

The Chief Officer, Town Municipal Council, Nippani Vs. Ramachandra Dattatraya Patil and ors.

LegalCrystal Citation : legalcrystal.com/375978

Court : Karnataka

Decided On : Apr-05-1968

Reported in : AIR1969Kant202; AIR1969Mys202; [1968(17)FLR430];
ILR1968KAR380

Judge : A.R. Somnath Iyer and ;Ahmed Ali Khan, JJ.

Acts : [Minimum Wages Act, 1948](#) - Sections 20(1), 20(2) and 29(3); Indian Limitation Act, 1908 - Article 102; [Payment of Wages Act, 1936](#) - Sections 15(2); Indian Companies Act - Sections 186(1)

Appeal No. : Civil Petn. No. 17 of 1966

Appellant : The Chief Officer, Town Municipal Council, Nippani

Respondent : Ramachandra Dattatraya Patil and ors.

Judgement :

ORDER

1. We are asked in this Civil Petition presented by the Town Municipal Council, Nippani, in the District of Belgaum, to quash an order made by the Authority functioning under the [Minimum Wages Act, 1948](#) under Section 29(3) of that Act directing the Municipal Council to pay a sum of Rs. 7959-54 to its employees as overtime wages. The application for that direction was made by the employees who were working as scavengers under the Municipal Council on November 21, 1960 and overtime wages were claimed for the period between October 1, 1956 and July 14, 1958.

2. Under the first proviso to Section 20(2) of the [Minimum Wages Act, 1948](#) which will be referred to as the Act, an application for payment of such overtime wages under sub-section (1) of that Section could be represented within six months from the date on which the wages became payable. But the second proviso authorised the Authority functioning under that Section to condone the delay in the presentation of the application for sufficient cause. The employees appealed to this proviso for the condonation of the delay in the presentation of their application and the delay was condoned by the Authority.

3. In this civil petition it is contended by Mr. Krishna Murthy appearing for the Municipal Council that there was no sufficient cause for the condonation of delay, and that in any event, a delay exceeding a period of three years which is the period prescribed by Article 102 in Schedule 1 of the Indian Limitation Act, 1908, for a suit

for the recovery of wages, could not be condoned, under the Second proviso to sub-section (2) of Section 20 of the Act.

4. The undisputed facts are that the employees of the Municipal Council had claimed in an application which they had previously made overtime wages for the period between April 1, 1955 and September 30, 1956. The Authority functioning under the Act gave them those wages by an order made on July 25, 1958. But, for the subsequent period to which the second application relates the claim was not made until November 21, 1960, and when that claim was made, the period of six months prescribed by the first proviso to Section 20(2) of the Act had expired. So it was that the Municipal Council pleaded limitation and opposed the application for condonation of delay.

5. The explanation offered by the employees for the delay in the presentation of the claim was that immediately after the decision on the earlier application was rendered by the Authority, there was a claim made for the payment of overtime wages even for the subsequent period and that an assurance was given by the Municipal Council that their claim would be favourably considered. It was alleged that the Municipal Council then referred the matter to its various sub-committees and asked the employees to await its decision on that matter. The authority accepted the explanation and recorded a finding that the assurance given by the Municipal Council was what was responsible for the delay in the presentation of the application.

6. We do not accede to the contention of Mr. Narasimhamurthy that the Tribunal did not accept the explanation offered by the employees. It is clear from the order made by the Authority that the explanation was completely accepted, although in one part of its order the Tribunal did, as pointed out by Mr. Narasimhamurthy, observe that in support of the allegation made by the employees there was no other documentary or oral evidence. But the Tribunal did place complete reliance on the affidavit which accompanied the application for the condonation of delay, and, as pointed out in *Sitaram Ramacharan v. Nagrahana*, : (1960)ILLJ29SC in which the condonation of delay was refused under the second proviso to Section 15(2) of the [Payment of Wages Act, 1936](#), the provisions of which are similar to the second proviso to Section 20(2) of the Act, the finding of the Authority functioning under the Act as to the existence or otherwise of sufficient cause for the condonation of delay is a finding of fact interference which is impossible in the High Court or in the Supreme Court. The finding in the case before us was that there was sufficient cause for not making the claim within the time prescribed by the first proviso to Section 20(2) and that finding is impervious to criticism in this court.

7. The argument that the authority could not have condoned the delay in excess of three years which is the period prescribed by Article 102 of Schedule I to the Indian Limitation Act, 1908, does not appear to us sustainable. The second proviso to Section 20(2) places no limitation on the power of the Authority to condone the delay in making claim. So, it is not right for us to import into that proviso words which it does not contain or appeal to the provisions of Art. 102 of Schedule I to the Indian Limitation Act, 1908 which does not more than to prescribe period of limitation for a suit.

8. It is true that the period of limitation within which a claim could be made for the recovery of wages under the Minimum Wages Act is shorter than the period of limitation prescribed for a suit. But that does not mean that the period which could be

condoned in the exercise of the plenary power conferred by the second proviso to Section 29(2) of the Act would be restricted on the basis of the period of limitation for a suit prescribed by the Limitation Act. While Article 102 of the Limitation Act which Mr. Narasimhamurthy made an appeal prescribes only a period of limitation, we are concerned with the question as to what is the period which could be condoned when there is a delay in the presentation of a claim under the Minimum Wages Act. The one has therefore nothing to do with the other.

9. Although there is an observation in the decision of the High Court of Madras in *Sri Gandhiban Bus Service v. The Labour Court*, : (1964)ILLJ709Mad which does lend some support to the argument of Mr. Narasimhamurthy, it seems to us, if we may so with great respect that we should dissent from the elucidation made in that case. The enunciation that the delay which could be condoned under the Minimum Wages Act could not exceed the period of limitation prescribed by the Limitation Act, depended almost entirely upon the decision of the Privy Council in *Hansraj Gupta v. Official Liquidators of Dehradun Etc. Company*, ILR 54 All 1067 = (AIR 1933 PC 63) in which the question was whether an order could be made under Section 186(1) of the Indian Companies Act, 1930 directing a contributory to pay a debt a suit for the recovery of which had become time barred. The Privy Council explained that since Section 186(1) of the Indian Companies Act created a special procedure for recovering monies which is due from a contributory and did not create a new foundation on which a claim for payment could be based, that section could not be allowed to so operate as to deprive a defence based upon the provisions of the Limitations Act. But unlike Section 186(1) of the Companies Act to which the Privy Council referred, the proviso to Section 20(2) of the Minimum Wages Act does not authorise the condonation of delay in the presentation of a claim and the ambit of the power for such condonation was not discussed by the Privy Council for the obvious reason that that question did not arise.

10. In our opinion, the power created by the Minimum Wages Act for the condonation of delay is not controlled by the period of limitation prescribed by the Limitation Act for a suit, and the authority functioning under the Minimum Wages Act has in its discretion plenary power to condone the delay in the presentation of a claim.

11. We therefore dismiss this Civil petition with costs. Advocates fee Rs.100/-

12. Petition dismissed.

LegalCrystal - Indian Law Search Engine - www.legalcrystal.com