

PETITIONER:
MUNICIPAL COUNCIL HATTA

Vs.

RESPONDENT:
BHAGAT SINGH & ORS.

DATE OF JUDGMENT: 05/02/1998

BENCH:
SUJATA MANMOHAR, D.P. WADHWA

ACT:

HEADNOTE:

JUDGMENT:
THE 5TH DAY OF FEBRUARY, 1998

Present:

Hon'ble Mrs. Justice Sujata V. Manohar

Hon'ble Mr. Justice D.P. Wadhwa

Ashok K. Singh, Adv. for S.K. Agnihotri, Adv. for the
appellant

Amitabh Verma, Adv. for Ashok Mathur, Adv. for the
Respondents.

O R D E R

The following order of the Court was delivered:

The respondents, who are Moharrirs/peons working with the appellant Municipal Council, Hatta, filed an application under Section 22 of the Minimum Wages Act, 1948, before the Competent Authority (Labour Court) under the Minimum Wages Act, 1948 for payment of overtime on the ground that they were working for 4 additional hours everyday. Their application for the period 1.2.82 to 31.3.83 has been allowed and the writ Petition which was filed by the appellant before the High Court has been dismissed.

The respondents who are employees of the appellant Municipal Council are governed by the provisions of Madhya Pradesh Municipalities Act, 1961. Under Section 95 of the Madhya Pradesh Municipalities Act, the State Government is entitled, inter alia, to make rules in respect of scale of pay and all allowances by whatever name called an other service conditions of Municipal Employees. Pursuant to the power so vested, the Madhya Pradesh Municipal Services (Scales of Pay and Allowances) Rules, 1997, have been framed. The pay scale of Moharrirs is fixed at Rs. 70-2-80-2 1/2-100-EB-4-120. There is no provision under these Rules for payment of any overtime allowance.

The respondents contended that they would be entitled to overtime under the Minimum Wages Act, 1948 by Virtue of Section 14 of the said Act. According to them, service with Local Authority is one of the employment covered by the Minimum Wages Act, 1948. Now, the minimum wages which are prescribed under the Minimum Wages Act, 1948 which would be applicable to the respondents are Rs. 50/- per month. Admittedly, the respondents are getting wages above the minimum wages prescribed under the Minimum Wages Act, 1948.

The short question is whether Section 14 of the Minimum Wages Act, 1948 would apply to such persons. Section 14(1) which is relevant for the present purposes is as follow:

Section 14

"Overtime - (1) Where as employee., whose minimum rate of wages is fixed under this Act by the hour. by the day or by such a longer wage period as may be prescribed, works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him for every hour or for part of an hour so worked in excess at the overtime rate fixed under this Act or under any law of the appropriate Government for the time being in force, whichever is higher."

There is also an amendment to section 14 by addition of sub-section (1a) under the Minimum Wages (Madhya Pradesh Amendment and Validation) Act, 1961 being Act 23 of 1961. Sub-section (1a) which is inserted in Section 14 entitles the State Government by Notification to fix the limit for overtime work in a Scheduled employment. This provision is not directly relevant. To claim overtime under Section 14, the following conditions must be fulfilled by an employee (1) the minimum rate of wages should be fixed under the Minimum Wages Act, 1948; and (2) such an employee should work on any day in excess of the number of hours constituting a normal working day. Therefore, overtime under Section 14 is payable to those employees who are getting a minimum rate of wage as prescribed under the Minimum wages Act, 1948. These are the only employees to whom overtime under Section 14 would become payable. In the present case the respondents cannot be described as employees who are getting a minimum rate of wages fixed under the Minimum Wages Act, 1948. They are getting much more and that too under the Madhya Pradesh Municipal Service (Scales of Pay and Allowances) Rules, 1967. Therefore, Section 14 has no application to them. We have not been shown any other provision under which they can claim overtime.

The application under Section 22 of the Minimum Wages Act, is, therefore, misconceived. The respondents seem to have proceeded on the basis that because employment under any Local Authority is listed as Item 6 in the Schedule to the Minimum Wages Act, 1948 they would automatically get overtime under the said Act. Section 14, however, clearly provides for payment of overtime only to those employees who are getting minimum rate of wage under the Minimum Wages Act, 1948. It does not apply to those getting better wages under other statutory Rules.

The appeal is, therefore, allowed and the impugned order of the High Court as well as the competent Authority under the Minimum wages 1948 is set aside. There will however, be no order as to costs.