

(1960) 08 P&H CK 0037
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1291 of 1960

The Sadhaura Transport Company. (P). Ltd.	APPELLANT
Vs	
The Punjab State and Another	RESPONDENT

Date of Decision : 30-08-1960

Acts Referred:

Minimum Wages Act, 1948 — Section 2, 3(1), 5(2)

Citation : (1961) 1 ILR (P&H) 308

Hon'ble Judges : Gurdev Singh, J;D. Falshaw, J

Bench : Division Bench

Advocate : C.L. Aggarwal, for the Appellant; N.N. Goswamy, General and Y.P. Gandhi, for the Respondent

Final Decision : Dismissed

Judgement

D. Falshaw, J. 1. This is a petition under Article 226 of the Constitution filed by the Sadhaura Transport Company (Private) Limited, who are carrying on a public motor transport business, in the district of Ambala, challenging the validity of a notification issued in the Punjab Government Gazette, on the 12th of February, 1960. The State of Punjab and the District Motor Transport Workers Union, Ambala, have been impleaded as Respondents. The impugned notification reads ?

In exercise of the powers conferred by Sub-section (2) of Section 5 of the Minimum Wages Act, 1948 (Central Act XI of 1948), the Governor of Punjab, after considering the advice of the committee appointed under Clause (a) of Sub-section (1) of the said section, is pleased to revise and fix the following minimum rates of wages in respect of the employment in public motor transport in the Punjab State as originally fixed, ? vide erstwhile Punjab Government notification No. 1927-LP-52/1145, dated the 14th March, 1952, and erstwhile PEPSU Government notification No. 80, dated the 23rd December, 1954, respectively.

2. Then follows a detailed list of all categories of employees concerned with motor transport. They fall into three groups: ? Section A ? General Staff,

containing categories Nos. 1 to 52, ranging from Head Clerk and Head Accountant to Punkha Puller, Section B ? Workshop Staff, containing 33 categories, ranging from Head Mistry to Lorry Washer; and Section C ? Running Staff, containing 3 categories, the minimum wages of each category are fixed, ranging from Rs. 175 to Rs. 60 per month for the lowest range. The relevant provisions of the Act read ?

Section 3(1). The appropriate Government shall, in the manner hereinafter provided ?

(a) fix the minimum rates of wages payable to employees employed (i) in an employment specified in Part I of the Schedule at the commencement of this Act, before the 31st. day of December, 1959 ;

* * * * ;

* * * *

(b) review at such intervals as it may think fit, such intervals not exceeding five years, the minimum rates of wages so fixed and revise the minimum rates, if necessary:

Provided that where for any reason the appropriate Government has not reviewed the minimum rates of wages fixed by it in respect of any scheduled employment within any interval of five years, nothing contained in this clause shall be deemed to prevent it from reviewing the minimum rates after the expiry of the said period of five years and revising them, if necessary, and until they are so revised the minimum rates in force immediately before the expiry of the said period of five years shall continue in force.

3. It may be mentioned that by the provisions of Section 2(b) ?appropriate Government? is the State Government except in relation to scheduled employment carried on by or under the authority of the Central Government or a railway administration, or in relation to a mine, oilfield or major port, or any corporation established by a Central Act. Section 5 provides the procedure for fixing and revising minimum wages. It reads ?

5(1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act or in revising minimum rates of wages so fixed, the appropriate Government shall either ?

(a) appoint as many committees and sub committees as it considers necessary to hold enquires and advise it in respect, as the case may be, or

(b) by notification in the Official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.

(2) After considering the advice of the Committee or committees appointed

under Clause (a) of Sub-section (1), or as the case may be, all representations received by it before the date specified in the notification appropriate Government shall, by notification in the Official Gazette, fix, or, as the case may be, revise the minimum rates of wages in respect of each scheduled employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue:

Provided that where the appropriate Government proposes to revise the minimum rates of wages by the mode specified in Clause (b) of Sub-section (1), the appropriate Government shall consult the Advisory Board also.

4. The main case of the Petitioner is that the notification, by which the minimum wages of all categories have been considerably raised, particularly those in the lower grades for which the minimum now fixed is Rs. 60 per mensem, whereas formerly it was as low as Rs. 20 or even Rs. 15 per mensem, is illegal because under the provisions of Section 3(1) (a) (i) the power of the State Government to fix minimum wages ceased on the 31st of December, 1959. In this connection reliance was placed on a copy of a letter from the Central Ministry of Labour and Employment, dated the 15th of March, 1960, Annexure ?A? to the petition. This letter was apparently addressed to the Secretary of Anr. transport company, the New Chenab Co-operative Transport Society, Limited, of Ambala in reply to a letter sent on behalf of that company, dated the 24th of February, 1960. The purport of the letter is that the Government of Punjab as the appropriate Government can fix minimum rates of wages under the Minimum Wages Act beyond the 31st of December, 1959, by undertaking their own legislation, as had been decided by the sixteenth session of the Labour Ministers' conference held on the 4th of January, 1960. It is not in dispute that legislation on matters of this kind is in the Concurrent List in the Constitution, and these matters can, therefore, be the subject of legislation either by the Central or the State Government, and now apparently it has been decided as a matter of policy to leave it to State Governments to legislate for the fixation of minimum wages in respect of any scheduled employment as from the date last fixed in the Central Act by the amending Act 30 of 1957.

5. It is, however, contended on behalf of the State and the Employees Union that this does not affect the power of the State Government to revise the minimum rates of wages previously fixed under the provisions of the Act, and this contention appears to be correct. All that the letter of the Central Ministry of Labour and Employment means is that scales of minimum wages are henceforth to be fixed by means of legislation to be undertaken by the States in the case of Scheduled industries not yet tackled.

6. It was, however, contended by the learned Counsel for the Petitioner that the minimum rates of wages in respect of the mot try were fixed by the erstwhile merit and the erstwhile Pepsu C and 1954, i.e., in both cases mor before the revising notification ruary, 1960, and that, therefore hit by the provisions of section vides for revision at intervals I years.

7. (sic)?.. In my opinion there is no function, since a perusal of section the proviso clearly shows that ernment has for any reason fai minimum scales of wages in resj ed employment, it is not debar after the lapse of more than fiv fixation of the original scales, ? of the failure to revise the rate; is that the old rates will continu* for more than ?five years until last undertaken. I am, therefo that the notification is not illega ground.

A further ground put forw if it was open to the Governm scale of minimum wages after than five years, the notification was illegal because, in the wore of the petition, ??under the cloak the rates the Punjab Governme: than 15 to 20 new categories oj new notification, and even if th revise the rates of wages after the 31st of December, 1959, it could not fix wages anew for these new categories.?....(sic)

8. Although none of the counsel concerned in the case had a copy of the original notification of the Punjab and Pepsu Governments referred to in the impugned notification, we have traced them in the appropriate Official Gazettes and a perusal thereof shows that the allegation in para 16 is a reckless misstatement. In the Punjab notification dated the 14th of March, 1952, published in the Gazette of the 21st of March, 1952, there are exactly the same 52 categories in Section A ? General Staff, the same 33 in Section B ? Workshop Staff, and the same 3 in Section C ? Running Staff. In the Pepsu notification which was published in the Gazette of the 27th of December, 1954. and in which, incidentally, the minimum rates of wages for the lower categories are higher than in the Punjab notification of two-and-a-half years earlier, the lowest rate being Rs. 30 per mensem, there are the same 52 categories in Section A and the same 3 in Section C. The only differences is in Section B ? Workshop Staff, in which only 29 categories have been shown as against 33. Since Pepsu has been merged with the erstwhile State of Punjab since November, 1956 and there are no new categories introduced in the impugned notification as compared with the Punjab notification of 1952, I do not consider that the introduction of 4 new categories in the Workshop Staff as compared with the Pepsu notification of 1954 in any way invalidates the notification. The result is that I find that there is no force in the petition and I would accordingly dismiss it with costs. Counsel?s fee Rs. 50.

Gurdev Singh, J.

9. I agree.