

STATE OF JAMMU AND KASHMIR AND ORS.

v.

ABDUL MAJID

JANUARY 5, 2007

[DR. AR. LAKSHMANAN AND ALTAMAS KABIR, JJ.]

Interim Order:

High Court—Single Judge in a writ petition directing State Government, inter alia, to pay wages of workman from a specified date—State filing a Letters Patent appeal challenging said order—Division Bench by an interim order directing State Government to deposit the money in terms of Minimum Wages Act and to pay the said amount to respondent within two weeks—Held, direction of Division Bench to pay the amount to respondent pending Letters Patent appeal is not warranted at this stage—However, the direction to deposit the wages in accordance with terms of Minimum Wages Act not interfered with and time granted for the purpose—The amount so deposited shall be subject to final outcome of Letters Patent appeal—Minimum Wages Act, 1948.

In a writ petition filed by respondent-workman, the Single Judge of the High Court directed the appellants, *inter alia*, to pay the respondents minimum wages w.e.f. January 1992 at such rates as were prevalent from time to time. The appellants filed a Letters Patent appeal, and the Division Bench of the High Court by an interim order directed the appellants to deposit the wages in accordance with the terms of Minimum Wages Act from January 1992 to March 2006 and to pay the said amount to the respondents within two weeks. Aggrieved, the State Government filed the instant appeal.

Disposing of the appeal, the Court

HELD: The direction of Division Bench of the High Court to pay the amount to the respondent within two weeks pending disposal of the Letters Patent Appeal is not warranted at this stage. However, the direction requiring the State to deposit the wages of the respondent in accordance with the terms of Minimum Wages Act from January, 1992 to March, 2006

A is not interfered with. Therefore, further time is given to the State by four weeks to comply with the direction in regard to the deposit of the minimum wages, which shall be subject to the final outcome of the Letters Patent Appeal. On such deposit, the Registrar General is directed to invest the same in a short term fixed deposit in a nationalized bank.

[Para 6] [215-E-H, 216-A]

B

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 65 of 2007

From the interim Order dated 3.4.2006 of the High Court of Jammu and Kashmir in LPA (SW) No. 81/2006, C.M.P. No. 53/2006.

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Atlaf H. Nayak, A.G., State of Jammu and Kashmir and Anis Suhrawardy for the Appellants.

Vijay Kumar for the Respondent.

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The Judgment of the Court was delivered by

DR. AR. LAKSHMANAN, J. : Leave granted.

E

2. Heard Mr. Altaf H. Nayak, learned Advocate-General for the State of Jammu & Kashmir and Mr. Vijay Kumar, learned counsel for the respondent.

3. The appeal is directed against an interim order dt. 03.04.2006 passed by the High Court in LPA (SW) No. 81/2006 and CMP No. 53/2006 arising out of SWP No. 1513/2004.

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4. The learned Single Judge of the High Court while disposing of the Writ Petition filed by the respondent herein issued the following directions:-

“(1) pay to the petitioner minimum wages as payable under the Minimum Wages Act w.e.f. January, 1992 at such rates as were prevalent from time to time.

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2. petitioner be considered for regularization as class IV.

3. Petitioner be brought on regular establishment as helper/class-IV whichever be the lowest post available on the regular establishment of the department within a period of two months.

H

4. Non-observance of this direction within the stipulated period will amount to commission of contempt of court.

Registrar Judicial shall place this file before this court on the expiry of two months. Copy of this Order shall be furnished to Mrs. Neeru Goswami appearing for respondents for compliance.”

5. Aggrieved against the said order, the State has preferred the Letters Patent Appeal which was taken on file as LPA No.81/2006. The State challenged the correctness of the directions issued by the learned Single Judge in the Letters Patent Appeal. Admittedly, the Letters Patent Appeal filed by the State is pending final disposal. In the meanwhile, the High Court directed the State to deposit the wages of the respondent in accordance with the terms of Minimum Wages Act from January, 1992 to ending March, 2006 and pay this amount to the respondent within two weeks from 03.04.2006. The court has also observed that subject to the above, direction Nos.3 and 4 of the learned Single Judge shall remain stayed till the next date of hearing. Aggrieved by the said order, the state has preferred the above appeal in this Court. This Court on 17.07.2006 issued notice on the Special Leave Petition as also on the prayer for interim relief.

6. As noticed earlier, the Letters Patent Appeal is still pending in the High Court. The State has questioned the correctness of the directions issued by the learned Single Judge in the Letters Patent Appeal. In the meanwhile, the learned Judges of the Division Bench of the High Court directed the State to deposit the wages of the respondent in accordance with the terms of Minimum Wages Act from January, 1992 to ending March, 2006 and pay the said amount to the respondent within two weeks from 03.04.2006. The said direction to pay the amount to the respondent within two weeks pending disposal of the Letters Patent Appeal, in our opinion, is not warranted at this stage. However, we are not inclined to set aside the direction issued by the Division Bench directing the State to deposit the wages of the respondent in accordance with the terms of Minimum Wages Act from January, 1992 to ending March, 2006. Therefore, we give further time to the State by four weeks to comply with the direction in regard to the deposit of the minimum wages. The said amount shall be deposited with the Registrar General of the High Court subject to the final outcome of the Letters Patent Appeal. On such deposit, the Registrar General is directed

A to invest the same in a short term fixed deposit in a nationalised bank.

7. We request the High Court to dispose of the Letters Patent Appeal within three months from the date of receipt of this Order from this Court or on production of the same by either party.

B 8. The appeal stands disposed of in the above terms. No costs.

R.P.

Appeal disposed of.