

[link to top](#)

LAWS(GJH) 2013 3 246

HIGH COURT OF GUJARAT

Coram :- K. S. JHAVERI, J.

Decided on 2013 March 08

SPECIAL CIVIL APPLICATION NO. 8669 of 2012

Respite Hotels Pvt Ltd

VERSUS

LABOUR ENFORCEMENT OFFICER

Advocates:

PRATIK P. THAKKAR, MITA S. PANCHAL

[-] Referred Acts:

[COMPANIES ACT, 1956](#)

[MINIMUM WAGES ACT, 1948](#)

Citations:

LAWS(GJH) 2013 3 246,

Expert View:

- A. **Learned counsel for the petitioner submitted that the respondent No__ . 2 has failed to appreciate that fact that the petitioner Company had already removed the defects and the payment with regard to wages has been made to the concerned employees and the same is admitted in the impugned order itself__ . 1,43,416/ (one Lakh Forty Thousand four hundred sixteen only) before the registry of this Court, the registry is directed to remit the said amount to the respondent No__ . 2, who in turn shall disburse the same to the concerned employees after ascertaining their identity__ . __**
- B. **Therefore, he submitted that the impugned order is illegal, improper and bad in law and requires to be quashed and set aside by this Court__ Therefore, I am of the opinion that if the compensation equal to five time of the difference of the wages is substituted with one time, then, the same would meet the ends of justice__**
- C. **Keeping in mind the facts that the payment of difference of wages has been paid to the concerned employees during the hearing of the application and also considering the delay on the part of the petitioner Company in paying the difference of wages, the the compensation equal to five time of the difference of the wages**

appears to be on higher side. -- 1,43,416/ (one Lakh Forty Thousand four hundred sixteen only) before the registry of this Court, the registry is directed to remit the said amount to the respondent No.2, who in turn shall disburse the same to the concerned employees after ascertaining their identity.

JUDGMENT / ORDER

1. BY way of this petition, the petitioner has prayed for following reliefs:

[A] Your Lordships may be pleased to issue a writ of certiorari, or any other appropriate writ, order or direction, quashing and setting aside the order dated 03.05.2012/27.04.2012, passed by the respondent No.2 in claim Application No. MWA47/2001, in the interest of justice. [B] Your Lordships may be pleased to stay the implementation, operation and execution of impugned order dated 03.05.2012/27.04.2012 passed by the Respondent No.2 in claim Application No. MWA47/2011, pending the admission, hearing and final disposal of this petition; [C] xxx'

2. THE short facts leading to filing of this petition are that the petitioner is a private limited company registered under the Companies Act, 1956. The petitionerCompany is engaged in hospitality and catering in various hospitals and other institutes through out Gujarat. It is the case of the petitioner that the respondent No.1 visited the establishment of the petitionercompany and and brought to the notice of the petitionerCompany that four employees were not given wages as per the provisions of Minimum wages Act, 1948. Thereafter, the petitionerCompany immediately started paying the difference to all four employees and submitted compliance report to the respondent No.1 . However, the respondent No.1 filed claim application bearing claim application No.47 of 2011 before the respondent No.2 on the ground that the compliance report is found unsatisfactory. The petitionerCompany resisted the said application by filing written statement. The respondent No.2 vide impugned order directed the petitionerCompany to pay an amount of Rs.7,17,080/, which is equal to five times of the difference of wages i.e. Rs.1,79,27/. Being aggrieved by the same, present petition has been preferred.

Learned counsel for the petitioner submitted that the respondent No.2 has failed to appreciate that fact that the petitioner Company had already removed the defects and the payment with regard to wages has been made to the concerned employees and the same is admitted in the impugned order itself. Therefore, he submitted that the impugned order is illegal, improper and bad in law and requires to be quashed and set aside by this Court.

3. I have heard learned counsel for the parties and perused the material on record. Keeping in mind the facts that the payment of difference of wages has been paid to the concerned employees during the hearing of the application and also considering the delay on the part of the petitionerCompany in paying the difference of wages, the the compensation equal to five time of the difference of the wages appears to be on higher side. Therefore, I am of the opinion that if the compensation equal to five time of the difference of the wages is substituted with one time, then, the same would meet the ends of justice.

4. IN that view of the matter, present petition is partly allowed. The penalty of five time of difference of wages, imposed by the respondentAuthority is reduced to one time penalty of difference of wages. Since, the petitionerCompany has already deposited one time penalty compensation i.e. an amount of Rs. 1,43,416/ (one Lakh Forty Thousand four hundred sixteen only) before the



registry of this Court, the registry is directed to remit the said amount to the respondent No.2, who in turn shall disburse the same to the concerned employees after ascertaining their identity. Rule is made absolute to the aforesaid extent.

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