
(2006) 08 DEL CK 0255

In the Delhi High Court

Case No : Writ Petition (C) No. 2592 of 2001

Vishal Enterprises

APPELLANT

Vs

Regional Labour Commissioner (Central) and Others

RESPONDENT

Date of Decision : 21-08-2006

Acts Referred:

Minimum Wages (Central) Rules, 1950 — Rule 26(2)
Minimum Wages Act, 1948 — Section 20(2)

Citation : (2006) 08 DEL CK 0255

Hon'ble Judges : S.N. Dhingra, J

Bench : Single Bench

Advocate : Vidhu Upadhyaya, for the Appellant; Amit Chadha, for the Respondent

Final Decision : Disposed Off

Judgement

Shiv Narayan Dhingra, J.—By this writ petition, petitioner has challenged the order dated 4.1.2001 of Competent Authority under Minimum Wages Act(for short "the Act") whereby the Competent Authority directed the petitioner to make payment of the claimed amount of difference of wages to the employees as per Annexure B within 30 days from the date of receipt of the order.

2. Briefly the facts relevant for deciding this writ petition are that some employees of the petitioner filed an application u/s 20(2) of the Act through General Secretary of respondent No. 1 claiming that the petitioner had not paid minimum rates of wages, over-time allowance and wages for National holidays/public holidays to the 26 workers. The contention of the petitioner was that he had been paying minimum wages to the workmen and also over-time as per rules. The petitioner/employer in proof of payment of wages to the workmen produced copies of pay slips of the workmen before the Competent Authority. The Competent Authority refused to take these pay slips into consideration on the ground that these pay slips had not been prepared in form 11 prescribed under Rule 26(2) of Minimum Wages (Central) Rules. The petitioner also placed

on record a settlement entered into between the petitioner and some of the workers, namely at Serial Nos.8,11,12,13,14, 15,17,18,19, 21 to 26 regarding payment of over-time. This settlement was arrived at on 24.10.1999. The said document was taken on record but was not relied upon by the Competent Authority on the ground that the document was bearing signatures only of the workmen and not that of the petitioner and that the document did not mention the amount paid to the workmen. Petitioner had also stated that as far as workmen at Serial nos.7,9,10 and 16 were concerned, payment of difference of wages had been made to them during the hearing and produced original payment slips before the Authority. The Authority rejected the payment slips on the ground that the payments slips were not in Form 11 as per Rule 26(2) of Rules. Competent Authority observed that petitioner had not maintained the record and register as per rules and Therefore, the record produced by the petitioner could not be accepted as authentic and legal. The Competent Authority Therefore, directed for payment of difference of wages as given in Annexure B.

3. A perusal of Annexure B shows that it contains names of 19 workmen out of 26, on whose behalf the claim was filed. The claim of 7 workmen was rejected by the Authority on the ground that they had not authorised General Secretary of the Union to present the claim on their behalf. Along with the application, a drawn and due statement was filed by the workmen. Drawn and due statement of Suresh Chand, the first workman in the Annexure B would show that for August and September 1998 this workman had stated that due amount was Rs. 2452/- and drawn amount was also Rs. 2452/-, still he gave a balance difference of Rs. 884/- for each month. Workman Yash Pal had made a statement before the Authority that he had received his wages in full and only Rs. 273/- were due for 3 days over-time wages. But Annexure B shows that Authority has asked for payment of Rs. 4679/- to him (Yash Pal). In respect of Ramesh Chand, the Authority has asked payment of Rs. 952/-, while the order dated 4.12.2000 passed by the Authority shows that Ramesh Chand had also stated that due amount was only Rs. 273/-. Naval Kishore had also signed the settlement and submitted that main dispute was in respect of wages for 15th August, 2nd October and election day which was declared as public holiday. The petitioner had stated before the Authority that the petitioner had paid over time wages to the workmen for these dates at single rate.

4. It is clear from the proceedings that while passing order on 4.1.2001, Authority had not kept in mind its own order dated 4.12.2000. The order of Authority is also contrary to the "due and drawn" statements" filed by the workmen. "Due and drawn" statements of the workmen was not properly checked and verified by the Authority. The Authority had rejected the documents of the petitioner without any reason. About 15 workers arrived at a settlement with the petitioner and signed the settlement stating that they have settled the matter with the petitioner and received the over time and there was no claims left. This settlement was accompanied by the receipts of payments made to the workmen. The Authority rejected the receipts on the ground that the same were

not prepared in accordance with rules.

5. The question which was being determined by the Authority was whether minimum wages had been paid or not. The question before Authority was not whether the payment slips had been prepared in accordance with the rules or not. These payment receipts were in respect of over-time amount paid to the workman and each receipt was having signature of respective workman who received the amount. There was no reason for rejecting these payment slips more so when the witnesses except one who testified before the Authority categorically stated that they had received the amount as per the settlement. The one who denied the receipt of amount also admitted his signature on settlement and payment voucher & stated that dispute was only in respect of 15th August, 2nd October and election day.

6. Competent Authority while considering a claim u/s 20(2) of the Act should confine itself to the issue whether payment as per notification of minimum wages has been made or not. If the record has not been maintained in prescribed form, proceedings should be initiated for violation of rules, as per laws. The Competent Authority could not have ignored the payments made on the ground that receipts were not in prescribed proforma. I further consider that the order of the Authority is perverse and Therefore, the order is liable to be quashed.

7. Accordingly, the impugned order is quashed. However, it would not be appropriate to send back the matter to Competent Authority for fresh determination of the amount payable to different workers. Almost all the workmen had entered into a settlement with management. Only unsettled dispute was in respect of over-time of 15th August, 2nd October and election day of some workmen. The management is directed to pay a sum of Rs. 1000/- to each of those workmen who were paid wages at single rate for 15th August, 2nd October and election day.

The writ petition stands disposed of in above terms.