

UNION OF INDIA & ANR.

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v.

AVTAR CHAND ETC. ETC.

(Civil Appeal Nos.3416-3445 of 2010)

FEBRUARY 19, 2019

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**[ABHAY MANOHAR SAPRE AND
L. NAGESWARA RAO, JJ.]**

Compensation: Claim of – Award of 200% compensation – Justification of – On facts, non-payment of minimum wages to workmen – Order by the Specified Authority directing the employers to pay to each worker the difference in wages towards the claim plus compensation at the rate of 200% of the claim – High Court upheld the order – On appeal, held: In an identical case, the High Court awarded 100% compensation to similarly placed workers, thus, there was no justification to award compensation at the rate of 200% to the workers – Though it was the discretion of the Courts/ Authority to award compensation with different percentage in every case but it was necessary to give reasons in support thereof – High Court failed to give reasons – Thus, each worker entitled to claim compensation at the rate of 100% in place of 200% – Labour Laws.

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Allowing the appeals, the Court

HELD: 1.1 The High Court, in the instant case also should have awarded compensation at the rate of 100% to each respondent alike the one awarded in other case which had attained finality. There is no justification to award compensation at the rate of 200% to the respondents when in other identical case, the High Court awarded compensation at the rate of 100% to similarly placed workers. [Paras 16, 17] [580-D-E]

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1.2 Though, it was the discretion of the Courts/Authority to award compensation with different percentage in every case but it was necessary to give reasons in support of award of such compensation. It was much more so when the High Court awarded compensation at the rate of 200% to some workers and awarded at the rate of 100% to other workers though similarly situated. This necessitated for giving of reasons as to why compensation

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- A was being awarded at the rate of 200% to one set of workers as against the other set of workers at the rate of 100% when all were similarly placed. The High Court failed to give any reason while awarding compensation at two rates. The impugned order is modified to the extent that each respondent-worker is held entitled to claim compensation amount at the rate of 100%, i.e.,
- B Rs.49,804/- in place of 200% which was awarded by the Courts below. Each respondent-worker is held entitled to receive a sum of Rs.49,804/- (100%) towards his claim plus Rs.49,804/- by way of compensation = total Rs.99,608/-. [Paras 18-20][580-F-H; 581-A-B]
- C CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 3416-3445 of 2010.

From the Judgment and Order dated 01.03.2007 of the High Court of Punjab and Haryana at Chandigarh in Writ Petition Nos. 3126, 3128, 3129, 3130, 3132, 3133, 3134, 3135, 3136, 3137, 3138, 3139, 3140, 3141,

- D 3142, 3143, 3144, 3145, 3148, 3149, 3150, 3151, 3153, 3154, 3155, 3156, 3157, 3158, 3159, 3160 and 3161 of 2007.

Ajit Kumar Sinha, Sr. Adv., Sarad Kumar Singhania (for Arvind Kumar Sharma), Adv. for the Appellants.

Binay Kumar Das, Adv. for the Respondents.

- E The Judgment of the Court was delivered by

ABHAY MANOHAR SAPRE, J. 1. These appeals are directed against the final judgment and order dated 01.03.2007 passed by the High Court of Punjab & Haryana at Chandigarh in Writ Petition Nos. 3126, 3128, 3129, 3130, 3132, 3133-3145, 3148-3151 and 3153-3161 of

- F 2007 whereby the High Court dismissed the writ petitions filed by the appellants herein.

2. A few facts need mention *infra* for the disposal of these appeals which involve a short point.

- G 3. The appellant No.1 is the Union of India (Commander, Western Base Workshop, General Reserve Engineers Force at Pathankot) and respondent No.2 is its official (Chief Engineer(Project), Sampark, P.O. Gangyal, Jammu) whereas the respondents are the workers.

- H 4. The respondents, who were the skilled workers, worked with the appellant No.1's workshop (GREF) at Pathankot for the period from 01.03.2001 to 30.06.2004. The respondents, however, raised a grievance

that during the said period, they were paid less wages than the minimum wages fixed for their category of employment under the Minimum Wages Act, 1948 (for short called, "the Act") and which were legally payable to them.

5. In other words, their grievance was that the appellants did not pay to them the minimum wages prescribed under the Act to which they were legally entitled but were paid less than the minimum wages. The respondents, therefore, claimed the difference of what was paid to them and what were legally payable to them under the Act by the appellants. According to the respondents, each worker was, therefore, entitled to claim a sum of Rs.49,804/- from the appellants being the difference in the wages.

6. Since the appellants did not pay the difference of amount claimed by each respondent, the respondents filed applications (Claim Application No.552/2004 & others connected matters) under Section 20(3) of the Act before the Specified Authority, Chandigarh.

7. By order dated 01.11.2006 (Annexure-P-2), the Specified Authority allowed the applications and directed the appellants to pay to each respondent a sum of Rs.49,804/- towards the claim plus Rs.99,608/- towards the compensation (200% of the claim) = Total - Rs.1,49,412/-.

8. The appellants felt aggrieved and filed the writ petitions in the High Court of Punjab & Haryana at Chandigarh out of which these appeals arise. By impugned order, the High Court dismissed the writ petitions and affirmed the order of the Specified Authority giving rise to filing of the present appeals by way of special leave in this Court.

9. So, the short question, which arises for consideration in these appeals, is whether the High Court was justified in dismissing the appellants' writ petitions.

10. Heard Mr. Ajit Kumar Sinha, learned senior counsel for the appellants and Mr. Binay Kumar Das, learned counsel for the respondents.

11. Mr. Ajit Kr. Sinha, learned senior counsel for the appellants while assailing the legality of the impugned order argued only one point. It was his submission that in an identical case, the High Court awarded 100% compensation to similarly placed workers in CWP No. 3127/2007 decided on 01.03.2007 whereas, in the present case, the High Court awarded compensation at the rate of 200% payable to each respondent-worker.

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- A 12. Learned counsel urged that in the absence of any reason or/ and justification for awarding compensation at the rate of 200% in the present case, whereas awarding compensation at the rate of 100% to other similarly situated workers, the award of compensation at the rate of 200% to each respondent in this case does not stand to any reason and hence not legally sustainable.
- B 13. Learned counsel, therefore, urged that the High Court should have also awarded similar compensation at the rate of 100% to each respondent alike the one awarded in other case.
- C 14. In reply, learned counsel for the respondents supported the impugned order and contended that no case is made out to call for any interference.
- D 15. Having heard the learned counsel for the parties and on perusal of the record of the case including the written submissions filed on behalf of the appellants, we find substance in the submission of the learned counsel for the appellants.
- E 16. In our considered opinion, the High Court, in the case at hand also should have awarded compensation at the rate of 100% to each respondent alike the one awarded in other case (CWP No. 3127/2007 decided on 01.03.2007) which had attained finality.
- F 17. In fact, we do not find any justification to award compensation at the rate of 200% to the respondents when in other identical case, the High Court awarded compensation at the rate of 100% to similarly placed workers.
- G 18. Though, it was the discretion of the Courts/Authority to award compensation with different percentage in every case but it was necessary to give reasons in support of award of such compensation. It was much more so when the High Court awarded compensation at the rate of 200% to some workers and awarded at the rate of 100% to other workers though similarly situated. This necessitated for giving of reasons as to why compensation was being awarded at the rate of 200% to one set of workers as against the other set of workers at the rate of 100% when all were similarly placed. The High Court having failed to give any reason while awarding compensation at two rates, it calls for interference in these appeals.
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19. In view of the foregoing discussion, we allow the appeals and A
modify the impugned order to the extent that each respondent-worker is
held entitled to claim compensation amount at the rate of 100%, i.e.,
Rs.49,804/- in place of 200% which was awarded by the Courts below.

20. In other words, now each respondent-worker is held entitled B
to receive a sum of Rs.49,804/- (100%) towards his claim plus
Rs.49,804/- by way of compensation = total Rs.99,608/-.

21. The appellants are directed to pay a sum of Rs.99,608/- to
each respondent-worker within three months from the date of this order
after proper verification.

Nidhi Jain

Appeals allowed.