



HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Civil Writ Petition No. 19001/2018

Indrajeet Singh, S/o Sh. Devendra Singh R/o Shiv Shakti Colony,
Ratanada, Jodhpur (At Present Lodged In Central Jail, Jodhpur).

-----Petitioner

Versus



1. State of Rajasthan, Through The Principal Secretary,
Government of Rajasthan, Secretariat, Jaipur.

2. State of Rajasthan, Through The Home Secretary,
Department Of Home, Government of Rajasthan, Jaipur.

3. D.G. And I.G. (Prisons), Directorate of Rajasthan Prison,
Jaipur.

---Respondents

For Petitioner(s)	:	Mr. R.S.Saluja, Amicus Curiae
For Respondent(s)	:	Mr. Rajat Arora for Mr. K.S.Rajpurohit, AAG

HON'BLE MR. JUSTICE SANGEET LODHA
HON'BLE MR. JUSTICE RAMESHWAR VYAS

Judgment

3rd September, 2020 सत्यमेव जयते

Per Hon'ble Mr.Sangeet Lodha,J.

Reportable

1. The application dated 8.12.18 made by the prisoner Indrajeet Singh lodged in Central Jail, Jodhpur, received by post, raising the issue of non revision of the wages payable to the prisoners employed on work in prison, was registered as Writ



Petition (PIL) by this Court and notices were issued to the State of Rajasthan.

2. Precisely, the grievance raised in the petition is that the wages payable to the prisoners sentenced to Rigorous Imprisonment or such other classes of prisoners who volunteer to labour were last revised vide order dated 17.3.15. Thereafter, though the wages payable to the unskilled, skilled and highly skilled employees have been revised by the State Government from time to time vide notifications dated 17.12.15, 5.7.16 and 16.1.18 issued under the Minimum Wages Act, 1948 (for short "the Act of 1948"), the wages payable to the prisoners have not been revised and they are being paid wages at the rate specified vide notification dated 17.3.15.

3. A reply to the writ petition has been filed on behalf of the State taking the stand that the notification dated 17.12.15, 5.7.16 and 16.1.18 issued by the Department of Labour, Government of Rajasthan, revising the minimum wages payable to the employees is not applicable to the prisoners employed on various works in prison. It is submitted that the categories of employees to whom the said notification apply have been specifically mentioned in the notifications issued, which does not cover the prisoners employed on work in prison. It is submitted that the prisoners are entitled for the wages in accordance with the notification dated 17.3.15, which are being paid to them.

4. Mr. R.S. Saluja, Amicus Curiae submitted that the wages payable to the unskilled, skilled and highly skilled employees have been revised by the State Government from time to time upto the year 2020. Learned counsel submitted that after issuance of the notification dated 16.1.18, the wages were revised vide



notification dated 12.6.18 and thereafter, vide notification dated 19.8.20. Learned counsel submitted that of course, it is permissible to deduct the amount towards the food etc. from the wages payable to the prisoners as also towards the payment of compensation to the victim but there is no reason as to why the wages payable to the prisoners should not be fixed at par with the

employees governed by the notifications issued under the Act of 1948. Learned counsel submitted that the action of the respondents in not revising the wages payable to the prisoners from time to time is ex facie violative of the provisions of Article 14, 21 & 23 of the Constitution of India. Relying upon the decision of the Supreme Court in the matter of *State of Gujarat & Anr. vs.*

Hon'ble High Court of Gujarat: AIR 1998 SC 3164, learned counsel submitted that non payment of the equitable wages to the prisoners is apparently in defiance of the directions issued by the Supreme Court. Learned counsel submitted that the State Government is under an obligation to revise the wages from time to time and thus, payment of wages to the prisoners at the rate fixed in the year 2015 is absolutely unjustified.

5. On the other hand, learned AAG submitted that the minimum wages fixed by the State Government for the employees for different scheduled employment are not applicable to the prisoners. It is submitted that pursuant to the directions issued by the Supreme Court in High Court of Gujarat's case (supra), the wages payable to the prisoner were revised by the State Government from time to time, lastly, vide notification dated 17.3.15. Learned AAG would submit that the prisoners cannot claim revision of the wages as a matter of right.



6. We have considered the rival submissions and perused the material on record.

7. It is noticed that vide notification dated 17.3.15 issued in supersession of the notification dated 8.9.11, the wages payable to the prisoners on work in the category of skilled and unskilled were determined by the State Government at Rs.209 and 189 respectively. Out of the wages payable as aforesaid, Rs.59 was directed to be deducted towards the expenditure incurred by the Government for food, cloth and maintenance. That apart, as per Rule 31(3) of the Rajasthan Prison Rules, 1951 (for short "the Rules of 1951"), out of the amount payable as aforesaid, 25% amount is further deductible towards the payment of compensation to the victim and thus, the skilled and unskilled prisoners on work, in terms of the notification dated 17.3.15, are entitled for daily wages a sum of Rs.112.50 and Rs.97.50 respectively.

8. As against the wages payable to the prisoners as aforesaid, as per the notifications issued by the State Government from time to time under the provisions of the Act of 1948, the wages payable to the unskilled, skilled and highly skilled employees as revised from time to time are as under:

Sr.No.	Details of Order of the State Government	Details of Minimum wages	Other detail
01.	F.5(6)Min.Wa/Labour/2000/Part/27607 Jaipur Dated 17.12.2015	Unskilled Labour-Rs.197 Skilled Labour-Rs.217 Highly Skilled Labour-Rs.267	Said rates are made applicable from 01.01.2015
02.	F.5(6)Min.Wa/Labour/2000/Part/ Dated 05.07.2016	Unskilled Labour-Rs.201 Skilled Labour-Rs.221 Highly Skilled Labour-Rs.271	Said rates are made applicable from 01.04.2016
03.	F.5(6)Min.Wa/Labour/2000/Part/1148 Jaipur	Unskilled Labour-Rs.213 Skilled Labour-Rs.233	Said rates are made



	Dated 16.01.2018	Highly Skilled Labour-Rs.283	applicable from 01.01.2018
04.	F.5(6)Min.Wa/Labour/2000/Part/11905 Jaipur Dated 07.06.2018	Unskilled Labour-Rs.213 Semi Skilled Labour-Rs.223 Skilled Labour-Rs.233 Highly Skilled Labour-Rs.283	Said rates are made applicable from 01.01.2018
05.	F.58(5) (6)Min.Wa/Labour/I.R./2000/Part/15744 Jaipur Dated 19.08.2020	Unskilled Labour-Rs.225 Semi Skilled Labour-Rs.237 Skilled Labour-Rs.249 Highly Skilled Labour-Rs.299	Said rates are made applicable from 01.05.2019



9. A bare perusal of the notifications issued by the State Government under the Act of 1948 makes it abundantly clear that for the purpose of minimum wages, according to their occupation, the employees were earlier categorized in three categories namely; unskilled, skilled and highly skilled. Later, in June, 2018, an additional category of semi skilled employees was added and accordingly, the minimum wages payable to them have been determined. It is not understandable that if under the provisions of the Act of 1948, the minimum wages payable to the employees of different categories were revised by the State Government from time to time while the similar exercise was not undertaken in respect of the prisoners on work as well.

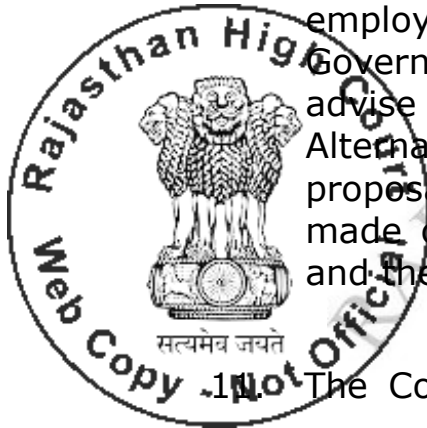
10. In High Court of Gujarat's case (supra), the Apex Court while considering the issue of quantum of wages payable to the prisoners, observed:

"38. While considering the quantum of wages payable to the prisoners we are persuaded to take into account the contemporary legislative exercises on wages. Minimum wages law has now come to stay. This Court has held that minimum wage which is sufficient to meet the bare physical needs of a workman and his family irrespective of the paying capacity of the industry must be something more than subsistence wage which may be sufficient to cover the bare physical needs of the worker and its family including education, medical needs, amenities adequate for



preservation in his efficiency. *Express Newspapers Ltd v. Union of India*, 1959 SCR 12: (AIR 1958 SC 578).

39. Several guidelines have been provided by the legislature for fixing the rate of minimum wages and the need to make periodical revisions. Section 3 of the MW Act enjoins a statutory duty on the appropriate government to fix minimum rates of wages payable to employees employed in an employment and to review the rates of wages so fixed at such intervals as the government may think fit but not exceeding five years. Section 5 of the MW Act provides that in fixing minimum rates of wages in respect of the scheduled employment for the first time or in revising such rates the Government shall appoint committees to hold enquiries and advise the Government in respect of such fixation. Alternatively, the government is obliged to publish its proposals. Fixation or revision of minimum wages can be made only in consideration of the advice of the committee and the representations received about it."



The Court while permitting the Government to deduct the expenses incurred for food and cloths of the prisoner from the minimum wages and further diversion of some portion of the income earned by the prisoner when he is in jail to be paid to deserving victim, arrived at the following conclusions and issued directions accordingly:

"(1) It is lawful to employ the prisoners sentenced to rigorous imprisonment to do hard labour whether he consents to do it or not.

(2) It is open to the jail officials to permit other prisoners also to do any work which they choose to do provided such prisoners make a request for that purpose.

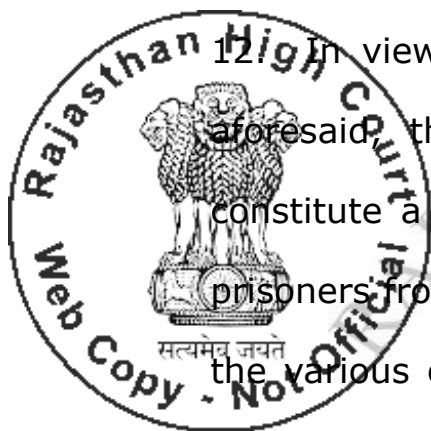
(3) It is imperative that the prisoner should be paid equitable wages for the work done by them. In order to determine the quantum of equitable wages payable to prisoners the State concerned shall constitute a wages fixation body for making recommendations. We direct each State to do so as early as possible.

(4) Until the State Government takes any decision on such recommendations every prisoner must be paid wages for the work done by him at such rates or revised as the Government concerned fixes in the light of the observations made above. For this purpose we direct all the State Government to fix the rate of such interim wages within six



weeks from today and report to this Court of compliance of this direction.

(5) We recommend to the State concerned to make law for setting apart a portion of the wages earned by the prisoners to be paid as compensation to deserving victims of the offence the commission of which entailed the sentence of imprisonment to the prisoner, either directly or through a common fund to be created for this purpose or any other feasible mode."



12. In view of the directions issued by the Supreme Court as aforesaid, the State Government was under an obligation to constitute a committee for the revision of wages payable to the prisoners from time to time. When the minimum wages payable to the various categories of employees under the Act of 1948 have been revised by the State Government from time to time, inaction on the part of State Government in revising the wages payable to the prisoners on work cannot be countenanced by this Court.

13. Moreover, as per mandate of Rule 31(1) of Part XII of the Rules of 1951, all the prisoners sentenced to rigorous imprisonment and such classes of the prisoners who volunteer to labour are entitled to the wages as specified by the Government from time to time after deducting the expenses on food, clothing and other maintenance item of such business. The wages are payable on the basis of the actual work done according to the prescribed task. Further, as per sub-rule (3) of Rule 31 out of the amount payable to the prisoners as above, 75% amount shall be given to them and 25% of the wages shall be deducted and paid to the victims or his legal heirs. Suffice it to say that as per Rule 31(1) framed by the State Government in compliance of the directions issued by the Hon'ble Supreme Court, it was incumbent upon the State Government to revise the wages payable to the



prisoners from time to time as it is done in respect of the employees engaged in scheduled employment specified under the Act of 1948. Non revision of the wages payable to the prisoners for last five years is ex facie violative of the provisions of Rule 31 of the Rules of 1951 and amounts to defiance of the directions issued by the Supreme Court as aforesaid and therefore, the directions deserve to be issued respondents to revise the wages payable to the prisoners appropriately.

14. Accordingly, we dispose of the writ petition with the directions in the following terms:

(i) The State Government shall constitute a committee for determining the quantum of equitable wages payable to the prisoners within a period of two weeks from today. The committee shall make its recommendation for the revision of wages payable to the prisoners for various work keeping in view the directions issued by the Supreme Court in High Court of Gujarat's case (supra) and Rule 31 of Part XII of the Rules of 1951, within a period of two months from the date of constitution of the committee by the State Government. On the recommendations made by the committee, the State Government shall take a decision for revision of the wages within a period of four weeks thereafter.

(ii) Until the State Government takes any decision on such recommendations, every prisoner must be paid wages for the work done by him at such revised rates as fixed by the State Government keeping in view the observations made by this Court as aforesaid. The State Government shall determine the rate of the such interim wages within a period of four weeks from today.



(iii) The compliance report shall be filed by the State Government before this Court within a period of three months from today.

15. Though, the writ petition stands disposed of as aforesaid, the matter shall be listed for perusal of the compliance report on 4.1.2021.



(RAMESHWAR VYAS),J

(SANGEET LODHA),J



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