

Chief Inspector Of Factories vs V.K. Modi on 14 February, 1952

Equivalent citations: AIR1952ALL804, AIR 1952 ALLAHABAD 804

ORDER

Desai, J.

1. This is an application by the Chief Inspector of Factories for revision of an order passed by the District Judge in a case under the Payment of Wages Act. In this case it is conceded that the wages of employees were to be paid by the opposite party before the 10th of the month. Actually they were paid after the 10th of the month but before an application was made by the Chief Inspector under Section 15, Payment of Wages Act. Consequently on the application of the Chief Inspector under Section 15 the Magistrate ordered compensation to be paid by the opposite party and the amount ordered exceeded Rs. 300. The opposite party went up in appeal and the learned District Judge held that the Magistrate had no jurisdiction to order compensation when the amount of the wages had already been paid before the application was made. He set aside the order of the Magistrate.

2. The view taken by the learned District Judge that when the wages had been paid before the Chief Inspector made the application the Magistrate could not order compensation to be paid by the opposite party is correct. An application under Section 15 has to be made before the delayed wages are paid. This necessarily follows from the directions that can be made by the Magistrate. The principal direction that has to be made is that the delayed wages should be paid. The payment of compensation is an incidental direction. If the wages have been paid (even though after the due date), it is impossible for the Magistrate to direct payment of the (delayed) wages and if he cannot make that direction it follows that he cannot make any direction about the payment of compensation. The language of Section 15 makes it clear that an order of payment of compensation alone is beyond the jurisdiction of a Magistrate. If compensation can be ordered to be paid, it can be ordered to be paid only along with the wages. If no wages are ordered to be paid, no compensation also can be ordered to be paid.

3. It is contended in this application that the learned District Judge had no jurisdiction to entertain the appeal, if the Magistrate had no jurisdiction to pass the order of compensation, The Magistrate purported to act under Section 15. The amount of compensation ordered by him exceeded Rs. 300. Under Section 17 an appeal lies "if the total sum directed to be paid by way of wages and compensation exceeds Rs. 300." In this case the total sum directed to be paid exceeded Rs. 300, though it was composed entirely of compensation. But there is nothing in Section 17 to suggest that before an order can be appealable, both wages and compensation should be ordered to be paid. All that is necessary is that the total sum ordered to be paid should exceed Rs. 300. It may be composed of wages alone or of compensation alone or of wages and compensation both, A Magistrate is not bound to award compensation even when he directs payment of delayed wages; he has discretion

not to order any compensation while directing payment of delayed wages. Just as the amount ordered, in order to make the order appealable, may consist entirely of wages so also it may consist entirely of compensation for the purposes of Section 17. That such an order is illegal is besides the question.

There is nothing in *Chiman Lal v. Junior Inspector of Factories*, A. I. R. 1942 Bom. 273 which conflicts with the view taken above. *Divatia J.* laid down in that case that a Magistrate cannot award compensation if the delayed wages have already been paid before the order. In that case the delayed wages had been paid before the order was made by the Magistrate and the Magistrate ordered compensation of less than Rs. 300. Still there was an appeal by the employer who contended that the amount of the wages that had been delayed in payment and the amount of compensation taken together exceeded Rs. 300, and that consequently he had a right of appeal. That contention was overruled. That case is distinguishable from the present case where the amount of compensation itself exceeded Rs. 300. *Divatia J.* relied upon the fact that the compensation awarded in that case did not exceed Rs. 300. I, therefore, hold that the appeal was competent and that the learned District Judge did not act without jurisdiction in entertaining it.

4. There is no force in this application in revision and it is dismissed.