

(2012) 05 RAJ CK 0080

In the Rajasthan High Court

Case No : DB Special Appeal (W) No. 1367 of 2008

Nobissa Grah Nirman Sahakari Samiti Ltd.

APPELLANT

Vs

Murari Lal Sharma and Another

RESPONDENT

Date of Decision : 09-05-2012

Acts Referred:

Minimum Wages Act, 1948 — Section 20(2), 3(1)(a)(b), 5(2)
Rajasthan Shops And Commercial Establishments Act, 1958 — Section 2(7)

Citation : (2013) 1 SCT 235 : (2013) 2 SLJ 106

Hon'ble Judges : Narendra Kumar Jain, J;Arun Kumar Mishra, J

Bench : Division Bench

Advocate : A.K. Pareek, for the Appellant;

Final Decision : Dismissed

Judgement

Arun Mishra, J.—Intra-court appeal has been preferred as against the order passed by the Single Bench on 5.3.2008 in CWP-5607/02 thereby affirming the order passed by the Authority under the Minimum Wages Act, 1948 on 22.4.2002. An application was filed by respondent Murari Lal Sharma u/s 20(2) of the Minimum Wages Act, 1948 claiming arrear of (sic) 30,794/- from 2.1.1995 to 31.8.1999. Another application was also filed claiming difference of (sic) 5590/- for the period from 1.12.1999 to 30.4.2000. Both the cases were decided together. Work of appellant Sahakari Samiti is to distribute kerosene and sugar. An amount of (sic) 650/- per month used to be paid to the claimant. It was contended on behalf of employer that the Minimum Wages Act was not applicable on the Samiti. The Authority under the Minimum Wages Act has come to the conclusion considering the evidence on record and sale register that it is a commercial establishment and is covered under the Rajasthan Shops and Commercial Establishments Act, 1958 and provisions of Minimum Wages Act are applicable on it. The order of the Authority was questioned before the Single Bench. The Single Bench has dismissed the writ petition aggrieved thereby the intra-court appeal has been preferred.

2. Submission which has been raised by the learned counsel for the appellant is that the cooperative society in question could not be said to be covered under the Rajasthan Shops and Commercial Establishments Act, 1958 and is not an establishment as notified vide notification dated November 11, 1999 u/s 5(2) read with Section 3(1)(a)(b) of the Minimum Wages Act, 1948 at Sr. No. 16 - shop and commercial establishment. The finding recorded by the Authority under the Minimum Wages Act cannot be said to be appropriate.

3. Considering the nature of work and sale register of the appellant Samiti, finding has been recorded by the Authority that it is a commercial establishment. Establishment is defined u/s 2(7) of the Rajasthan Shops and Commercial Establishment Act, 1958 which means a shop or a commercial establishment. The shop means any premises where any trade or business is carried on or where services are rendered to customers as defined in Section 2(7) of the Act of 1958. Considering the work being done by the appellant society of distribution of kerosene and sugar, it was definitely covered under the Rajasthan Shops & Commercial Establishment Act, 1958 and is an establishment as notified vide notification dated November 11, 1999 u/s 5(2) read with Section 3(1)(a)(b) of the Minimum Wages Act, 1948 at Sr. No. 16 - shop and commercial establishment has been mentioned. Thus, provisions of Minimum Wages Act, 1948 have rightly been held to be applicable. Therefore, decision rendered by the Authority under the Minimum Wages Act is found to be appropriate.

4. It was also submitted by the learned counsel for the appellant that certain cooperative banks have been exempted from operation of provisions of the Minimum Wages Act. The appellant cannot be said to be a bank. Thus, exemption notification with respect to cooperative banks cannot be applicable on the appellant society. It is covered under the aforesaid Act of 1948 as notified vide notification dated November 11, 1999 u/s 5(2) read with Section 3(1)(a)(b) of the Minimum Wages Act, 1948 at Sr. No. 16 - shop and commercial establishment. Thus, we find the appeal to be meritless. It is hereby dismissed. Stay application is also dismissed