

(2017) 04 MP CK 0170
In the Madhya Pradesh High Court
Case No : 4223 of 2017

Regional Agriculture Research Centre,? Sagar & another Vs Smt. Radha Rani Athya

Date of Decision : 25-04-2017

Acts Referred:

Constitution of India, Article 226 -
Power of High Courts to Issue certain writs
Minimum Wages Act, 1948, Section 20(2),
Section 14,

Citation : (2017) 04 MP CK 0170

Hon'ble Judges : Sanjay Yadav

Bench : Single Bench

Advocate : Akash Choudhary

Final Decision : Dismissed

Judgement

1. Shri Akash Choudhary, learned counsel for petitioners. Heard on admission.
2. This petition under Article 226 of the Constitution of India at the instance of the employer is directed against the order dated 28.3.2016 passed by the Competent Authority under Sub Section (2) of Section 20 of the Minimum Wages Act, 1948 whereby claim of the employee towards the difference of wages and towards overtime allowance has been awarded. Petitioner is a Private Security Agency. That Security of Laxmi Bai National Institute of Physical Education was contracted out to the petitioner for a period from 1.4.2014 to 1.4.2017 on the terms and condition that it will pay the wages to its employees at the rate fixed by the State Government under the Act of 1948 from time to time.
3. That claim was filed by Respondent No.1 before the Competent Authority Minimum wages under Section 20(2) of 1948 Act for difference of wages and for the wages of the period of holidays and weekly rest days whereon the employees were deployed for work. The petitioner though opposed the claim; however, the Competent Authority on a findings that the employees were paid less than minimum wages directed for payment of difference for the period from April 2014

to July 2015. The Competent Authority also found that the employees were not paid the overtime wages for the period January 2015 to July 2015. Section 12 of 1948 Act provides that: "12 . Payment of minimum rates of wages.(1) Where in respect of any scheduled employment a notification under section 5 is in force, the employer shall pay to every employee engaged in a scheduled employment under him, wages at a rate not less than the minimum rates of wages fixed by such notification for that class of employees in that employment without any deductions except as may be authorised within such time and subject to such conditions as may be prescribed.

(2) Nothing contained in this section shall affect the provisions of the Payment of Wages Act, 1936 Section 13 of 1948 Act provides for fixing hours for normal working day. Sub Section (1) of Section 13 stipulates"

"(1) In regard to any scheduled employment minimum rates of wages in respect of which have been fixed under this Act, the appropriate Government may -

(a) fix the number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals; (b) provide for a day of rest in every period of seven days which shall be allowed to all employees or to any specified class of employees and for the payment of remuneration in respect of such days of rest;

(c) provide for payment for work on a day of rest at a rate not less than the overtime rate." Furthermore Section 14 provides for that Where an employee, whose minimum rates of wages is fixed under this Act by the hour, by the day or by such a longer wage period as may be prescribed, works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him for every hour or for part of an hour so worked in excess at the overtime rate fixed under this Act or under any law of the appropriate Government for the time being in force whichever is higher.

4. In the case at hand, cogent material evidence establishes both the counts that is payment less than the minimum wages fixed by State and working beyond the days of work stipulated under Section 13 with no wages for the extra hours.

5. The competent Authority was thus within its jurisdiction in passing the impugned order as would warrant an interference thereof. In view whereof, petition fails and is dismissed. No costs.