

SARPANCH, LONAND GRAMPANCHAYAT

v.

RAMGIRI GOSAVI & ANR.

April 20, 1967

[R. S. BACHAWAT AND J. M. SHELAT, JJ.]

Minimum Wages Act, 1948 s. 20(1) and (2)—Authority under s. 20(2) exercising discretion condoning delay—Whether circumstance justified interference by superior court in exercise of discretion.

On March 19, 1963 the first respondent, on behalf of some employees of the Grampanchayat, applied to the authority appointed under s. 20(1) of the Minimum Wages Act, 1948, for a direction upon the Grampanchayat to pay to the employees certain overtime wages, etc.

The Authority found that since January 2, 1961, the employees had been making complaints to the Government authorities regarding non-payment of overtime wages and as a result, directions were given from time to time by the Government Officers concerned to the appellant to comply with the provisions of the Act and the rules made thereunder; that the officers assured the employees from time to time that the matter was receiving their attention and the employees, relying upon these assurances, refrained from making the application within six months as required under the first proviso to s. 20(2). By its order of September 18, 1963, in exercise of the power conferred by the second proviso to s. 20(2) the authority therefore condoned the delay in the filing of the application on the ground that the employees had remained in the honest though mistaken belief that relief would be granted to them through the intervention of the officers and held that the application should be entertained in respect of the claims for the period subsequent to January 1, 1961. A petition challenging this order under Art. 227 of the Constitution was summarily dismissed by the High Court.

On appeal to this Court,

HELD: The expression "sufficient cause" in the second proviso to s. 20(2) should receive the same liberal interpretation as in s. 5 of the Indian Limitation Act. It was not shown that in condoning the delay the Authority had acted arbitrarily or capriciously or in excess of its jurisdiction or that it committed any error apparent on the face of the record. This Court could not interfere under Art. 136 merely because it might take a different view of the facts and exercise its discretion differently. [776 B; 777 C-D]

Case law referred to.

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 87 of 1966.

Appeal by special leave from the judgment and order dated November 20, 1963 of the Bombay High Court in Special Civil Application No. 1886 of 1963.

H. R. Gokhale and *R. Gopalakrishnan*, for the appellant.

The respondent did not appear.

A The Judgment of the Court was delivered by

Bachawat, J. On March 19, 1963 respondent No. 1 on behalf of 36 employees of the Lonand Grampanchayat applied to the Authority appointed under s. 20(1) of the Minimum Wages Act, 1948 for a direction upon the Grampanchayat to pay to the employees overtime wages and damages. A number of employees claimed overtime wages from October 23, 1960 for a period of two years two months and nine days. One employee claimed wages for a period of seven years and nine months; one claimed wages for six years and ten months and another claimed wages for three years. By an order dated September 18, 1963 the Authority held that the application should be entertained in respect of the claims for the period subsequent to January 1, 1961 as the employees had sufficient cause for not making the application within the prescribed period of six months. A petition challenging this order under Art. 227 of the Constitution was summarily dismissed by the Bombay High Court. From the order of the High Court, the present appeal has been filed by special leave.

D An application for a direction on the employer to pay minimum wages and other amounts payable under the Minimum Wages Act may be made under s. 20(2) of the Act to the Authority appointed under s. 20(1). The first proviso to s. 20(2) requires that "every such application shall be presented within six months from the date on which the minimum wages or other amount became payable". The second proviso to s. 20(2) is in these terms :—

"Provided further that any application may be admitted after the said period of six months when the applicant satisfies the Authority that he had sufficient cause for not making the application within such period."

F The Authority has a discretion to condone the delay in presenting the application provided sufficient cause for the entire delay is shown to its satisfaction. This discretion like other judicial discretion must be exercised with vigilance and circumspection according to justice, commonsense, and sound judgment. The discretion is to know through law what is just, see *Keighley's* case⁽¹⁾

G The wording of the second proviso is similar to the provisions of s. 5 of the Indian Limitation Act. In *Krishna v. Chathappan*⁽²⁾, the Madras Hgh Court indicated in the following passage how the discretion under s. 5 should be exercised :

H "We think that section 5 gives the Courts a discretion which in respect of jurisdiction is to be exercised in the way in which judicial power and discretion ought to be

(1) 10 Coke's Rep. 139, 140=77 E. R. 1134, 1136. (2) I. L. R. 13 Mad. 269.
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exercised upon principles which are well understood; the words 'sufficient cause' receiving a liberal construction so as to advance substantial justice when no negligence nor inaction nor want of *bona fides* is imputable to the appellants."

This decision received the approval of this Court in *Dinabandhu Sahu v. Jadumoni Mangaraj and others*⁽¹⁾ and *Ramlal, Motilal and Chhotelal v. Rewa Coalfields Ltd.*⁽²⁾. The words "sufficient cause" in the second proviso to s. 20(2) should receive a similar liberal construction.

No appeal lies from an order of the Authority under s. 20. But the High Court is vested with the power of judicial superintendence over the tribunal under Art. 227 of the Constitution. This power is not greater than the power under Art. 226 and is limited to seeing that the tribunal functions within the limits of its authority, see *Nagendra Nath Bora and another v. The Commissioner of Hills Division and Appeals, Assam, and others*⁽³⁾. The High Court will not review the discretion of the Authority judicially exercised, but it may interfere if the exercise of the discretion is capricious or perverse or *ultra vires*. In *Sitaram Ramcharan, etc. v. M. N. Nagarshana and others*⁽⁴⁾, this Court held that a finding of fact by the authority under the similarly worded second proviso to s. 15(2) of the Payment of Wages Act, 1936 could not be challenged in a petition under Art. 227. The High Court may refuse to interfere under Art. 227 unless there is grave miscarriage of justice.

In the present case, the Authority found that since January 2, 1961 the employees were making complaints to the government authorities regarding non-payment of overtime wages. On January 2, 1961 the employees wrote to the Inspector, Minimum Wages, government labour office, Sangli, complaining of overtime work and asking for directions on the appellant to comply with the provisions of the Minimum Wages Act. A reminder was sent to him on January 11, 1961. On January 18, 1961 the Inspector wrote that the matter was being followed up. On April 22, 1961 the Inspector visited Lonand and directed the appellant to comply with the provisions of the Minimum Wages Act and the rules made thereunder. On April 26, 1961 the Inspector communicated this direction to the employees. On January 1, 1962 the employees lodged a complaint of overtime work with the Commissioner, Poona Division, and asked for a direction for payment of the arrears of overtime wages. On January 3, 1962 the Commissioner wrote to the employees that the matter was receiving attention and their application had been sent to the Collector of Satara for disposal. Later in August/September 1962 and early 1963 the

(1) [1955] 1 S. C. R. 140, 146.

(2) [1962] 2 S. C. R. 762, 767.

(3) [1958] S. C. R. 1240, 1272.

(4) [1960] 1 S. C. R. 875, 884.

- A** Block Development Officer came to Lonand and made inquiries. The revenue officers appointed as inspectors under the government notification dated May 4, 1955 are under the administrative control of Commissioner and Collector. The inspectors have no power to give relief under s. 20(2) but they have large powers of supervision and control under s. 19 of the Act. The employees relied
- B** upon the assurances of the inspectors and their superiors that proper steps would be taken for the remedy of their grievances and relying upon those assurances, they refrained from taking steps under s. 20(2) of the Minimum Wages Act. Having regard to all the circumstances of the case, the employees were not guilty of inaction or negligence and the entire delay in presenting the application was due to their honest though mistaken belief that the relief
- C** of overtime wages would be granted to them through the intervention of the inspectors and their superior officers. It is not shown that in condoning the delay the Authority acted arbitrarily or capriciously or in excess of its jurisdiction or that it committed any error apparent on the face of the record. In the application under s. 20(2), some of the employees claimed overtime wages for
- D** periods prior to January 1, 1961. The Authority declined to condone the delay in respect of claims for the period prior to January 1, 1961. On a careful consideration of the relevant materials, the Authority condoned the delay in respect of claims subsequent to January 1, 1961 only. The Court cannot interfere merely because it might take a different view of the facts and exercise the discretion differently. It is not shown that the impugned order led to
- E** grave miscarriage of justice. The High Court refused to interfere under Art. 227. We think that this is not a fit case for interference by us under Art. 136.

The appeal is dismissed. There will be no order as to costs.

R.K.P.S.

Appeal dismissed.