(2013) 03 KAR CK 0084

In the Karnataka High Court

Case No : Writ Petition Nos. 8495 and 29799-29931 of 2012 (L-MW)

M/s. Kushalnagar Works M/s. Tata Coffee Ltd. APPELLANT

Vs

State of Karnataka, The Labour Officer and Authority and Sri. M.J. Kariyappa and 134 Others RESPONDENT

Date of Decision : 26-03-2013

Acts Referred:

Citation : (2013) 03 KAR CK 0084

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Judgement

D.V. Shylendra Kumar, J.—Writ petition, by an establishment which had employed a large number of workers to work in its coffee curing plants located at Kushalanagar taluk in Kodagu district and which aggrieved that as per the order dated 15-10-2010 [copy at Annexure-G to the writ petition] passed by the labour officer and competent authority under the Minimum Wages Act, 1948 [for short, the Act], directing the petitioner to pay difference of certain minimum wages which was payable to the applicant M.J. Kariyappa and 134 other employees by calculating the difference payable in the minimum wages that was required to be made in favour of the employees being in a sum of Rs. 7,206.30 for the period from 1-4-2002 to 31-3-2003 and imposing a like sum by way of compensation and directing in all payment of Rs. 14,412.60, which works out to Rs. 106.76 in favour of each of the employees and to be paid within 60 days from the date of order by depositing the amount before the authority. It is aggrieved by this order, passed u/s 20(2) of the Act, the present writ petitions by the employer. The authority found that while the management, no doubt, contended that it had entered into a tripartite agreement/settlement with the workers and the package amount as per this settlement and as claimed by the petitioner-management was in a sum of Rs. 79.23 per day in favour of garblers and Rs. 89.15 per day in favour of yard workers and these amounts, comparing to the minimum wages fixed by the notification issued by the state government under the Act being Rs. 60.80 and Rs. 71.80 respectively and therefore the management was paying excess amount and was not liable to pay any difference etc., the competent authority had rejected this argument on the premise that even while making payment as per the agreement and settlement, the variable dearness allowance [VDA] had been linked to the price index and the management had not factored the increased price indices as notified from time to time and therefore in the VDA amount there was shortage of Rs. 0.34 and this amount was required to be paid etc., and it is this view taken by the competent authority which is questioned in these writ petitions.

2. Sri. P.D. Vishwanath, learned counsel for petitioner, has raised various contentions, particularly to submit that the payment under the settlement was a package payment; that what the authority was required to look into is as to whether the payment under the package i.e. total amount paid as per the settlement, did in any way fall short of the minimum wages fixed under the notification and obviously as it was not so, the management was not required to make good any difference assuming that there was an enhancement in the price indices and taking up the VDA amount to a higher level, but admittedly the increase in the price indices not taking the VDA to any amount higher than the package pay in terms of the minimum wages payable under the notification, the view taken by the competent authority is erroneous; that the authority has not at all appreciated the judgment of the Supreme Court Airfreight Ltd. Vs. State of Karnataka and Others, ; that the minimum wages prescribed is all inclusive and therefore the package settlement amount being higher than this, the authority could not have called upon an employer to pay the difference due to revision in VDA and the order passed by the authority is clearly in the teeth of decision of the Supreme Court and warrants interference.

3. Learned counsel for petitioner also submits that though the amount in terms of the order is not big or huge, but a principle is involved in the stand taken by the management supported by the authority of the Supreme Court and therefore the present writ petitions.

4. Writ jurisdiction is not a compulsory jurisdiction. It is a discretionary jurisdiction and not necessarily to be exercised in respect of each and every erroneous order passed by any authority. The determination, assuming that there is some error or flaw in the order passed by the authority, it is only for one period. While it is not very clear from the record if the amount in fact had been paid at this rate and except for the statement of claim, no other material was placed.

5. Be that as it may, I find that in respect of a benefit to the extent of a sum of Rs. 106.76 to each of the employees as per the impugned order is too trivial a matter to be interfered by this court. In my considered opinion, in the exercise of jurisdiction under Articles 226/ 227 of the Constitution of India, particularly the provisions of the Act being part of a welfare legislation and the authority for reason recorded in the impugned order having found this is a shortfall in payment, this is not a matter warranting interference, particularly being a matter

which may not affect the management in any noticeable adverse manner in terms of financial liability.

6. More importantly, I find that writ petition itself is filed almost 1? years after passing of the impugned order and though learned counsel for petitioner has submitted that some explanation is given, the fact remains that the order is questioned in writ jurisdiction after a lapse of about 1? years and the order itself recites that it should have been given effect within 60 days from the date of order. I do not find bona fides on the part of the petitioner in invoking writ jurisdiction of this court so belatedly. Therefore, without going into the further merits of the contentions urged, these writ petitions are dismissed as one not warranting interference at this stage.