

(1980) 04 MAD CK 0038
In the Madras High Court

The Executive Engineer, P.W.D. North Presidency Division

APPELLANT

Vs

K. Ramadoss and Others

RESPONDENT

Date of Decision : 16-04-1980

Acts Referred:

Payment of Wages Act, 1936 — Section 1(4), 1(5)

Citation : (1980) 93 LW 523 : (1980) 2 MLJ 487

Hon'ble Judges : S. Padmanabhan, J

Bench : Division Bench

Judgement

S. Padmanabhan, J.—The short question that arises for consideration in this writ petition is whether the Public Works Department, North

Presidency Division, is an establishment within the meaning of the Payment of Wages Act, 1936. The petitioner is the Executive Engineer, P.W.D.

North, Presidency Division, Madras. Respondents 1 and 2 are employed as a Plumber and a Work Inspector respectively, in the Public Works

Department. The petitioner ordered recovery of Rs. 50 in five instalments from the first respondent and Rs. 40 from the second respondent to

make good the loss sustained by the department on account of their negligence. Respondents 1 and 2 then filed an application that these amounts,

should not be recovered from their salary. The application having been rejected they filed an application before the third respondent which was

taken on file as P.W. Case No. 40 of 1974. Before the third respondent it was contended on behalf of the petitioner that the Public Works

Department would not come within the definition of an industry as defined under the Industrial Disputes Act and that the Payment of Wages Act

would apply to a factory or an industrial establishment and that consequently the application of respondents 1 and 2 was not maintainable. The

objection was overruled by the third respondent. The third respondent further held that the deduction of the amount from the salary of respondents

1 and 2 was not justifiable. It is, in these circumstances, the petitioner has filed this writ petition to quash the order dated 31st August, 1976,

passed by the third respondent.

2. Mr. Krishnan, the learned Government Pleader relied on the decision in D. Padmanabhan Vs. The State of Tamilnadu, . This decision does not

apply to the facts of this case, as it is concerned with the question whether the Public Works Department is an industry within the meaning of the

definition of the word "Industry" under the Industrial Disputes Act.

3. Section 1(4) of the Payment of Wages Act, 1936 states that it applies in the first instance to the payment of wages to persons employed in any

factory and to persons employed (otherwise than in a factory) upon any railway by a railway administration or, either directly, through a sub-

contractor by a person fulfilling a contract with a railway administration. Section 1(5) provides as follows : The State Government, may, after giving

three months" notice of its intention of so doing, by notification in the Official Gazette, extend the provisions of this Act or any of them to the

payment of wages to any class of persons employed in any industrial establishment or in any class or group of industrial establishments; Provided

that in relation to any industrial establishment owned by the Central Government, with objects not confined to one State, no such notification shall

be issued except after consultation with that Government. By notification II-I No. 1669 of 1960 published in G.O.Ms. No. 4560. Industries,

Labour and Co-operation dated 1st October, 1960, the Tamil Nadu Government has extended the provisions of the Payment of Wages Act to the

payment of wages to all classes of persons employed in establishments not owned by the Central Government and in which any work relating to

the construction, development or maintenance of buildings, roads, bridges or canals relating to operations connected with navigation, irrigation or

the supply of water, or relating to the generation, transmission and distribution of electricity or any other form of power is being carried on Section

2(ii)(g) states thus : " "Industrial Establishment means any establishment in which any work relating to the construction, development or

maintenance of buildings, roads, bridges or canals, or relating to operations

connected with navigation, irrigation or the supply of Water, or relating to the generation, transmission and distribution of electricity or any other form of power is being carried on." Therefore, the establishment clearly falls within the definition of the industrial establishment as found in the Act. The learned Government Pleader did not urge any other point before me on the basis of which it could be stated that the Public Works Department would not fall within the definition of Industrial Establishment as found in the Act. In the circumstances, the third respondent rightly held that the Act is applicable to the Public Works Department. The learned Government Pleader did not dispute the fact that if once it is found that the Act is applicable the petitioner would not be competent to make the impugned deduction from the wages of respondents 1 and 2. There are no merits in the writ petition. The writ petition fails and is dismissed, but in the circumstances without costs.