

(1994) 09 AHC CK 0077
In the Allahabad High Court
Case No : C.M.W.P. No. 9658 of 1988

Ramala Sahkari Chini Mills Ltd.

APPELLANT

Vs

Payment of Wages Authority-cum-Conciliation Officer and
Others

RESPONDENT

Date of Decision : 19-09-1994

Acts Referred:

Payment of Wages Act, 1936 — Section 15(3)

Citation : (1995) 70 FLR 58 : (1995) 1 LLJ 1067

Hon'ble Judges : P.K. Mukherjee, J

Bench : Single Bench

Advocate : S.R. Misra, for the Appellant;

Final Decision : Allowed

Judgement

P.K. Mukherjee, J.—This matter is appearing for formal admission, but, since no counter-affidavit has been filed on behalf of the respondents pursuant to the directions passed by Hon"ble J.N. Dubey, J. on May 17, 1988, this miscellaneous writ petition is taken for hearing.

2. The facts of the instant miscellaneous writ petition are as follows:-

3. The petitioner is a registered Co-operative Sugar Mill under the provisions of U.P. Co-operative Societies Act. The respondent No. 3, Payment of Wages Inspector, District Meerut who has the jurisdiction to deal with the petitioner's Mill, inasmuch as, the jurisdiction of respondent No. 3 u/s 14(1) extends to the district of Meerut only, filed an application u/s 15(3) of the Payment of Wages Act in respect of 157 labourers of the petitioner through the Mill, which was registered as Payment of Wages Case No. 12 of 1985.

4. On perusal of the aforesaid application, it reveals that the claim filed by the respondent No. 3 was neither a claim of payment of wages nor deducted wages nor in respect of delayed wages contrary to the provisions of the Payment of Wages Act. It has been further mentioned in the said application that instead of

making payment of Rs. 11.23 p to the labourers a sum of Rs. 27.80 p should have been paid and that is why the application is filed.

5. It further appears from the application filed by the respondent No. 3 that vide said application a dispute with regard to wages payable was tried to be made out which could not be decided by respondent No. 1 exercising the summary powers, as contained under the Payment of Wages Act, is a Tribunal of very limited jurisdiction, and, since the controversy as per application is not within its ambit as per the provisions it has no jurisdiction to adjudicate upon the same.

6. The respondent No. 1, however, by his order dated November 29, 1985 dismissed the said application filed by the respondent No. 3 as per provision of Rule 8(3) of the Payment of Wages Procedure Rules, 1937.

7. According to the petitioner, respondent No. 3 being the only competent authority to deal with the petitioner's factory, and, whose application was dismissed on November 28, 1985 did not file an application for recalling of the dismissal order dated November 29, 1985 passed by the respondent No. 1. Therefore, the order dated November 29, 1985 became final so far as the respondent No. 3 is concerned.

8. Further, surprisingly the Payment of Wages Inspector, Ghaziabad, respondent No. 2, whose jurisdiction extends only to the district Ghaziabad, as his jurisdiction to that field is restricted u/s 14(1) of the Payment of Wages Act, filed an application for recalling the dismissal order of the application presented by the respondent No. 3, after elapsed about eighteen months.

9. From a bare perusal of the application dated April 8, 1987 shows that no good cause whatsoever was being shown for getting the dismissal order recalled, and, the application itself was based on wrong facts, inasmuch as, the office of respondent No. 3 occupied by Sri K.S. Tripathi had full knowledge of the date as the application itself was presented by respondent No. 3. Therefore the application apart from this was also liable to be rejected as the same was not moved within a period of one month.

10. The further contention of the petitioner is that the respondent No. 1, being Payment of Wages Authority, by its order dated April 4, 1988 on completely wrong facts without considering the objection of the petitioner and without applying its mind to the controversy involved has erroneously allowed the restoration application, and, set aside the order of dismissal of the application. Aggrieved the petitioner has filed the present writ petition before this Hon'ble Court under Article 226 of the Constitution of India.

11. Having considered the facts stated in the instant writ petition, and, in view of the fact that inspite of grant of time, no counter-affidavit has been filed on behalf of the respondent No. 2, I am of the view that it is debatable proposition that the authority under the Payment of Wages Act being "a persona designata" has no power to recall the earlier order passed by another authority, as he has no

expressed power. As such, the impugned order restoring the claim application filed by the respondent No. 2 who was not the original applicant is liable to be set aside.

12. Accordingly the impugned order dated April 4, 1988 passed by the respondent No. 1, in Payment of Wages Case No. 12 of 1985 is set aside, and, the writ petition succeeds and is allowed to the extent indicated above.

13. There shall be no order as to costs.