SUPERME COURT OF INDIA

Steel Authority of India Ltd.

Vs.

Jaggu

C.A.No.8094 of 2011

(A.M.Khanwilkar and Ajay Rastogi,JJ.,)

05.07.2019

JUDGMENT

Ajay Rastogi,J.,

1. The present appeals arise from the proceedings initiated by the workers under the Minimum Wages Act, 1948 who had been in employment after issuance of the prohibition notification dated 7th March 1993 under the Contract Labour(Regulation and Abolition) Act, 1970(hereinafter being referred to as "CLRA Act") upto April, 1996 in the captive mine of the Steel Authority of India(hereinafter called as "SAIL") in Kuteshwar Limestone Mines(Barhi), Gairtalai, Distt. Jabalpur.

2. The indisputed facts which has come on record are that after issuance of the prohibition notification dated 17th March, 1993 by the appropriate Government under Section 10(1) of the CLRA Act,1970 no fresh agreement, in the interregnum period (17th March, 1993 to April, 1996) was executed between the appellant and the contract labour and the agreement in existence was extended from time to time by the competent authority and the contract labour was allowed to continue on the same terms & conditions till their services were terminated by the contractor after they had proceeded on strike in the month of April, 1996.

3. The contract labours (2040 employees) of Kuteshwar limestone mines who had worked in the establishment of SAIL after issuance of the prohibition notification dated 17th March, 1993 filed their claim applications in the year 1998 on different dates under Section 20(1) of the Minimum Wages Act, 1948.

4. Before we advert to the question raised in the instant appeals, it may be relevant to take the brief history of the matter for proper appreciation. The erst while contract labourers (respondents herein) worked at the captive Limestone and Dolomite mines in the establishment of the appellant SAIL initially filed writ petitions claiming regularisation with back wages in view of the law laid down by three Judge Bench of this Court in the case of *Air India Statutory Corporation and Others Vs. United Labour Union and Others*[1] wherein it was held that on issuance of prohibition notification under Section 10(1) of the

CLRA Act, the logical and legitimate consequences would be that the erstwhile contract labourer covered by the sweep of such abolition for the activities concerned would be entitled to be treated as direct employee of the employer on whose establishment they were earlier working and they would be entitled to be treated as regular employees from the day on which the contract labour system in the establishment for the work which they were doing gets abolished. The aforesaid judgment of this Court was subsequently overruled by the Constitution Bench of this Court in *Steel Authority of India Ltd. and Others Vs. National Union Waterfront Workers and Others*[2].

5. The Single Judge of the High Court earlier allowed the writ petitions but the matter was finally remitted back to the High Court to decide as per the law laid down in the Constitution Bench judgment of this Court in Steel Authority of India Ltd. and Others(supra).

6. It is to be noted that the application filed by Jaggu was considered to be the lead application which has been placed on record (Annexure P-1 of the paper book) and the only fact stated by him in the application was that the applicant was employed in the Captive Mine of the SAIL in Kuteshwar Limestone Mines(Barhi), Gairtalai, Distt. Jabalpur on 1st September, 1984 and was still in that employment at the time of filing of an application and worked as a skilled workman and was working as Sikor/Loader/Suitor/Rake Loader and that the employment of Kuteshwar Limestone Mines is a scheduled employment within the meaning of Section 2(e) of the Minimum Wages Act, 1948 and rates of wages of the workers of SAIL are governed by various settlements/agreements entered into between the management and the Union which are legally binding and are the wages to which employees of SAIL are entitled on the basis of contract of service, agreement and/or otherwise.

7. The extract pleadings of his application on the basis of which he claimed wages and other benefits payable to an employee vis-a-vis those who are regular employee employed in SAIL are as under:-

> "1 .The applicant is employed in the Captive Mine of the Steel Authority of India (hereinafter called as SAIL') in Kuteshwar Limestone Mines (Barhi), Gairtalai, Distt. Jabalpur from 01.09.1984 and is still in employment. He is a skilled workman and is working as Sikor/Loader/Suitor/Rake Loader.
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> 6. The rates of wages of workers of Steel Authority of India are governed by various settlements/Agreements entered into between the management and the Union which are legally binding and is the wages to which employees of Steel Authority are entitled on the basis of contract of services, agreement and or otherwise. The Applicant is entitled to wages and all other benefits as per settlement. The agreement also prohibit employment of contract labour on job of permanent and perennial nature.
>
> 7. The management/opponent has been reusing to make payment to the employees as per wage agreement which is their minimum wages Sri

Bachchan Nayak and other office bearers of the Applicant's Union repeatedly represented the matter of the Assistant Labour Commissioner, Chief Labour Commissioner Secretary, Ministry of Labour, Hon'ble Minister for Steel, Chairman, Steel Authority of India and even the Prime Minister, for payment of wages as regular employees. Because of the strong and persistent opposition of one of the opponent, Minimum Wages is denied to the Applicant.

12.The applicant has been reporting for work on all the working days from 17/3/1993 onwards. However, after May, 1996 he was refused work even when the reports for duty. The applicant was always ready and willing to work. There was no termination of services of the applicant. The applicant will be deemed to be in service and entitled to all the benefits, including wages.

16.The applicant has not been paid the wages as per Minimum Wages from 17/3/1993. The exact figures of amount due i.e. difference etc. are available with the management and within their special knowledge. The opponents are in possession of all the records and details of the payment due as per wage agreement and other details. They are liable to produce the same before this Hon'ble Authority to make appropriate and proper calculation. In case they fail to produce the documents an adverse inference is liable to be taken against them.

17.The applicant therefore pray that a direction may be issued under Section 20 [3] of the Act for:

[i] payment of difference of wages payable under the Minimum Wages Act and the wages actually paid as per details given in Annexure-A.

[ii]compensation of 10 times amounting to Rs. 24,86,130-00.

[iii]delay if any, in filing the petition may be condoned."

8. The complaint of the applicant Jaggu (annexure P-1) in his application under Section 20(1) of the Minimum Wages Act, 1948 before the prescribed authority of which a reference has been made, appears to be that the rates of wages of SAIL which were governed by various settlements/agreements entered between the management and the registered Union of regular employees of SAIL are legally enforceable and the applicant is also entitled to the wages and such other service benefits as per those settlements after a prohibition notification has been published by the appropriate Government under Section 10(1) of the CLRA Act.

9. The matter was contested between the parties and the prescribed authority after holding a summary enquiry as contemplated under the Minimum Wages Act, 1948 under its Order dated 2nd December, 2003 allowed the claim petitions with five times of compensation in favour of 2040 contract employees who have been represented by Ispat Khadan Janta Mazdoor Union, Koteshwar Limestone Mine, Gairtalai, Katni.

10. The order of the Payment of Wages Authority dated 2nd December, 2003 came to be challenged by the appellant SAIL by way of writ petition before the Single Judge of High Court of Madhya Pradesh at Jabalpur which was partly allowed vide Order dated 24th January, 2006 holding that the justice would be met if the respondents(employees) are allowed 6% interest on the amount payable to each of them as compensation from the date of passing of the impugned order of the authority till its payment. It was further challenged before the Division Bench of the High Court that came to be dismissed vide impugned judgment dated 11th December, 2006 with a modification that instead of grant of 6% interest as compensation, a consolidated sum of Rs. 5 crore be paid towards compensation to the aggrieved employees, which is a subject matter of challenge in these appeals before us.

11. Learned senior counsel for the appellants Mr. Ranjit Kumar and Mr. Parag P. Tripathi submit that the parity of wages was one of the issue nos. 5 & 6 based on the pleadings of the parties framed by CGIT pursuant to the reference made by the appropriate Government and both the issues have been negatively answered under its award dated 16th September, 2009 holding that respondents are not entitled to wages as per National Joint Committee for the Steel Industries(NJCS) vide memorandum of agreement dated 30th July, 1975 which is applicable only to direct/regular employees of SAIL.

12. The submission of the learned counsel is that at least the parallel proceedings which are summary in nature initiated under the Minimum Wages Act, 1948 keeping the reference made for adjudication to the CGIT at bay were unwarranted and despite their objection being raised, it was overruled and the applications of the workmen came to be decided under Order dated 2nd December, 2003 by the prescribed authority under the Minimum Wages Act, 1948 which was without jurisdiction and such applications filed at the instance of the workmen was not maintainable under the law.

13. Learned counsel further submits that it is nowhere pleaded by the respondents that the principle of equal pay for equal work was applicable and they were entitled for the wages payable to the regular employees on the basis of Rule 25(2)(v)(a) of the CLRA Rules, 1971. The burden to prove was on the respondents to show that the contract labour was discharging the same and similar nature of duties and work as performed by the regular employees of the establishment but such facts were neither pleaded nor established by the respondents either before the prescribed authority or before the High Court in writ petition/letters patent appeal and has not adverted to any finding that the respondents were performing same or similar nature of work as that of the regular employees of the appellant SAIL. In the absence thereof, the contract labour was not entitled for the wages payable to the employees who were directly employed by the SAIL for a work which is neither same nor similar as being performed by the respondent contract labourers.

14. Learned counsel further submits that the tripartite agreement which was entered between the contract labourers, contractor and appellant SAIL in presence of the labour authorities dated 12th November, 1991 specifically takes care of the Rule 25(2)(iv) & (v) of the CLRA Rules, 1971 and indisputedly, each of the worker was paid Rs. 11.65/- per day over the minimum wages notified by the appropriate Government, as agreed between

the parties. The tripartite agreement was effective from 1st April 1991 although it was entered on 12 th November, 1991 but wages were paid to each of the contract worker in terms of the tripartite agreement.

15. Learned counsel submits that it was never the case of the respondents that the tripartite agreement dated 12th November, 1991 has not been complied with. In fact, the arrears were paid over the minimum wages notified by the appropriate Government in terms of Rule 25(2)(v)(a) of the CLRA Rules, 1971 and appellant became liable to pay the minimum wages agreed in terms of the agreement after issuance of the prohibition notification under Section 10(1) of the CLRA Act, since the contract stood automatically extinct, it became the liability of the employer to see that every workmen who is working thereafter must have been paid his due wages in terms of the agreement which has been signed in presence of the concerned labour authorities dated 12th November, 1991 and binding upon the parties.

16. Learned counsel for the appellants further submits that in sequel to the notification dated 12th November, 1991, the Ministry of Labour, Government of India, vide its notification dated 12 th July, 1994 revised the minimum rate of wages payable to the workers employed in the mines appended Clause 5 to the explanation that in case the existing rates of wages of any employee as per agreement are more than the minimum notified rates shall be protected and be treated as the minimum rates of wages and that according to the appellants have been paid to each of the workmen who had served the establishment of the appellants after issuance of the prohibition notification dated 17th March, 1993 till their services came to be terminated by the contractor in April 1996.

17. Learned counsel further submits that the State of Madhya Pradesh under its Act No. 23 of 1961 has made certain amendments to the Minimum Wages Act, 1948. These amendments as explained in its object and reasons was enacted as validating legislation. The validation arose in the context of the High Court of Rajasthan quashing its notifications pertaining to fixing of minimum rates of wages. The said amendment Act is merely to validate fixation and has no applicability to the dispute having raised by the respondents in the proceedings initiated under the Minimum Wages Act, 1948 and in support thereof, learned counsel has placed reliance on the judgment of this Court in *Town Municipal Council, Athani Vs. The Presiding Officer. Labour Courts. Hubli and Others*[3]*, Etc. ; BHEL Workers Association. Hardwar and Others Vs. Union of India and Others*[4] *and Hindustan Steel Works Construction Ltd. Vs. Commissioner of Labour and Ors*[5]*. .*

18. Per contra, Mr. Colin Gonsalves, learned senior counsel for the respondents in support of the judgment of the High Court submits that after issuance of the prohibition notification dated 17th March, 1993, it is an admitted position that the contract labourers had continued to work in the same capacity in the establishment of SAIL and that would make them entitled for the wages which are being notified by the SAIL from time to time payable to its regular employees for the period the contract labour had worked after the issuance of prohibition notification dated 17th March, 1993 till April, 1996 and clause(v) of the notification prescribing minimum wages dated 6th March, 1990 and 12th July, 1994 clearly stipulates that the existing rate of wages to any employee based on contract or

agreement or otherwise if higher than the rates notified herein, the higher rate shall be protected and be treated as rate of wages payable for the purpose of its notification and once this fact has been admitted that there was an agreement entered into between union of regular employees and the management of the establishment, at least the lowest rate of wages in the establishment of the appellant payable to a regular and permanent employee became the benchmark of minimum wages payable to the contract labour who had worked in the establishment of the appellant SAIL as an employee after issuance of notification dated 17 th March, 1993 until termination of service and this what the prescribed authority under the Minimum Wages Act, 1948 has computed towards arrears of each of the 2040 employee who have, inter alia, filed applications for legitimate wages under the Minimum Wages Act, 1948.

19. Learned counsel further submits that as regards their absorption and regularisation of service, it was indeed a subject matter of adjudication in a reference made by the appropriate Government under its notification dated 27th January, 2003 followed with 22nd February, 2005 but so far as their minimum wages payable to the employees are concerned, it was an independent issue having no relationship to the terms of reference pending before the CGIT at the relevant point of time and after issuance of prohibition notification dated 17th March, 1993 under CLRA Act, such of the contract workers who had served thereafter in the establishment of the appellants became their employee and can no longer be treated as contract workers.

20. Learned counsel submits that after the contract of service agreement stands extinguished indisputedly the work discharged by the employees(earlier contract workers) is same and similar as of the regular employees and it is not open for the appellant to have two different wage structures for the employees of the establishment of SAIL and it was indeed arbitrary and violative of Article 14 & 39(d) of the Constitution of India and the wage structure applicable to the employees of SAIL has rightly been extended by the prescribed authority under the mandate of the Minimum Wages Act, 1948 and since the respondents have demanded lowest rate of wages in terms of settlements dated 6th March, 1990 and 12th July, 1994, no further finding was required to be recorded with respect to the same or similar nature of work being discharged and at least those rates of wages are applicable to the present employees(earlier casual labourers) and this what has been computed by the prescribed authority under the Minimum Wages Act and confirmed by the High Court under the impugned judgment and in support of submission, learned counsel has placed reliance on the judgment of this Court in BHEL Workers Association, Hardwar and Others(supra).

21. We have heard learned counsel for the parties and with their assistance perused the material available on record.

22. To appreciate the rival submissions made by the respective counsels, it is considered appropriate to first take note of the indisputed facts and the scheme of the Minimum Wages Act, 1948 & CLRA Act emerged from the records are that the appellant SAIL is a Government of India Undertaking and is a State within the meaning of Article 12 of the Constitution of India having its steel plants in different parts of India and was a registered

establishment under Section 7 of the CLRA Act and the contractor through whom the service of the contract labour was engaged was holding its licence as envisaged under Section 12 of the CLRA Act. The tripartite memorandum of settlement dated 12th November, 1991 which became effective from 1st April, 1991, was signed by the appellant, contractor and the respondent through Union before the Assistant Labour Commissioner (Central), Jabalpur. Under the said settlement, it was agreed that the contract labour would be paid Rs. 11.65/- per day over and above the minimum wages notified by the appropriate Government under the Minimum Wages Act, 1948. Indisputedly, each of the member of the union was paid his wages in terms of the memorandum of settlement dated 12 th November, 1991. At the later stage, the appropriate Government issued a prohibition notification of employment of contract labour dated 17th March, 1993 and the fact remains that the contract labour which was engaged prior to the prohibition notification was allowed to continue in the establishment of the appellant(SAIL) on the same terms and conditions with no change in their service conditions under the agreement which was executed prior to the prohibition notification dated 17th March, 1993, was extended from time to time by the competent authority and the services of the contract labour came to be terminated by the respective contractor in the month of April, 1996 after they went on strike.

23. After discontinuance of the service of the contract labour by the respective contractor in April, 1996, 2040 employees/contract labour through their union filed their respective applications in the year 1998 under Section 20(1) of the Minimum Wages Act, 1948 before the prescribed authority to claim parity with the wages payable to the employees who were direct/regular employees of the establishment of SAIL under the Minimum Wages Act.

24. After issuance of a prohibition notification under the CLRA Act dated 17th March, 1993, the erstwhile contract labourers/respondents herein filed writ petitions to claim regularisation of service and backwages in view of the law laid down by three Judge Bench of this Court in Air India Statutory Corporation and Others case (supra) wherein it was held that on issuance of prohibition notification under Section 10(1) of the CLRA Act, the logical and legitimate consequences were that the erstwhile regulated contract labourer covered by the sweep of such abolition for the activities concerned would be entitled to be treated as direct employee of the employer on the day on which the contract labour system in the establishment has been abolished. But the theory of automatic absorption of contract labour by the principal employer in the establishment on issuance of a notification by the appropriate Government under Section 10(1) of the Act was later overruled by the Constitution Bench of this Court in Steel Authority of India Ltd. and Others(supra).

25. It is necessary to point out that Ministry of Labour, Government of India vide its notification dated 12th July, 1994, while revising minimum rate of wages payable to the employees employed in the mines had also specifically mentioned in clause 5 to the explanation that in case the existing rate of wages of any employee as per the agreement are higher than the minimum rates, the higher rates shall be protected and treated as minimum rates of wages. Relevant para of the said notification is quoted herein as under
"Where the existing rates of wages of any employee, based on contract or agreement or otherwise are higher than the rates notified herein, the higher rates shall be protected and

treated as the minimum rates of wages applicable for the purpose of this notification to such employees."

26. Such rate of wages as agreed in its tripartite agreement dated 12 th November, 1991 were paid at Rs. 11.65/- per day over and above the minimum wages with effect from 1st April, 1991 and that was indisputedly complied with and each of the employee (contract labour) who had served/worked in the establishment had been paid his due wages until their services came to be terminated by the respective contractors in April, 1996.

27. The claim of the respondents in their application filed under Section 20(1) of the Minimum Wages Act, 1948 was that as they had discharged the same or similar nature of work as that of direct employee of the establishment, it makes them entitled for the wages which are payable to an employee who is directly/regularly appointed in the establishment to whom wages are paid in terms of NJCS memorandum of Agreement dated 30th July, 1975.

28. It is to be noted that National Joint Committee for the Steel Industry (NJCS) started its functioning initially in the name of JWNC(Joint Wage Negotiating Committee) in October 1969 and was primarily established in pursuance of the decision taken by the industrial committee on iron & steel in October, 1969. The Committee has now changed its name as National Joint Committee for the Steel Industry (NJCS). The scope of the NJCS presently covers

i) Negotiations for wage agreement and its implementation.

ii) Matters pertaining to and steps to be taken for increase in production, productivity, improvement in quality, reduction of cost and wastage etc.

iii) Review of welfare amenities and facilities.

iv) Matters on which it is necessary to draw the attention of the government; and

v) Any other matter pertaining to steel industry and its employees as may be agreed to in the NJCS, from time to time.

29. The membership of NJCS comprises 21 union leaders- three each from four national centres of trade unions: INTUC, AITUC, CITU and HMS, one each from recognized unions of the steel plants like Bhilai, Durgapur, Rourkela, Bokaro, TISCO, IISCO, Alloy Steels, Salem and VISL, and 12 management staff managing directors of the steel plants of Bhillai, Rourkela, Durgapur, Bokar and IISCO, Bumpur; executive directors of Alloy Steels Plant, Salem Steel Plant and VISL; Vice-President(HRM), TISCO; Vice-Chairman and Directors(Finance) of SAIL. The Director(Personnel) of SAIL is the Convenor-Member of the Committee. It is a permanent bipartite committee whose scope extends beyond wage negotiations to implementation aspects and other matters of concern to the industries and its employees. It is applicable to the wage structure across the steel industries in the country.

30. It may be noticed that there are no pleadings on record and primarily the burden was on the respondent applicants to establish that the duties discharged by each of the employee was same or similar to that of a regular/direct employee appointed/employed by the establishment and this can be discerned from the facts pleaded in the application filed by one Jaggu of which a reference has been made. In absence of the initial burden being discharged in the first instance by the respondent employees, the onus could not have been shifted upon the appellant SAIL to counter the nature of work discharged by each of the workmen as to whether it was the same or similar to that of a permanent/regular employee of the establishment and how far the principles of equal pay for equal work claimed as enshrined under Article 14 and 39(d) of the Constitution of India would be attracted in the facts of the case.

31. In this backdrop of the matter, it would be apposite to first take note of the scheme of the Minimum Wages Act, 1948. If we look into the objects and reasons of the scheme of the Act, it clearly manifests that the main object of the Act is to provide minimum rates of wages for certain scheduled employment and also provides for fixation and revision of minimum wages of the workers, overtime rates, remuneration for the work done on a day of rest, just to ensure that the employee has enough to provide to his family and to ensure a decent living standard that pertains to a social comfort of the employee and the cost of living index. The procedure for fixing and revising minimum rate of wages, which has to be prescribed, is supported by the recommendation of Advisory Committees/Advisory Board/ Central Advisory Board being constituted under Sections 7 and 8 of the Minimum Wages Act, 1948 and the appropriate Government on its acceptance notified the minimum wages which are payable to the category of employees referred to under Section 2(i) of the Minimum Wages Act, 1948.

32. Indisputedly, in the first place, the minimum wages which were notified by the appropriate Government from time to time under tripartite memorandum of agreement dated 12th November, 1991, signed by the appellant SAIL and the respondents before the Assistant Labour Commissioner(Central), Jabalpur effective from 1st April, 1991, it was agreed that the contract labour would be paid Rs. 11.65/- per day over and above the notified minimum wages with effect from 1st April, 1991 which has been indisputedly paid by the appellant SAIL till the employees were allowed to work in the establishment i.e. April, 1996 when their services came to be terminated by the contractor.

33. The exposition of scheme of the minimum wages Act, 1948 and its jurisdiction to invoke Section 20(1) of the Act has been examined by this Court in Town Municipal Council. Athani Vs. The Presiding Officer, Labour Courts, Hubli and Others, Etc. (supra).

> "7. The long title and the preamble to the Minimum Wages Act show that this Act was passed with the object of making provision for fixing minimum rates of wages in certain employments. The word "wages" has been given a wide meaning in its definition in Section 2(h) of that Act and, quite clearly, includes payment in respect of overtime and for work done on weekly off-days which are required to be given by any employer to the workmen under the provisions of that Act itself. Section

13(1), which deals with weekly off-days, and Section 14(1), which deals with overtime, are as follows:

13. (1) In regard to any scheduled employment minimum rates of wages in respect of which have been fixed under this Act, the appropriate Government may—

(a) fix the number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals;

(b) provide for a day of rest in every period of seven days which shall be allowed to all employees or to any specified class of employees and for the payment of remuneration in respect of such days of rest;

(c) provide for payment for work on a day of rest at a rate not less than the overtime rate.

14. (1) Where an employee, whose minimum rate of wages is fixed under this Act by the hour, by the day or by such a longer wage- period as may be prescribed, works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him for every hour or for part of an hour so worked in excess at the overtime rate fixed under this Act or under any law of the appropriate Government for the time being in force, whichever is higher. In order to provide a remedy against breach of orders made under Sections 13(1) and 14(1), that Act provides a forum and the manner of seeking the remedy in Section 20 which is as follows:

20. (1) The appropriate Government may, by notification in the Official Gazette appoint any Commissioner for Workmen's Compensation or any officer of the Central Government exercising functions as a Labour Commissioner for any region, or any officer of the State Government not below the rank of Labour Commissioner or any other officer with experience as a Judge of a civil court or as a stipendiary Magistrate to be the Authority to hear and decide for any specified area all claims arising out of payment of less than the minimum rates of wages or in respect of the payment of remuneration for days of rest or for work done on such days under clause (b) or clause (c) of sub-section (1) of Section 13 or of wages at the overtime rate under Section 14, to employees employed or paid in that area. (2) Where an employee has any claim of the nature referred to in sub-section (1), the employee himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector, or any person acting with the permission of the Authority appointed under sub-section (1), may apply to such Authority for a direction under sub-section (2): Provided that every such application shall be presented within six months from the date on which the minimum wages or other amount became payable: 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.

(3) ....
(4) ....

(5) ..
(6) ..
(7)..
We have mentioned these provisions of the Minimum Wages Act, because the language used at all stages in that Act leads to the clear inference that that Act is primarily concerned with fixing of rates — rates of minimum wages, overtime rates, rate for payment for work on a day of rest — and is not really intended to be an Act for enforcement of payment of wages for which provision is made in other laws, such as the Payment of Wages Act, 4 of 1936, and the Industrial Disputes Act 14 of 1947. In Section 20(1) of the Minimum Wages Act also, provision is made for seeking remedy in respect of claims arising out of payment of less than the minimum rates of wages or in respect of payment of remuneration for days of rest or for work done on such days under clause (b) or clause (c) of sub-section (1) of Section 13 or of wages at the overtime rate under Section

14. This language used in Section 20(1) shows that the Authority appointed under that provision of law is to exercise jurisdiction for deciding claims which relate to rates of wages, rates for payment of work done on days of rest and overtime rates. If there be no dispute as to rates between the employer and the employees, Section 20(1) would not be attracted. The purpose of Section 20(1) seems to be to ensure that the rates prescribed under the Minimum Wages Act are complied with by the employer in making payments and, if any attempt is made to make payments at lower rates, the workmen are given the right to invoke the aid of the Authority appointed under Section 20(1). In cases where there is no dispute as to rates of wages, and the only question is whether a particular payment at the agreed rate in respect of minimum wages, overtime or work on off-days is due to a workman or not, the appropriate remedy is provided in the Payment of Wages Act. If the payment is withheld beyond the time permitted by the Payment of Wages Act even on the ground that the amount claimed by the workman is not due, or if the amount claimed by the workman is not paid on the ground that deductions are to be made by the employer, the employee can seek his remedy by an application under Section 15(1) of the Payment of Wages Act. In cases where Section 15 of the Payment of Wages Act may not provide adequate remedy, the remedy can be sought either under Section 33-C of the Act or by raising an industrial dispute under the Act and having it decided under the various provisions of that Act. In these circumstances, we are unable to accept the submission made by Mr Sen on behalf of the appellant that Section 20(1) of the Minimum Wages Act should be interpreted as intended to cover all claims in respect of minimum wages or overtime payment or payment for days of rest even though there may be no dispute as to the rates at which those payments are to be claimed. It is true that, under Section 20(3), power is given to the Authority dealing with an application under Section 20(1) to direct payment of the actual amount found due; but this, it appears to us, is only an incidental power granted to that Authority, so that the directions made by the Authority under Section 20(1) may be effectively carried out and there may not be unnecessary multiplicity of proceedings. The power to make orders for payment of actual amount due to an employee under Section 20(3) cannot, therefore, be interpreted as indicating that the jurisdiction to the Authority under Section 20(1) has been given for the purpose of enforcement of payment of amounts and not for the purpose of ensuring compliance by the employer with the various rates fixed under that Act. This interpretation; in our opinion, also harmonises

the provisions of the Minimum Wages Act with the provisions of the payment of Wages Act which was already in existence when the Minimum Wages Act was passed. In the present appeals, therefore, we have to see whether the claims which were made by the workmen in the various applications under Section 33-C(2) of the Act were of such a nature that they could have been brought before the Authority under Section 20(1) of the Minimum Wages Act inasmuch as they raised disputes relating to the rates for payment of overtime and for work done on weekly off-days."

(Emphasis supplied)

34. The scheme of the Act of which reference has been made by this Court clearly manifests that the Act is primarily concerned with fixing rates of minimum wages, overtime rates, rate for payment of work on a day of rest and is not really intended to be an Act for enforcement of payment of wages for which provision has been made in other laws such as the Payment of Wages Act, 1936 and the Industrial Disputes Act, 1947. Section 20 of the Minimum Wages Act, 1948 is primarily enacted to resolve disputes about the rates of wages, rates of payment of work done on days of rest and overtime rates and to ensure that the rates of wages which are notified by the appropriate Government for various categories of employees under the Minimum Wages Act are to be strictly complied with by the employer in making payments and if any payment is made at the rates lower than the minimum rates of wages prescribed by the appropriate Government, the remedy has been provided to the workmen/employee to invoke Section 20(1) of the Act and being a self-contained Code and a beneficial legislation, it is a social protection to ensure and secure adequate living wage in the interest of public and looking to the nature of enquiry postulated under the scheme of Minimum Wages Act, 1948, there appears no scope of enquiry to examine the principles of equal pay for equal work which is a dispute to be determined by a adjudicatory mechanism provided under the law.

35. It was not the case of the respondent employees(2040 in number) that the minimum rates of wages which were notified by the appropriate Government from time to time or as agreed between the parties under the Minimum Wages Act, 1948 have not been paid. But their claim in the application under Section 20(1) of the Act, was that, once they have been allowed to work after the prohibition notification dated 17th March, 1993 has come into force, pursuant to which their status as contract labour in the establishment ceased to operate as a result of contract of principal employer with the contractor in regard to the contract labour having been statutorily extinguished, their relationship stood automatically converted into the employer (i.e., SAIL in the instant case) and the employee (i.e. contract labour) making them entitled for wages which are notified by the NJCS as per the memorandum of agreement which is payable to direct/regular employees of SAIL.

36. The Division Bench of the High Court has also relied on the scheme of CLRA Rules, 1971 and Rules 25(iv) and (v) in particular while arriving to a conclusion that the workmen since were allowed to continue to work by the principal employer after the prohibition notification dated 17th March, 1993 has come into force, and they were discharging same or similar kind of work as the workmen directly employed by the principal employer in the establishment, makes them entitled for similar wages admissible to the regular employees appointed/engaged by SAIL. Rules 25(iv) and (v) of Rules, 1971 are extracted hereunder:-

(iv) the rates of wages payable to the workmen by the contractor shall not be less than the rates prescribed under the Minimum Wages Act, 1948 (11 of 1948), for such employment where applicable and where the rates have been fixed by agreement, settlement or award, not less than the rates so fixed;

(v) (a) in cases where the workman employed by the contractor perform the same or similar kind of work as the workmen directly employed by the principal employer of the establishment, the wage rates, holidays, hours of work and other conditions of service of the workmen of the contractor shall be the same as applicable to the workmen directly employed by the principal employer of the establishment on the same or similar kind of work:

Provided that in the case of any disagreement with regard to the type of work the same shall be decided by 1 [the Deputy Chief Labour Commissioner (Central)];

(b) in other cases the wage rates, holidays, hours of work and conditions of service of the workmen of the contractor shall be such as may be specified in this behalf by 1 [the Deputy Chief Labour Commissioner (Central)];

Explanation. —While determining the wage rates, holidays, hours of work and other conditions of services under (b) above, the Deputy Chief Labour Commissioner (Central) shall have due regard to the wage rates, holidays, hours of work and other conditions of service obtaining in similar employments;

37. The submission, in our view, is misplaced for the reason That the CLRA Act is a complete code in itself and regulate the employment of contract labour in certain establishments and provide for its abolition in certain circumstances and for matters connected therewith. The title of the Act itself indicates that the Act does not provide for total abolition of the contract labour, but only for its abolition in certain circumstances, and to regulate the employment of contract labour in the establishments which are registered under Section 7 and working through the contractors who are holding licence under Section 12 of the Act. Section 8 provides for the revocation of registration in certain cases and Section 9 provides the effect of non-registration. Section 10 is one of the back bone of the Act which provides for prohibition of employment of contract labour in any establishment and we are fortified in our view supported by the Judgment of this Court in Hindustan Steel Works Construction Ltd.(supra).

38. In the instant case, the establishment was duly registered under Section 7 of the Act and the contractor through whom the contract labour was engaged was holding its licence under Section 12 of the Act but in the changed circumstances, the appropriate Government took a decision to put a prohibition in making employment of contract labour in scheduled employment for various reasons which is not a subject matter of enquiry in the instant case and in consequence of the prohibition notification dated 17th March, 1993 published under Section 10(1) of the CLRA Act, the contract labour working in the establishment ceased to function and the contract between the principal employer and contractor stands extinguished.

39. To make it further clear, Rule 25 of the Rules, 1971 of which there was an emphasis before the High Court, may not come to the rescue of the respondent employees for the reason that it was an obligation upon the contractor who are holding a licence under Section 12 of the Act and as per the terms and conditions of the licence granted under sub-rule (1) of Rule 25 or renewed under Rule 29, to comply with certain conditions enumerated under sub-rule (2) of Rule 25 of the Rules 1971 which includes clause (iv) and (v) to be complied with by the contractor and, if at all, there is any breach of the conditions of licence, complaint can be made to the prescribed authority and its consequences are imbedded under the Scheme of the CLRA Act, 1970.

40. At the same time, an obligation to provide amenities conferred by the Act to the workers has been referred to under Chapter V of the CLRA Act and the primary responsibility is of a contractor that each worker employed by him as contract labour has to be paid his due wages before the expiry of such period as may be prescribed with an exception provided under Section 21(4) of the Act, in case the contractor fails to make payment of wages within the prescribed period or makes short payment, then the principal employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be, to the contract labour employed by the contractor and recover the amount so paid from the contractor under any of the methods prescribed by law.

41. In the instant case, after issuance of the prohibition notification dated 17th March, 1993 under Section 10(1) of the CLRA Act having being published, in our considered view, the provisions of the CLRA Act or CLRA Central Rules, 1971 framed thereunder would not be available to either of the party to strengthen its claim. As stated earlier, minimum wages as prayed for in the application filed by respondents before the prescribed authority under Section 20(1) of the Minimum Wages Act, 1948 could be claimed independently under the Minimum Wages Act, 1948 which indisputedly in the instant case was Rs. 11. 65/- per day over the minimum wages to be paid by the appellant to each of the respondent (2040 employees) in terms of the agreement executed between the parties and that was indeed complied with by the appellants in its true spirit.

42. The submission made by the learned counsel for the respondents that the respondent workmen were doing the jobs of perennial in nature and the contract labour was banned under agreements entered between SAIL and the workers union from 1970 onwards and their performance of same or similar kind of work as the workmen directly employed by the principal employer make them entitled for wages in terms of NJCS Memorandum of agreement is without substance for the reason that for fixation of Minimum Wages under the Minimum Wages Act, 1948, there are number of considerations which are to be kept in mind by the committees while prescribing the minimum rate of wages payable to the workmen of a different category. Under Section 3 of the Minimum Wages Act, 1948 the appropriate Government may fix minimum wages for time work, minimum rate of wages for piece work, minimum wages in respect of overtime work defined under sub-Section 2 of Section 3 of the Act and the amendment made in Section 3 of the Act also take note of different classes/categories of employees in such employment while the notification under the Minimum Wages Act, 1948 came to be published by the appropriate Government.

43. In the given circumstances, a mere assertion of fact that the contract labour which was allowed to continue after the prohibition notification came to be published dated 17th March, 1993 in the establishment of the appellant SAIL performing same or similar kind of work in the establishment of the principal employer is not sufficient to endorse their entitlement of claiming wages notified by the NJCS memorandum of agreement for direct/regular employees of the establishment applicable universally to all the steel industries. The Judgment relied upon by the learned counsel for the respondents in BHEL Workers Association, Hardwar and Others (supra) may not be of any assistance in the facts of the instant case for the reason that it was a writ petition filed under Article 32 of the Constitution of India by the workers union seeking declaration from this Court for abolition of contract labour and be treated as direct employees of the establishment and entitled to equal pay as workmen of the BHEL but that being a matter of enquiry by the competent authority, their petition came to be dismissed with the direction to the Union of India to examine their grievance in accordance with law.

44.In addition to it, in terms of reference made by the appropriate Government dated 27th January, 2003 read with Corrigendum dated 9th April, 2003 followed with 22nd February, 2005, the CGIT framed various issues including issue nos. V & VI and answered it accordingly. Issue nos. V & VI are reproduced as under:-

> "V. Whether lime stone mines violated the provision of Clause-8 of the memorandum of agreement signed between the SAIL, New Delhi and their Unions and employing workers through contractors on jobs of permanent and perennial nature was justified, legal and fair?
>
> VI. Whether the workmen/heirs are entitled to the wages to the post in which they were engaged with parity of wages with that of regular employees of the management with all consequential benefits?"
>
> It has been answered as under:-
>
> "It is evident that it is not established that the alleged contract labours were the employees of the SAIL, as such they were not entitled to any wages as per the agreement. Moreover they were not regular employees of the management and the said agreement appears to be for the regular employees of the management. Thus these issues are also decided against the Union and in favour of the management."

45. The answer thereto has been upheld by us in the independent proceedings.

46. In our considered view, the order of the prescribed authority under the Minimum Wages Act, 1948 dated 2nd December, 2003 and confirmed by the High Court under the impugned judgment dated 11th December, 2006 are unsustainable and deserves to be set aside.

47. Consequently, Civil Appeal No. 8094 of 2011 filed by Steel Authority of India Ltd. is accordingly allowed and order of the prescribed authority under the Payment of Wages

Act, 1948 and Judgment of the High Court are hereby set aside.

48. Civil Appeal No. 8334 of 2011 filed by the employees(Jaggu & Others) is dismissed. No costs.

49. Pending application(s), if any, stand disposed of.

Judgment Referred.

[1]*(1997) 9 SCC 0377*
[2]*(2001) 7 SCC 0001*
[3]*(1969) 1 SCC 0873*
[4]*(1985) 1 SCC 0630*
[5]*(1996)10 SCC 0599*