

Damodaran Vs. Krishnankutty

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Court : Kerala

Decided On : Mar-29-2006

Reported in : 2006(2)KLT753; (2006)IIILLJ407Ker

Judge : J.B. Koshy, J.

Acts : [Payment of Wages Act, 1936](#) - Sections 1(6) and 15; [Industrial Disputes Act, 1947](#) - Sections 2

Appeal No. : C.R.P. No. 2728 of 1996

Appellant : Damodaran

Respondent : Krishnankutty

Advocate for Def. : P. Velayudhan and; T.M. Chandran, Adv.

Advocate for Pet/Ap. : N. Sukumaran,; S. Shyam and; N.K. Karnis, Adv.

Disposition : Petition allowed

Judgement :

ORDER

J.B. Koshy, J

1. The revision petitioner herein was an employee of the respondent. His monthly wages was Rs. 850/-. There was arrears of wages to the tune of Rs. 28,900/- for

the period from 1.10.1980 to 31.7.1983. He filed a claim petition under Section 15 of the Payment of Wages Act before the Labour Court, Kozhikode. Claim petition was allowed by order dated 20.12.1984. Respondent employer questioned the above order. The main contention was that since the petitioner was employed in a managerial capacity, he is not entitled to claim under the Payment of Wages Act. There is no jurisdiction for the payment of wages authority to award any amount. Payment of wages authority rejected the above contention. In appeal, District Court was of the view that petitioner is not a 'workman' and, therefore, he is not entitled to claim under the [Payment of Wages Act, 1936](#) (in short 'the Act'). Against the above order, this revision petition is filed. During the pendency of the revision petition, the petitioner died and his legal representatives were impleaded. The only question to be considered is whether the jurisdiction of the payment of wages authority is excluded because employee is working in a managerial capacity (if that allegation is correct). It is not disputed that establishment of the, respondent is covered under the Payment of Wages Act.

2. Section 2(vi) defines 'wages' so as to means all remuneration expressed in terms of money or capable of being so expressed which would, if the terms of employment were justified, be payable to a person employed in respect of his employment. Only an inclusive definition is given for the term 'employed person' under Section 2(i) of the Act. Section 2(i) is as follows:

'employed person' includes the legal representative of a deceased employed person.

Section 2(s) of the [Industrial Disputes Act, 1947](#), while defining 'workman' specifically excluded persons employed mainly in a managerial or administrative capacity and persons employed in supervisory capacity drawing more than Rs. 1,600/- per month. Unlike the provisions under the Industrial Disputes Act, there is no exclusion or exemption for persons employed in a managerial capacity or administrative capacity. The only condition is that the person who is filing the petition should be employed during the relevant time. Section 1(6) of the Act makes it clear that the Act is applicable to all employed persons who are getting salary less than Rs. 1,600/-. Section 1(6) reads as follows:

1. Short title, extent, commencement and application

X X X(6) Nothing in this Act shall apply to wages payable in respect of a wage-period which, over such wage-period, average ((one thousand six hundred rupees) a month or more.

The definition of 'workman' under the [Industrial Disputes Act, 1947](#) cannot be adopted for the term 'employed person' used in [Payment of Wages Act, 1936](#). Petitioner, admittedly, was employed in the establishment during the period for which claim for wages was made and his salary was below Rs. 1,000/-. In view of the above admitted facts, he is entitled to claim under the Payment of Wages Act and his claim cannot be rejected on the ground that he was employed in managerial capacity. Therefore, the order of the appellate authority is clearly wrong and it is set aside. It is submitted that on the basis of the interim orders passed, the balance amount to be paid was already deposited before the District Court. The amount should be disbursed to the wife of the employee (additional 2nd petitioner).

The Civil Revision Petition is allowed.

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