be obligatory on all occasions of revision.

(4) In cases where an employer pays less than the minimum wages fixed by Provincial Government, a summary procedure has been provided for recovery of the balance with penalty and for subsequent prosecution of the offending party.

(5) It is not ordinarily proposed to make any exemptions in regard to employees of undertakings belonging to the Central Government except that difficulties might arise where the sphere of duty of such employee covers more than one Province and when the rates of minimum wages fixed by the different Provinces may be different. For this purpose, a provision has been included that the minimum wages fixed by a Provincial Government will not apply to employees in any undertaking owned by the Central Government or employees of a Federal Railway, except with the consent of the Central Government."

The statement of objects and reasons, reproduced supra, gives a guideline for interpreting the provisions of the Act. The appropriate Government can add more categories of employment to the Schedule to the Act. Section 3 of the Act says that the appropriate Government shall in the manner provided thereunder fix the minimum rates of wages payable to employees employed in an employment specified in Part I or Part II of the Schedule and in any employment added to either Part by notification u/s 27. Section 27 of the Act authorises the State Government to add any employment in either Part of the Schedule in respect of which it is of the opinion that minimum rates of wages should be fixed under the Act. The legislative policy is borne on the face of the Act. It aims at statutory fixation of minimum wages with a view to obviate the chance of exploitation of labour. Lists of employments have been added in Parts I and Part II of the Schedule of the Act. The list of employments is not exhaustive one and this provision has been inserted in the Act to carry out the policy of the Legislature and the addition of the employment in the private educational institutions in the Schedule to the Act is unassailable. The statement of objects and reasons for the enactment of the Act does not place any restriction on the power of the State Government to add categories of employment to the Schedule if the purpose is to safeguard the exploitation of the workers. In the written statement, it has been explained that the amendment was made after receipt of reports from the

Inspectorate Staff of the Labour Department.

The reports indicated that grossly inadequate wages were paid to the employees by the private educational institutions. It is further stated that due to heavy unemployment, the supply of educated trained/ untrained teachers is much more and this led to the exploitation by the managements/employers of the private educational institutions. A positive assertion has been made in the written statement that most of the private educational institutions, which obviously will be covered by the amendment, are run on commercial basis as the fees and other charges are much more than the fees and charges by the institutions run by the Government. This factual assertion in the written statement has not been controverted by the petitioners. The basis on which the addition to the Schedule to the Act was made has not been assailed by the petitioners. During the course of arguments, the record was produced by the Department in support of these factual averments. We are satisfied that the action of the State Government is not only justified but it deserves appreciation. The appropriate Government has tried to mitigate the sufferings and exploitation of the educated trained/untrained teachers at the hands of the managements/ employers of the private educational institutions. Section 5 of the Act provides for fixation of minimum wages. The Section gives undoubtedly very large powers to the appropriate Government, but it has to take into consideration before fixing the minimum wages the advice of the Committee if one is appointed or the representations on its proposal made by the persons who are likely to be affected thereby. Consultation with the Advisory Body has been made obligatory on all occasions of revision of minimum wages. In the Advisory Committee, the employer and the employees have an equal number of representatives and there are certain independent members besides them, who are to take a fair and impartial view of the matter. These provisions constitute an adequate safeguard against any hasty and capricious decision by the appropriate Government. (See in this connection: *The Edward Mills Co. Ltd., Beawar and Others Vs. The State of Ajmer and Another*,)

6. In the instant case, as is apparent from Notification No. 13(5)-87-3411/316, dated March 30, 1987, a tripartite committee was constituted, which consisted of (1) Labour Commissioner, Punjab as Chairman (2) Additional Labour Commissioner, Punjab as a Member, (3) Deputy Labour Commissioner II, Punjab as a Member on behalf of the State Government; (1) Sh. Ram Parshad Seth, Cashier, Management Committee, Atma Ram Kumar Sadha Higher Secondary School, Patiala; (2) Shri Kasturi Lal, Manager, Arya High School, Patiala; (3) Shri Devinder Singh Bedi, Shivalik Public School, Phase VI, S.A.S. Nagar (Mohali) as Employers' Representatives and (1) Shri Shcr Singh, President, Punjab Privately Managed School Teachers Union; (2) Shri K.K.Tandon, General Secretary and (3) Shri M.L.Chopra, Press Secretary, Punjab Privately Managed Schools Teachers Union, as Employees' Representatives and on consideration of the advice of the Tripartite Committee, constituted u/s 5(1)(a) of the Act, the minimum rates of wages in respect of employment in private educational institutions irrespective of the fact whether the same were recognised, unrecognised, aided, un-aided,

affiliated or non-affiliated were fixed and the categories are as under:-

Sr. No

Categories

Rs. P.

(a)

Teaching Staff:

1.

Untrained (Undergraduate)

635.00

2.

Trained (Undergraduates)

675.00

3.

Graduate untrained teacher, Giani, Prabhakar untrained teacher, Drawing/ Classical/. Cernacular/Cookery/Tailoring untrianed teacher. PTI untrained teacher, Librarian withoutdiploma.

725.0

4.

Graduate Trained Teacher, Giani/Prabhakar trained teacher, Drawing Teacher/ Classical/ Vernacula/Cookery/Tailoring trained teacher, PTI trained teacher, Librarian.

775.00

5.

Post-graduate untrained teacher/ Lecturer.

775.00

6.

Post-graduate trained teacher/ Lecturer.

825.00

(a)

Non-teaching staff:

1.

Helper, Sweeper, Peon, Chowkidar, Mazdoor, Rickshaw Driver, Cleaner, Waterman, Mali, Gate-Keeper, Laboratory Attendant, Library Attendant.

525.75

2.

Laboratory Assistant, Library Assistant, Cook.

574.25

3.

Clerk (Matric), Store Keeper, Conductor, Warden non-teaching with boarding and lodging.

604.75

4.

Accountant, Graduate Clerk, Car Driver, Cashier, Steno-typist.

634.75

5.

Truck/Bus/Tempo) Driver, Stenographer, Supervisor.

709.75

The employers' representatives were given due representation on the Committee. Thus, the learned counsel for the petitioners is not correct in his submission that the view of the representatives of the unaided and unaffiliated private educational institutions were not taken into consideration.

7. On the facts and circumstances of the case, we feel that it will be unjust to interfere with the notification fixing the minimum wages. The wages fixed per se appear to be fair. The interference on grounds which are not substantial would be repugnant to the entire object or the purpose of the Act and opposed to the well settled principle of exercising extraordinary jurisdiction under Article 226 of the Constitution. Similar types of objections were repelled by the Apex Court in *Ministry of Labour and Rehabilitation and Another Vs. Tiffin's Barytes Asbestos and Paints Ltd. and Another*, where it was held thus: (p.415)

"We also wish to emphasise that notifications fixing minimum wages are not to be lightly interfered with under Article 226 of the Constitution on the ground of some irregularities in the constitution of the committee or in the procedure adopted by the committee. It must be remembered that the committee acts only as a recommendatory body and the final notification fixing minimum wages has to be made by the Government. A notification fixing minimum wages, in a country where wages are already minimal should not be interfered with under Article 226 of the Constitution except on the most substantial of grounds. The

legislation is a social welfare legislation undertaken to further the Directive Principles of State Policy and action taken pursuant to it cannot be struck down on mere technicalities."

8. In the light of this authoritative pronouncement by the apex Court, we find no infirmity in the action of the State Government.

9. Before we part with this judgment one more submission of the learned counsel for the petitioners has to be dealt with. He submitted that lower staff like sweepers and peons work on part-time basis and some times even for an hour or so and fixation of monthly wages for them @ Rs. 525.75 is not proper. It is correct that distinction has not been drawn between regular employees and part-time employees under the categories of non-teaching staff. It cannot be disputed that sweeper, peons, chow-kidars are employed in the private educational institutions on part-time basis. It would have been better if higher rates had been fixed for helpers, sweepers etc. who work for the minimum hours prescribed and those who work part-time. But the wages has been fixed @ Rs. 525.75 irrespective of the distinction between a regular and part-time employee and this rate of wages appears to be just and calls for no interference. As observed earlier, we have found the fixation of wages to be fair in all categories of employments. We are not inclined to interfere on grounds which we find unsubstantiated. We find that the rates fixed require revision and the State Government will take appropriate steps to revise the rates of wages keeping in view the rise in the price index.

10. For the reasons stated above, the writ petitions fail and are dismissed, but with no order as to costs.