

(2002) 02 MP CK 0051

In the Madhya Pradesh High Court

Case No : Writ Petition No. 1497 of 2001

Shri Ishwar Alloy Steels Limited

APPELLANT

Vs

The Collector and Others

RESPONDENT

Date of Decision : 13-02-2002

Acts Referred:

Sick Industrial Companies (Special Provisions) Act, 1985 — Section 22

Citation : (2002) 93 FLR 587 : (2002) 2 MPHT 197

Hon'ble Judges : A.M. Sapre, J

Bench : Single Bench

Advocate : Satpal Singh, for the Appellant; S. Mukati, Government Advocate and R.P. Joshi, for the Respondent

Final Decision : Dismissed

Judgement

A.M. Sapre, J.—By filing this writ under Articles 226/227 of Constitution of India, the petitioner seeks to assail the 2 R.R.C. both issued on 30-4-2001 (An-nexures P-6 & P-7) by Additional Tehsildar, Indore for recovery of Rs. 27,205/-and Rs. 23,937/-. Facts in brief are these.

2. Respondent No. 3 a lady worker was in the employment of petitioner-Company which was at all relevant time engaged in the business of manufacture of steel. Since the respondent No. 3 was not being paid her wages and also overtime wage by the petitioner as per the provisions of Minimum Wages Act despite she having actually rendered services for days, she filed two applications under Sections 15(3) and 20(2) of Minimum Wages Act before the Labour Court, Indore. The Labour Court registered the applications and issued notices to petitioner (non-applicant before Labour Court). The petitioner despite notice remained ex parte and hence Labour Court after placing the petitioner ex parte recorded the evidence of respondent No. 3 and passed two orders - one dated 7-12-2000 (Annexure R-3-1) and other dated 4-12-2000 (Annexure R-3-3) against the petitioner directing them to make the payment to respondent No. 3 towards her wage and for overtime done by her in petitioner's factory. The

petitioner did not make the payment and hence the Labour Court issued the impugned R.R.C. certificate (Annexures P-6 and P-7) on the strength of the two orders referred supra. It is against these two R.R.C. the petitioner has filed this writ.

3. The respondent No. 3 has filed the return and has supported the impugned demands and the R.R.C.

4. Heard Shri Satpal Singh learned counsel for the petitioner, Shri S. Mukati, Govt. Advocate for the respondent Nos. 1 and 2 and Shri R.P. Joshi, learned counsel for the respondent No. 3.

5. Submission of learned counsel for the petitioner was that since the petitioner-Company has become a sick Company in the sense that the reference under the SICA in relation to petitioner-Company is pending and hence the petitioner is entitled to rely upon the provisions of Section 22 of SICA for challenging the impugned R.R.C. notice they being in the nature of recovery and distress proceedings. This in substance was the only submission pressed in service by the learned counsel for the petitioner to attack the impugned R.R.C. notices. Learned counsel relied upon certain cases to support the submissions.

6. In reply learned counsel for the respondent No. 3 contended while defending the impugned recovery proceedings that they are legally issued and hence do not call for any interference. Learned counsel placing reliance on the decision of this Court rendered in the case of National Textiles Corporation v. Collector (1998 M.P.L.S.R. 469) urged that it completely decided the issue involved in this writ in favour of respondent No. 3.

7. Having heard the learned counsel for the parties and having perused the record of the case. I find no merit in the writ and hence it must be dismissed.

8. I am inclined to hold that the issue sought to be urged in this writ stands answered by the decision of this Court rendered in the case of National Textile Corporation (supra). That was also a case where on account of non-payment of dues of a worker under the Payment of Gratuity Act, a recovery certificate was issued by the Competent Authority, under the said Act against the employer which happened to be a Company. A writ was filed by the Employer challenging the recovery certificate on the ground that since the Company is a Sick Company under the provisions of SICA i.e., Sick Industrial Companies (Special Provisions) Act, 1985 and hence in terms of Section 22 *ibid* no coercive steps can be taken to recover the dues on the basis of the impugned Recovery Certificate from the Company as it will be against the spirit and object of Section 22 of the Act. Repelling this submission, this Court dismissed the writ and while upholding the Recovery Certificate held *Inter alia* that though the language of Section 22 *ibid* is wide yet, it can not be stretched so as to include within its sweep to stay the legitimate dues of workers. The learned Single Judge in detail examined the issue in the light of all relevant aspects and the sections applicable to issue and then recorded a finding that if the R.R.C. is issued for recovery of dues of a

worker, then Section 22 of SICA can not be relied on by the employer.

9. Submission of learned counsel for the petitioner was that the case of National Textile Corporation is distinguishable on facts because it was rendered in the case of non-payment of dues under the Gratuity Act whereas the present case relates to non-payment of minimum and overtime wage under the Minimum Wages Act. I do not find this distinction to be of any significance. The emphasis of this Court was on the dues of workers payable under Labour Laws which has its benevolent object behind it.

10. In the present case, the case of respondent No. 3 was that she was not paid her legal dues for the work done by her in petitioner Unit. The petitioner did not bother to even contest the application. They remained ex pane. The Labour Court then passed the award by allowing the application made by respondent No. 3. No attempt was made by petitioner in this petition to challenge the legality of the orders on merits. Indeed they were not even challenged in any proceedings including even this writ with any seriousness.

11. In my opinion, in view of decision rendered in the case of National Textiles (supra), to which I respectfully agree, and taking into account the facts of the case, the petition has no merit and deserves to be dismissed. It is accordingly dismissed, resulting in upholding of the impugned recovery certificates. No costs.