
(2019) 09 P&H CK 0054
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6327 Of 2016

M/S Ascend Telecom Infrastructure Pvt. Ltd.	APPELLANT
Vs	
Authority Under The Payment Of Wages Act, Jhajjar, District Jhajjar And Others	RESPONDENT

Date of Decision : 04-09-2019

Acts Referred:

Code Of Civil Procedure, 1908 — Order 5 Rule 9(5)

Citation : (2019) 09 P&H CK 0054

Hon'ble Judges : B.S. Walia, J

Bench : Single Bench

Advocate : Vishal Gupta, Abhimanyu Singh

Final Decision : Disposed Off

Judgement

B.S. Walia, J

[1] Prayer in the writ petition is for the issuance of a writ of certiorari for quashing Order (Annexure P-9) dated 23.10.2015, passed by the Authority under the Payment of Wages Act, Jhajjar, District Jhajjar, (hereinafter referred to as the Authority) dismissing the application for setting aside ex parte order dated 19.07.2013 as also ex parte award (Annexure P-5) dated 31.01.2014.

[2] Learned counsel contends that the application for setting aside ex parte order as well as ex parte award was dismissed vide Order (Annexure P-9) dated 23.10.2015 on the ground that the authority did not have the power to review its order even though the petitioner was proceeded ex parte without notice having been served on the petitioner, therefore, ex parte order dated 19.07.2013, impugned ex parte award (Annexure P-5) dated 31.01.2014 as also order (Annexure P-9) dated 23.10.2015, dismissing the application for setting aside ex parte Order dated 19.07.2013 as also ex parte award dated 31.01.2014, are liable to be set aside and the matter remanded to respondent No.1 to consider and decide the claim afresh, in accordance with law.

[3] Learned counsel for the respondent on the other hand contends that although notice was issued to the petitioner vide registered letter dated 18.06.2003, ex parte proceedings were ordered only on 19.07.2013 on expiry of period of 30 days stipulated in Order 5 Rule 9 (5) of the CPC. Learned counsel for the respondent on instructions from the respondent workman present in Court states, that he does not stand on technicalities, accordingly, does not oppose the prayer for setting aside of ex parte order and ex parte award as also order, dismissing the application for setting aside ex parte award and for remanding the matter to the Appellate Authority under the Payment of Wages Act, 1936, to decide the claim afresh subject to payment of costs as deemed appropriate by this Court, besides 50% of the awarded amount subject to outcome of fresh decision of the claim.

[4] Faced with the aforementioned position, learned counsel for the petitioner states that the petitioner would pay such costs as are deemed appropriate by this Court for the setting aside of the impugned orders but the prayer for payment of 50% of the awarded amount is on the higher side, therefore the same be restricted to Rs. 1,00,000/- only while directing aforesaid payment to be made, subject to the outcome of the orders to be passed by the Authority on reconsideration of the matter.

[5] In the light of the position as noted above, as also statement of counsel for the parties, impugned Order (Annexure P-9) dated 23.10.2015, dismissing the application for setting aside ex parte Order dated 19.07.2013 as well as ex parte award dated 31.01.2014 is set aside and the matter remanded to the Authority under the Payment of Wages Act, Jhajjar, District Jhajjar for a fresh decision of the claim in accordance with law.

[6] At this stage, learned counsel for the petitioner states that Rs. 4,68,900/- deposited by the petitioner with the Registry of this Court in terms of the ex parte award be refunded to the petitioner after making payment of Rs. 1 Lakh as also costs of Rs. 15000/-. However, on consideration of the prayer, I am of the view that amount of Rs. 4,68,900/- deposited with the Registry of this Court be transmitted to the authority under the Payment of Wages Act, Jhajjar, District Jhajjar out of which Rs. 1 Lakh be paid to the respondent-workman on his putting in appearance before the Authority under the Payment of Wages Act, Jhajjar, District Jhajjar. Balance amount be placed in FDR in a Nationalised Bank drawing maximum rate of interest. However, payment of Rs. 1 Lakh to be made to the respondent workman as also balance remaining amount will be subject to the outcome of orders to be passed by the authority under the Payment of Wages Act on fresh decision of the claim in accordance with law. However, apart from payment of Rs. 1 lakh in the manner aforesaid, the petitioner would make payment of Rs. 15,000/- as costs to the respondent for the setting aside of the impugned orders on his putting in appearance before the authority under the Payment of Wages Act, Jhajjar, District Jhajjar, for fresh proceedings in accordance with law. Since the matter pertains to the year 2013, the Authority

under the Payment of Wages Act is requested to expeditiously consider and decide the claim, preferably within a period of 04 months from the date the parties put in appearance before the Authority.

[7] Parties through counsel are directed to put in appearance before the learned Appellate Authority under the Payment of Wages Act, Jhajjar, District Jhajjar on 16.09.2019 for proceeding in accordance with law.

[8] Writ petition disposed of as above.