

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 196 of 2014 (O & M)

Date of decision: 31.01.2014

Suraj Bhan @ Surja Singh

...Petitioner(s)

Versus

The Authority appointed under Minimum Wages Act, 1948-cum-Regional
Labour Commissioner and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Raj Kaushik, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present writ petition is to the order dated 29.09.2009 (Annexure P-3) passed by respondent no. 1-authority under the Minimum Wages Act, 1948 (in short 'the Act'). Vide the said order, the present petitioner had been asked to deposit a sum of ₹8,10,000/- with the Regional Labour Commissioner within 30 days from the date of receipt of the order. The said amount has been quantified @500/- per month as wages against the 45 workers for a period of 3 years i.e. from 01.04.2001 to 31.03.2003.

Counsel for the petitioner has vehemently submitted that the claim was time barred as the Authority under Section 20(2) of the Act was only competent to entertain applications which were presented within six months from the date from which the minimum wages had become payable and under the proviso, it had to be satisfied whether the applicant had sufficient cause for not making the application within the prescribed period.

It is accordingly submitted that an objection was raised in the written statement regarding the same but the authority has failed to decide the said issue. It is further submitted that the workmen were workers of the contractor and had not worked with the petitioner and, therefore, the liability which has been affixed is without any basis.

After hearing counsel for the petitioner, this Court is of the opinion that there is no merit in the present case. A perusal of the application goes on to show that the applications were filed for period from 01.04.2001 to 31.03.2002 and 01.04.2002 to 31.03.2003 on the ground that the said workers were employed as crushing workers and were engaged in breaking the stones and loading them. It was a scheduled employment within the meaning of Section 2(g) of the Act. In the written statement filed by the petitioner-contractor, a plea was taken that the applicants were not employees of the answering respondent and it was time barred. It was admitted that a writ petition had been filed before the Apex Court for issuing directions for release of the bonded labour, which had been released from the said quarry on 15.06.2003. No plea was raised regarding whether the workers were workers of the contractor, which is now sought to be argued. Thus, the said submission cannot be accepted and raised before this Court for the first time which was not pleaded before the Authority. Counsel has submitted that written arguments were given to this extent but once the plea has not been taken in the written statement and the workers never got an opportunity to rebut the same, raising the plea in written arguments without building a base for the same would be without any basis. Resultantly, the submission that they were workers of the contractor is outrightly rejected.

On the second issue of limitation also, no relief can be granted. It is the own case of the petitioner that the workers were being kept as bonded labour and engaged under force and it was only by virtue of the directions of the Apex Court that they were released in 2003 and, therefore, the application which has been filed beyond the period of limitation in the year 2004 also would show that there was sufficient cause. In the facts and circumstances, the application being filed beyond the prescribed period was rightly adjudicated upon. The Authority has only awarded a sum of ₹500/- per month to the employees which is for over a period of three years after taking into account the affidavits filed by the workers. The petitioner-contractor has neither examined himself nor led any other evidence in defence before the Authority and, therefore, the amount awarded has been on the basis of the affidavits produced by the workers. Once the petitioner himself chose not to rebut the said affidavits by putting in appearance before the Court, no fault can be found in the order of the Authority.

Another aspect which is to be taken into consideration is that the order was passed on 29.09.2009. The present writ petition is being filed after a period of 4-1/2 years. Though, there is no period of limitation for filing a writ petition but needless to say that the petitioner has to approach the Court within a reasonable period. A litigant cannot wake up from his deep slumber and come to this Court at any point of time. The law only comes to the rescue of a person who is well aware of his rights and choses to seek his remedies within a reasonable period of time. The petitioner has failed to do so and no ground has been given in the writ petition as to why the writ was not preferred immediately in the year 2009. It is only when the order is being executed that the petitioner has woken up from his deep

slumber.

The last submission of desperation made by counsel for the petitioner is that he was only a partner in the said Forum. The other partners are not party to the present petition and it is open for the petitioner to seek his remedy against them in accordance with law. The present writ petition accordingly stands dismissed.

31.01.2014
shivani

(G.S. SANDHAWALIA)
JUDGE