
(2021) 09 UK CK 0155

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2338 Of 2016

Ompal & Another

APPELLANT

Vs

Authority Minimum Wages Act 1948 & Others

RESPONDENT

Date of Decision : 16-09-2021

Acts Referred:

Minimum Wages Act, 1948 — Section 20(5)(b)
Uttar Pradesh Minimum Wages Rules, 1952 — Rule 30(4)

Citation : (2021) 09 UK CK 0155

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : Ghanshyam Joshi, Mohd. Matloob, Vinod Nautiyal

Final Decision : Disposed Of

Judgement

Manoj Kumar Tiwari, J

1. Petitioners are aggrieved by the orders dated 27.07.2015 and 03.08.2016 passed by the Authority under Minimum Wages Act, 1948. By the first order dated 27.07.2015, application filed by respondent nos. 2 to 6 under Minimum Wages Act, 1948 was allowed and petitioners were directed to pay a sum of ` 5,59,550/- through draft to the respondent nos. 2 to 6 within one month, failing which, the said amount may be recovered under Section 20 (5) (b) of the aforesaid Act. By the subsequent order dated 03.08.2016, petitioners application for setting aside the order dated 27.07.2015 and for re-hearing of the case has been rejected.

2. It is not in dispute that the order dated 27.07.2015 was passed in the absence of the petitioners; although, the said order refers to some notice having been issued to the petitioners. The application for setting aside the earlier order and for re-hearing of the case is on record as Annexure No. 3 to the writ petition. In the said application, it was categorically stated by the petitioners that notice in respect of the proceedings under Minimum Wages Act was not served upon

them. Learned Authority under Minimum Wages Act has rejected the said application vide order dated 03.08.2016, by holding that the statement made in the application is not acceptable, as petitioners have not produced any evidence in support of their contention that notice was not received by them.

3. The reason assigned for rejecting petitioners' application cannot be sustained in the eyes of law. A party can only contend that the case was decided against him without notice and no one can be expected to produce evidence in support of his/her contention that notice was not served upon him/her.

4. In paragraph no. 7 of the writ petition, it has been categorically stated that no notice was served upon the petitioners in respect of the aforesaid proceedings, which statement has been vaguely denied by the respondents in the counter affidavit.

5. Having regard to the reason assigned for rejecting petitioners' application filed under Rule 30(4) of U.P. Minimum Wages Rules, 1952, the impugned order dated 03.08.2016 deserves to be quashed and is hereby quashed. The matter is remitted back to the Authority under Minimum Wages Act, 1948, who shall consider and decide petitioners' application for restoration of the case afresh, after hearing the parties.

6. Parties shall appear before the Authority under Minimum Wages Act, 1948 on 05.10.2021. The Authority under Minimum Wages Act shall consider and decide the application of the petitioner within six weeks.

7. The writ petition is, accordingly, disposed of.