
(1971) 07 RAJ CK 0004
In the Rajasthan High Court
Case No : Civil Write Petition No. 1483 of 1969

Pana Singh

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 16-07-1971

Acts Referred:

Constitution of India, 1950 — Article 226
Minimum Wages Act, 1948 — Section 3, 5

Citation : (1971) RLW 498 : (1971) WLN 273

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

Bench : Single Bench

Final Decision : Dismissed

Judgement

V.P. Tyagi, J.—Petitioner Messrs. Panna Singh Premchand Chauhan has filed this writ petition under Article 226 of the Constitution challenging the fixation of the minimum wages by the State Government vide its notification dated March 26, 1969 (Annexure II) under the Minimum Wares Act of 1948 (hereinafter called the Act).

2. Petitioner's case is that it get the "Bidis" manufactured by the bidi-rollers by providing them raw material in the form of Tendu leaves and tobacco. These persons prepare Bidis at their homes and deliver them to the petitioner after they are properly rolled. Petitioner's contention is that it has no supervision or control over the working of the Bidi-rollers and therefore the element of master and servant is absent in the relationship of the petitioner with these Bidi-rollers. It is contended that the State Government issued a notification Section Order 26 on 25 March, 1969, under the provisions of the Act and thereby fixed the minimum wages of Rs. 2/- per 1000 Bidis for Bidi-Rollers. The fixation of these minimum wages, according to the petitioner was made by the State Government in clear violation of the provisions of Section 5 of the Act in as much as the Government did not consult the Advisory Board under proviso to Sub-section (2) of Section 5 of the Act. The second contention of the petitioner is that the provisions of the

Act cannot attracted to the petitioner employees as their exists no relationship of the master and servant between the laborers employed by the petitioner's firm. The arguments of the petitioner is that since the Bidi-rollers prepare Bidis for the petitioner at their respective homes there is no control of the petitioner on the working of these Bidi-rollers, which is a necessary element create the relationship of Master and Servant. In such circumstances it is prayed by the petitioner that the notification issued by the State Government on 26th March, 1969, be quashed by issuing an appropriate writ, order or direction and the State of Rajasthan, their agents servants and officers be restrained from enforcing the Schedule of minimum wages as contained in the said notification.

3. No reply has been filed by the State Government or any other respondent. It is, however, states that the Bar by the Deputy Government Advocate representing all the respondents that he has received directions from the Government to state that the Advisory Board was duly consulted by the Government before the impugned notification was issued by the State Government and, therefore, it cannot be said that the notification suffers from the defect of violating the mandate contained in the proviso to Sub-section (2) of Section 5 of the Act. It was also argued by learned Deputy Government Advocate that to attract the provisions of the Act it is enough if the relationship between the petitioner and the Bidi-rollers was that of employer and employee. The wages fixed by the State Government in the impugned notification according to Mr. Purohit show that the manufacturer is not asked to pay daily wages or monthly wages to the Bidi-rollers, but if the work is taken from the employees on contract basis then in that, event the Bidi manufacturer has to pay to the Bidi-roller minimum wage Rs. 2/- for 1000 Bidis.

4. The contention of the petitioner that the provisions of the Act can not be attracted to fix the minimum wages of the employees of the petitioner because there does not exist relationship of Master and Servant between the petitioner and its employees has, in my opinion, no force. The examination of the scheme of the Act discloses that the appropriate Government has an authority under the Act to fix the minimum rates of wages payable to employees employed in an employment specified in Part I and Part II of the Schedule. It is admitted that the employment provided by the Bidi manufacturers falls within the ambit of the scheduled employment. The word "employee" has been defined in the Act, and according to this definition "employee" means any parson who is employed or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled employment in respect of which minimum rates of wages have been fixed. The word/"employee" has also been defined and it means any person who employs, whether directly or through another person, one or more employees in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act. Bidi-roller who are employed by the petitioner for the purposes of rolling the "Bidis" for remuneration undoubtedly fall within the definition of the word "employee" as defined in the Act. The petitioner also comes within the ambit of the term employer.

5. Under the provisions of Sub-section (2) of Section 3 an appropriate Government can fix minimum rate of wages which may govern the case of such employees who are employed on the basis of piece work. In the present case the minimum wage fixed by the Government for the Bidi-rollers is on the basis of the work turn out by them and the employees employed by the petitioner, who are known as Bidi-rollers, are entitled to receive under the Act minimum wages fixed by the Government Rs. 2/- per one thousand Bidis, In these circumstances the fixation of the minimum wage at the rate of Rs. 2/- per one thousand Bidis was within the competence of the Government. This contention of the petitioner's counsel that the remind between the master and the servant exists only wren there is a direct control and supervision over the working of the servants by the master, has no force In the present case the Bidi-rollers have been engaged oh contract bursas by the petitioner and they are entitled to remuneration for the work dine by the petitioner. In my opinion it cannot be said by the petitioner that the relationship of employee and employer does not exist between the petitioner and the Bidi-rollers. I, therefore, reject this contention of the petitioner.

6. In view of the statement made at the Bar by the learned Deputy Government Advocate that the Advisory Board has consulted the Government before the impugned notification was issued by it I see no force in the objection raised by the petitioner that the minimum wages were fixed in violation of the mandate contained in the proviso to Sub-section (2) of Section 5 of the Act. Earned Counsel for the petitioner is not prepared even today to contradict the statement made at the Bar by Mr. Purohit. I also do not find any reason to disbelieve the statement of learned Counsel for the respondents. In this view of the mater second contention of the petitioner also fails.

7. For the reasons mentioned above the writ petition is dismissed. No order as to costs.