

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

**THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN
THURSDAY, THE 4TH DAY OF APRIL 2024 / 15TH CHAITHRA,
1946**

OP(LC) NO. 3837 OF 2012

PETITIONER/S:

**SUJATHA DEVI A.
AGED 46 YEARS
EMPLOYER, HOTEL PADIPURAYIL, PARAVOOR P.O.,
PARAVOOR.
BY ADVS.
SRI.P.HARIDAS
SMT.S.SIKKY**

RESPONDENT/S:

**THE ASSISTANT LABOUR OFFICER
PARAVOOR P.O., PARAVOOR- 691501.**

**THIS OP (LABOUR COURT) HAVING COME UP FOR
ADMISSION ON 04.04.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

JUDGMENT

The petitioner filed this Original Petition challenging Ext.P1 order passed by the Deputy Labour Commissioner, Kollam under Section 20(1) of the Minimum Wages Act, 1948 (for short 'the Act') directing her to pay an amount of Rs.1,58,958/- being the arrears of minimum wages for the period from 1.5.2009 to 30.10.2009 together with compensation in respect of 7 employees stated to be employed by her during the aforesaid period. The petitioner states that the persons referred to in Ext.P1 order were employed by the petitioner on temporary basis on their availability and that they were not permanent employees attached to her establishment and are not entitled for minimum wages under the Act. It is further contended that she was not given an opportunity to adduce evidence before passing Ext.P1 order. It is also contended that the respondent, the Assistant Labour

Officer, the Inspector appointed under section 19(2) of the Act had personal grudge towards her and only to wreak vengeance, the impugned proceedings have been initiated. The petitioner prays to quash Ext. P1.

2. Heard the learned counsel for the petitioner and the learned Government Pleader.

3.The Minimum Wages proceedings were initiated by the respondent Inspector stating that the petitioner paid less than the minimum rate of wages for the period from 1.5.2009 to 30.10.2009 to the 7 employees employed in her hotel, which is an establishment under the Kerala Shops and Commercial Establishments Act, 1960 and to which the provisions of the Minimum Wages Act applies. Ext. P1 order states that, though the petitioner was directed to produce the muster roll and register of wages, no records were produced. Accordingly, Ext.A2 show cause notice dated 28.02.2009 was issued to her. However, she did not respond. Ext.A3 is the claim notice issued to her, evidenced by Ext.A4

acknowledgment card. However, she did not enter appearance to defend the claim.

4. After preferring the application under Section 20 (2) of the Act before the Authority under the Minimum Wages Act, though summons was issued by registered post and the petitioner received the summons on 15.5.2010, she did not appear and the Authority declared her *ex parte* on 14.10.2010. Ext. P1 order of the Authority is dated 27.2.2012. The petitioner did not file any application to set aside the *ex parte* order during this period. The entire proceedings shows that the petitioner was not diligent and vigilant to defend the claim petition. The allegation that the Assistant Labour Officer initiated the proceedings due to grudge against her is not substantiated by any proof.

5. The Minimum Wages Act is a welfare legislation. The object of the Act is to fix the minimum rate of wages for various types of employment mentioned in Part I and Part II of the Schedule to the Act. Section 20 of the Act

deals with adjudication of claims. The claim has been preferred under Section 20 (2) by the respondent Inspector. The petitioner had sufficient opportunity to defend the claim before the Authority. Having not utilised such opportunity, she cannot approach this Court alleging that she was not given sufficient opportunity to defend the claim. I do not find merit in the contention raised by the petitioner in the Original Petition. Accordingly, the Original Petition is dismissed.

This Court passed an order on 11.3.2013 extending the interim order of stay of Ext.P1 granted on 16.04.2012 on condition that the petitioner deposits a sum of Rs.50,000/- towards the amounts due under Ext.P1 order within a period of one month. The petitioner states that she has complied with the said order. The arrears of minimum wages pertains to the period 2009. The original petition is pending before this Court from 2012. The petitioner shall deposit the balance amount along with interest at the rate of 9% within a period of

two months from the date of receipt of a copy of this judgment, failing which the amount shall be recovered as per the provisions of the Act.

Sd/-

**MURALI PURUSHOTHAMAN
JUDGE**

al/- .04.04.2024.