
(1972) 03 RAJ CK 0005
In the Rajasthan High Court

Mohan Lal Chittora

APPELLANT

Vs

Labour Enforcement Officer (Central) and Others

RESPONDENT

Date of Decision : 16-03-1972

Acts Referred:

Constitution of India, 1950 — Article 31
Payment of Wages Act, 1936 — Section 15, 3, 5

Citation : (1972) 2 LLJ 482 : (1972) RLW 251 : (1972) WLN 171

Hon'ble Judges : V.P. Tyagi, J

Bench : Single Bench

Judgement

V.P. Tyagi, J.—These writ petitions are directed against the judgment of the District Judge, Bhilwara, dated 9th of November, 1970, whereby the appeal filed by the employer was dismissed and the order of the Payment of Wages Authority was upheld and the employer was directed to pay by way of compensation to those employees, the payment of whose wages was delayed, at the rate of Rs. 7 for those who were drawing more than Rs. 50 per month and Rs. 3 who were drawing less than Rs. 50 per month as wages.

2. Since common question of law is involved in both these petitions. I propose to dispose them of by one judgment.

3. The finding of the Payment of Wages Authority, Bhilwara, that the petitioner paid the wages to his employees late is not disputed. The complaint filed u/s 15(2) of the Payment of Wages Act was, however, contested by the employer on two grounds, namely, (1) that the wages had been paid before the reply was filed by the employer before the Payment of Wages Authority, and (2) that the workers had not suffered any loss or damage on account of the delayed payment of wages. The Payment of Wages Authority, after considering the evidence adduced before it, issued direction in both these cases that the employer shall pay compensation to the employees at the rate of Rs. 7 per labour who is getting more than Rs. 50 and Rs. 3 per labour getting less than Rs. 50 per month. This order of the Payment of Wages Authority was challenged before the District

Judge, Bhilwara who did not find any substance in the appeal and rejected it. It is against this judgment of the District Judge, Bhilwara, that these writ petitions have been filed challenging the impugned orders mainly on the grounds that the employees are not entitled to any compensation as they failed to establish the damages sustained by them due to this delayed payment and that the order passed by the Payment of Wages Authority is arbitrary and is based on no reasonable ground.

4. Section 15 of the Payment of Wages Act is the relevant law to be considered to decide the matter in controversy. Sub-section (2) of Section 15 lays down that where contrary to the provisions of the Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act, or any other person acting with the permission of the authority appointed under Sub-section (1) may apply to such authority for a direction under Sub-section (3). Sub-section (3) provides that when any application under Sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages u/s 3, or give them an opportunity of being heard, and, after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding twenty-five rupees in the case of delayed wages.

5. This sub-section envisages three contingencies in which the authority shall not issue the direction for the payment of compensation in the case of delayed wages if it is satisfied that the delay was caused due to (a) a bona fide error or bona fide dispute as to the amount payable to the employed person, or (b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or (c) the failure of the employed person to apply for or accept payment.

6. In the present case, all these three contingencies referred to in Sub-section (3) were not available to the employer. The authority, therefore, after considering the evidence recorded by it held that it was a case of delayed wages and, therefore, issued direction to pay the compensation to the employees.

7. The argument of learned Counsel for the petitioner is that under the provisions of Sub-section (3) of Section 15 of the Act, compensation can be awarded to the employees only when a plea has been taken by the employees that they have sustained damages on account of the delayed payment and such damages are proved by them. Mr. Bhargava, appearing on behalf of the petitioner, urged that the compensation is something that constitutes an equivalent to the damages or recompense and, therefore, unless the damages are proved compensation

cannot be awarded. In support of this plea he placed reliance on two cases, one decided by This Court in Divisional Personnel Officer, Northern Railway, Jodhpur v. Regional Labour Commissioner (Central), Jabalpur 1965 R.L.W. 210 and the other decided by the Supreme Court in State of Gujarat Vs. Shantilal Mangaldas and Others, .

8. In Divisional Personnel Officer, Northern Railway, Jodhpur v. Regional Labour Commissioner (Central), Jabalpur (supra) while dealing with the case of the award of compensation to the applicant, the learned Judge made the following observations:

It is noteworthy that what is awarded u/s 15(3) is compensation which means recompense for the injury sustained by the employee. The sub-section does not authorise the imposition of any penalty on the employer. It stands to reason, therefore, that the applicant has to make out a case for grant of compensation. He has to prove what injury he sustained on account of unauthorised deductions.

9. I have carefully gone through this judgment and I find that after deciding the relevant issue in question before the Court, the Court took up certain other arguments of the petitioner for consideration which were not necessary to decide to give relief to the petitioner in that case. The aforesaid observations were made by the Court when it was considering those questions which were not required to be decided for the purposes of disposing of the revision application. In para 6 of the judgment the revision application was decided by the learned Judge and set aside the order of the appellate Court and remanded the case to the authority for decision in accordance with law, but before parting with the case the learned Judge thought it advisable to explain the defence of the Divisional Personnel Officer which the Courts below had failed to understand and it was in the course of that explanation that the aforesaid observations were made which, in my opinion, is an obiter and does not bind This Court.

10. While examining the meaning of the expression "compensation" occurring in Article 31(2) of the Constitution, their Lordships of the Supreme Court in State of Gujarat Vs. Shantilal Mangaldas and Others, , observed as follows:

In ordinary parlance the expression "compensation" means anything given to make things equivalent; a thing given to or to make amends for loss, recompense, remuneration or pay ; it need not, therefore, necessarily be in terms of money. The phraseology of the constitutional provision also indicates that compensation need not necessarily be in terms of money, because it expressly provided that the law may specify the principles on which, and the manner in which, compensation is to be determined and "given".

11. Learned Counsel for the petitioner argues that the meaning that has been given by the Supreme Court to the expression "compensation" must be given to this expression occurring in Section 15(3) of the Payment of Wages Act. If this meaning is given to it, then in that event the authority cannot award any compensation unless the employees plead injury and prove the damages

sustained by them on account of the delayed payment of wages.

12. This very argument was advanced before me in Executive Engineer, City Division, Rajasthan State Electricity Board, Jaipur and Ors. v. Authority under the Payment of Wages Act, Jaipur and Ors. S.B. Civil Writ Petition No. 1005 of 1968, decided on 7th October, 1970. In that case, after reproducing the meaning given to the word "compensation" in Webster's New International Dictionary, This Court observed as follows:

This dictionary meaning of the term "compensation" does not restrict its ambit only to recompense the actual damages sustained by a person on account of some injury but it also covers the payment which a workman is entitled to receive under a statutory provision to alleviate any sufferings caused to him due to the non performance of certain statutory duty of the person against whom the claim is made. This kind of payment as compensation does not necessarily envisage in all circumstances actual damages suffered by the claimant which may be measured in terms of money.

13. In my opinion, the word "compensation" used in Section 15(3) of the Act cannot be given a restricted meaning as is understood in common parlance. The preamble of the Act suggests that the Legislature has enacted this law to regulate the payment of wages to certain persons employed in industries and it enjoined on the employer to make the payment of wages within specified time mentioned in Section 5 of the Act. If the payment of wages is delayed, then Section 15(3) confers a discretion on an authority created under the provisions of the Act to award compensation to the person who has to face financial difficulties because of the delayed payment of wages. The provision of Section 15(3) has been enacted by the Legislature to bring a pressure on the employer to make payment of wages to his employees within the specified time. If the Court puts a narrow interpretation on this word "compensation" as is suggested by learned Counsel for the petitioner and if the observations of This Court in Divisional Personnel Officer, Northern Railway, Jodhpur v. Regional Labour Commissioner (Central), Jabalpur (1965) R.L.W. 210 is taken to be a correct law, then the object of the legislation will obviously be defeated because in each case an employee shall be required to plead and prove the injury sustained by him due to the delayed payment of wages. In order to get the nominal compensation, the maximum limit of which has been prescribed as Rs. 25, perhaps the employee shall be required to spend more to make out his case for the award of compensation. The dictionary meaning of the expression "compensation" suggests that compensation is something that relieves, equalises or neutralises the harassment for which compensation is awarded and, therefore, Legislature has so worded Section 15(3) that it may give relief to a poor man who has been deprived to get his well-earned wages within time specified in the statute. In these days of economic distress the plight of a poor man can very well be imagined when he does not get his hard earned wages within time. In this context, therefore, the Legislature presumed that the delay in payment of wages

is bound to bring some kind of suffering to the poor workman and, therefore, that suffering can be alleviated by the award of compensation, the maximum limit whereof has been prescribed by the law itself. In such circumstances, I express my inability to accept the argument advanced by Mr. Bhargava to set aside the order of the Payment of Wages Authority which has been upheld by the learned District Judge.

14. It is next urged that the Authority has acted arbitrarily in awarding the compensation. The Authority for this purpose has divided the employees into two categories, one getting wages more than Rs. 50 per month and the other receiving wages less than Rs. 50 per month. For the first category, the compensation awarded is Rs. 7 and for the second the amount of compensation is Rs. 3 per labour. The needs of those who get less wages in comparison with those who receive higher wages are few and, therefore, the harassment that they get for the delayed payment of wages cannot be compared with those who get higher wage. No hard and fast rule can be laid down for categorising persons for the purpose of awarding compensation u/s 15(3) of the Payment of Wages Act. The Payment of Wages Authority has for this purpose divided the employees into the aforesaid two categories and fixed the compensation. It is true that the quantum of compensation awarded cannot be rationalised for having any direct relationship with the wages received, but some kind of notional categorisation shall have to be done in such cases and I feel that the order passed by the Payment of Wages Authority does not require any interference by This Court in the exercise of its extraordinary jurisdiction. I also endorse that some reason can be seen in awarding compensation on the basis of the salary drawn by the employees.

15. For the reasons mentioned above, I do not find any life in these petitions and they are, therefore, dismissed. No order as to costs.