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Court : Rajasthan

Decided On : Aug-28-1987

Reported in : (1994)IIILLJ89Raj; 1987(2)WLN588

Judge : J.S. Verma, J.

Acts : [Payment of Wages Act. 1936](#) - Sections 15(2); Rajasthan Minimum Wages Rules, 1959 - Rues 23, 24A, 26 and 26(1); [Constitution of India](#) - Article 23

Appeal No. : S.B.C.R. No. 387 of 1986

Appellant : Jagal Singh

Respondent : Bal Singh

Disposition : Revision petition dismissed

Judgement :

J.S. Verma, C.J.

1. This is an employer's revision arising out of a claim made by a workman under Section 15(2) of the Payment of Wages Act, 1936 (hereinafter referred to as 'the Act'). The workman's claim was allowed by the Authority under the Payment of 'Wages Act and total sum of Rs. 6,375/- was awarded. The learned District Judge has affirmed that order in appeal. Hence this revision.

2. The amount of Rs. 6,375/- awarded to the workman comprises of Rs. 2,730/- as pay; Rs. 2,730/- as over-time wages; Rs. 390/- as wages for the weekly day of rest; Rs. 500/- as compensation and Rs. 25/- as costs. Learned counsel for the petitioner challenges only the award of Rs. 2,730/- over-time wages and Rs. 390/- as wages for the weekly day of rest. Reliance has been placed by the learned counsel on clause (5) of Rule 23 and Clause (3) of Rule 24-A of the Rajasthan Minimum Wages Rules, 1959 (hereinafter referred to as 'the Rules') in support of the contention that the wages for over-time and for the weekly day of rest cannot be awarded to a worker in employment in agriculture. It is argued that the worker in the present case being employed in agriculture, the provision made in rule 23 for wages being paid for the weekly day of rest and similarly in rule 24-A for over-time wages, do not apply to him. On this basis, it is urged that these amounts could not be awarded to the worker. I am unable to accept this contention.

3. There is a clear finding and it is no longer in controversy that the workman did work over-time and he also worked on the weekly day of rest in lieu of which these wages have been awarded to him. No doubt, Rule 23 which provides for the weekly day of rest as also Rule 24-A which provides for maximum hours of work, indicate that these Rules do not apply to any worker in employment in agriculture. The question whether for this reason alone, a worker in employment in agriculture can be denied these wages for the over-time work as well as work on weekly day of rest taken from him by the employer. In my opinion, acceptance of argument advanced on behalf of the employer in the present case would amount to judicial recognition of 'Begar' which is contrary to Article 23 of the [Constitution of India](#) providing for prohibition of forced labour. Reference to the Directive Principle contained in Article 23 of the Constitution is also significant in this context. Accordingly, construction of these provisions of the Rules, as suggested on behalf of the employer, may invalidate these to this extent. It is sufficient to say that even without the aid of these Rules, the workman is entitled to the wages for over-time and weekly day of rest awarded to him on general principles. The fact that he worked over-time and also on weekly day of rest had been found proved. Wages for this period have been calculated at a rate which is not shown to be unreasonable. There is no prohibition shown in any statutory provision against grant of the amount to a worker in employment in agriculture. On the contrary Rule

26(1)(a) indicates that extra wages for over-time have to be paid. In the present case, the award made under these heads to the workman being pre-eminently just and equitable and also in consonance with the prohibition against taking 'Begar' contained in Article 23 of the [Constitution of India](#).

4. Consequently, the revision is dismissed. As no one has appeared to oppose the revision, there shall be no order as to costs.

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