

PETITIONER:
MANGANANESE ORE (INDIA) LTD.

Vs.

RESPONDENT:
CHANDI LAL SAHA AND ORS.

DATE OF JUDGMENT 01/11/1990

BENCH:
KULDIP SINGH (J)
BENCH:
KULDIP SINGH (J)
THOMMEN, T.K. (J)

CITATION:
1991 AIR 520 1990 SCR Supl. (2) 533
1991 SCC Supl. (2) 465 JT 1991 (1) 47
1990 SCALE (2) 902

ACT:

Minimum Wages Act, 1948: Sections 2(h), 3(1)(a), 4 & 11
Manganese Mines--Workers--Minimum Wages--Monetary value
grain supplied at concessional rates anti amount paid as
attendance bonus to workers--Whether can be treated as wage
in kind deducted from the minimum wages.

'Grain concession' and 'Attendance bonus'--Nature
of--Difference between Incentive bonus and Minimum wage
explained.

Industrial Disputes Act, 1947: Section 33C(2): Labour
Court--Jurisdiction of--Application for recovery of deficit
amount of minimum wages--Whether barred by section 20 of the
Minimum Wages Act, 1948.

HEADNOTE:

The Government of India by a notification issued under
the Minimum Wages Act, 1948 fixed the minimum rates of wages
payable to different categories of employees of the Mangan-
ese Mines. The appellant Company was paying minimum wages
to its workers. Besides it was also paying to its employees
attendance bonus and was supplying grain to them at conces-
sional rates. But the appellant was deducting out of their
wages the monetary value of the grain concession and the
attendance bonus. The workers of the appellant Company
working at Nagpur (Maharashtra) and Balaghat (Madhya Pra-
desh) filed applications under section 33C(2) of the Indus-
trial Disputes Act, 1947 before the Labour Courts at Nagpur
and at Jabalpur for recovery of the deficit amount of wages
due to them from the appellant. The appellant opposed the
applications on the ground that the minimum wage was all
inclusive wage which included the cash value of grain conces-
sion and attendance bonus.

The Labour Court, Nagpur, allowed the applications of
the workers by holding that the monetary value of the grain
supplied 'at concessional rate or the amount paid as attend-
ance bonus could not be counted towards the minimum wage.
But the Labour Court, Jabalpur partly allowed the applica-
tions of the workers and decided the issue regarding

534

the supply of concessional grain against the workmen by
holding that the appellant was entitled to add the cash

value of the grain-concessional for computing the minimum wage. The workmen did not challenge the order of the Labour Court, Jabalpur but the appellant challenged the orders of both the Labour Courts by filling writ petitions in the High Court of Bombay and Madhya Pradesh. Both the High Courts dismissed the writ petitions.

In appeals to this Court, it was contended on behalf of the appellants; (1) that the notification fixing minimum wage being all inclusive it would include the amount of bonus attendance and the monetary value of concessional grain; (ii) since the grain concession and attendance bonus were benefits which could be computed in money they were remuneration within the definition of 'wages' under section 2(h) of the Act; and (iii) in view of the provisions contained in Section 20 of the Minimum Wages Act, 1948 the Labour Court had no jurisdiction under section 33C(2) of the Industrial Disputes Act, 1947 to proceed with the applications for recovery of deficit amount of minimum wages.

Dismissing the appeals, this Court,

HELD: 1. Section 11(i) of the Minimum Wages Act, 1948 lays down that the minimum wages payable under the Act shall be paid in cash. Sub-sections 2 and 3 of section 11 are exceptions to the mandate contained in section 11(1). Section 4(1)(iii) and section 4(2) have to be read with section 11 of the Act. Section 4(1)(iii) mentions only such "cash value of the concession" as has been authorised "wages in kind" under sub-section (3) of section 11 of the Act. Therefore, there cannot be a wage in kind unless there is a notification by the appropriate Government under section 11(3) of the Act. It is only the appropriate Government which can authorise wages partly in kind. In the absence of any notification by the appropriate Govt. for the supply of essential commodities at concessional rates the cash value of such concessions cannot be treated as wage in kind and cannot be deducted from the minimum wages which have to be paid in cash under section 11(1) of the Act. In the instant case there being no notification by appropriate Government under section 11(3) of the Act the appellant cannot take advantage from para 2 of the notification or from provisions of section 4(1)(m) of the Act.

2. The scheme of the Minimum Wages Act, 1948 recognises "wages" as defined under section 2(h) and also "wages in kind" under section 11 of the Act. Reading both the provisions together "wages in

kind" can only become part of the wages if the conditions provided under sub-sections (2), (3) and (4) of section 11 of the Act are complied with. Since there was no notification by the Central Government under section 11(3) of the Act the supply of grain at a concessional rate cannot be considered "wages" under section 2(h) of the Act.

2.1. The managements of public sector undertakings which are bound by Director Principles of State Policy enshrined under Part IV of the Constitution must endeavour to secure for their workmen apart from "wages" other amenities also. These amenities may be capable of being expressed in terms of money but it is clear from the scheme of the Minimum Wages Act, 1948 that these concessions do not come within the meaning of "wages" under section 2(h) of the Act. The supply of grain at concessional rate to the workers is in the nature of an amenity or an additional facility/service and cannot be included in the rates of wages prescribed by the notification.

2.2. There is a basic difference between the incentive bonus and the minimum wage. Every workman is entitled to

minimum wage from the very first day of his joining the employment whereas the bonus has to be earned and it becomes payable after the event. In the instant case the attendance bonus was payable after regular attendance for a specified period and remaining loyal to the management. The scheme of payment of attendance bonus was thus an incentive to secure regular attendance of the workmen. It was an additional payment made to the workmen as a means of increasing production. Therefore, the attendance bonus is in the nature of an incentive and it cannot be treated as part of minimum wages under the Act.

Titaghur Paper Mills Co. Ltd. v. Its Workmen, [1959] S.C.R. Suppl. (2) 1012; followed.

3. The Minimum Wages Act is concerned with the fixing of rates of minimum wages. Under Section 20(1) of the Minimum Wages Act in which provision is made for seeking remedy in respect of claims arising out of payment of less than minimum rates the Authority is to exercise jurisdiction for deciding claims which relate to rates of wages. The power under section 20(3) of the Act given to the Authority dealing with an application under section 20(1) to direct payment of the actual amount found due, is only an incidental power for working out effectively the directions under section 20(1) fixing various rates under the Act. That is, if there is no dispute as to rates between the employer and the employee and the only question is whether a particular payment at

536

the agreed rate is due or not, then s. 20(1) of the Act would not be attracted at all, and the appropriate remedy would only be either under s. 15(1) of the payment of Wages Act or under section 33C(2) of the Industrial Disputes Act.

3.1. In the instant case there was no dispute regarding the rates of wages and it is admitted by the parties that the minimum rates of wages were fixed by the Government of India under the Act. The workmen demanded the minimum wages so fixed and the appellant denied the same to the workmen on extraneous considerations. Under the circumstances the remedy under section 20 of the Act was not available to the workmen and the Labour Court rightly exercised its jurisdiction under section 33C(2) of the Industrial Disputes Act, 1947.

Town Municipal Council, Athani v. Presiding Officer, Labour Court, Hubli & Ors., [1970] 1 S.C.R. 51; followed.

[Notwithstanding the fact that the order of the Labour Court Jabalpur became final, the Supreme Court invoked its powers under Article 142 of the Constitution of India and directed that the benefit of this judgment be extended to the workmen of the appellant in the State of Madhya Pradesh.

]

JUDGMENT: