

(2011) 05 AHC CK 0403
In the Allahabad High Court
Case No : C.M.W.P. No. 27824 of 1996

Ramala Sahkari Chini Mills Ltd., Meerut	APPELLANT
Vs	
Authority under the Payment of Wages Act, 1936, Meerut and others	RESPONDENT

Date of Decision : 27-05-2011

Acts Referred:

Payment of Wages Act, 1936 — Section 15, 17

Citation : (2011) 5 AWC 4755 : (2011) 130 FLR 812 : (2012) 1 LLJ 549 : (2011) 3 UPLBEC 1930

Hon'ble Judges : Sudhir Agarwal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sudhir Agarwal, J.—Writ petition is directed against the order passed by Prescribed Authority on 30.5.1996 declaring that Rs. 4,429.60 and 6.163.00 from the wages of respondents 2 and 3 were wrongfully deducted by the petitioner and, therefore, this amount shall be paid along with the compensation of Rs. 17,718.40 and 24.652.00.

2. Petitioner did not avail statutory remedy of appeal u/s 17 of Payment of Wages Act, 1936 (hereinafter referred to as "Act") but straight-way filed writ petition on the ground that impugned order is wholly without jurisdiction. On a query as to how the order is without jurisdiction, he submitted that sum of Rs. 1,529.19 and 3,263.91 was deducted by the petitioner being loss caused by respondents and, therefore, the same could not have been claimed u/s 15 of the Act before the Prescribed Authority. However, on enquiry learned counsel for petitioner could not show any order of punishment or recovery passed by employer for recovering the said amount as the alleged loss. He only says that show cause notice was issued to respondents 2 and 3 but, thereafter, he could not show any final order passed by the petitioner.

3. In the circumstances, it cannot be said that the amount was not wrongfully

deducted by employer and Prescribed Authority u/s 15 had no jurisdiction to entertain the matter.

4. The rest of the amount is with respect to overtime claimed by respondents 2 and 3 on the ground that they worked during holidays but were not paid wages at the rate overtime payment is made which has been allowed by Prescribed Authority and this is well within the jurisdiction of Prescribed Authority u/s 15 of the Act. Hence there is no jurisdictional error in the order impugned in this writ petition.

5. Even otherwise, the findings recorded by Prescribed Authority have not been shown to be perverse warranting interference. So far as nonpayment of certain amount alleging to be a penal recovery is concerned, in absence of any order passed by competent authority to such extent, non-payment of such amount in the garb of recovery is impermissible and wholly without jurisdiction. The order, if any, passed by authority competent to do so in accordance with law could have only authorized to retain certain part of wages of employee concerned otherwise it amounts to illegal and unauthorized deduction. Similarly, where the fact that the workman has worked beyond the normal period of working, but was not paid wages, the Court find no reason to interfere with such finding of fact unless shown perverse which petitioner has failed.

6. There is another angle from which this matter deserves to be considered and commented upon by the Court. An employer having enough funds can always prolong a litigation stretching plight of poor individual workman to the extent of breaking. An individual poor workman may not withstand the prolong litigation and consequential harassment and torture. He is bound to kneel down and suffer by default. If he has no option but to pursue a matter involving just for 2, 3 or 4 thousand rupees, that would be dragging him in a kind of luxury litigation where one is asking an individual to spend much more than he actually would get. Such luxury litigation may be a hobby of the mighty employer but cannot be expected from a poor individual workman. The attempt on the part of the petitioner in continuing this litigation for more than one and half decade for such a petty amount is really unfortunate. The attitude of petitioner-employer in a kind of the matter which this Court is considering can neither be appreciated nor can be left un-condemned. In fact, it deserves to be dealt with in appropriate manner so as to give some kind of solace to otherwise harassed poor employee, i.e., respondents 2 and 3. This can be done only by imposing an exemplary cost upon the petitioner so that in future, he may ponder over the matter twice before opting for litigious hobby just for the sake of harassment and victimization of individual worker.

7. In the circumstances, I feel that in the interest of Justice, writ petition should be dismissed with exemplary cost.

8. Dismissed with cost quantified to Rs. 20.000 (Rupees twenty thousand).