



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF APRIL, 2023

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

WRIT PETITION NO. 8102 OF 2023 (L-RES)

BETWEEN:

M/S CATALER INDIA AUTO PARTS PRIVATE LIMITED,
PLOT NO.33 AND 34,
TOYOTA TSUSHO AUTO PARK,
BIDADI INDUSRIAL AREA,
BIDADI, RAMANAGARA TALUK,
BANGALORE - 562 109,
REPRESENTED BY ITS
DY GM - OPS,
HR AND ADMIN AND AUTHORISED SIGNATORY,
SRI. SEBASTIAN B S,
REGISTERED UNDER COMPANIES ACT, 1956.

...PETITIONER

(BY SRI. MANJUNATHA B, ADVOCATE)

AND:

1. THE ASSISTANT LABOUR COMMISSIONER
AND AUTHORITY UNDER THE KARNATAKA PAYMENT
OF SUBSISTENCE ALLOWANCE ACT, 1988,
LABOUR DEPARTMENT,
MANJUNATHA NAGAR,
BAGALAKUNTE,
BENGALURU - 560 073.





2. SRI. SURESH K V,
C/O DRUVAKUMAR,
AGED ABOUT 28 YEARS,
NO.33, 5TH MAIN,
GADIMUDDANNA ROAD,
KAMAKSHIPALYA,
BENGALURU - 560 079.

...RESPONDENTS

(BY SRI. BHOJEGOWDA T KOLLER, AGA FOR R1;
SRI. T S ANANTHARAM, ADVOCATE FOR C/R2)

THIS WP IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS LEADING TO PASSING OF THE IMPUGNED ORDER DATED 04.11.2022 PASSED BY THE R-1 IN ALCB-1, SA /CR/01/2021 AS PER ANX-G QUASHING THE ORDER DATED 04.11.2022 PASSED BY THE R-1 IN ALCB-1, SA/CR/01/2021 AS PER ANNEX-G AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Heard the learned counsel for the parties.

2. This petition is filed challenging the order dated 04.11.2022 passed by the first respondent at Annexure-G, by which, the petitioner was directed to pay difference of the subsistence allowance as per the provisions of the Karnataka Payment of Subsistence Allowance Act, 1988.



3. The contention of the petitioner is that the provisions of the Act, 1988 are applicable only to establishments to which the standing orders are not applicable which is evident from the statement of objects and reasons of the Act which reads as follows:

"It is the experience that several establishments to whom the Industrial Employment(Standing orders)Act, applies have not made necessary provisions in their Standing Orders to provide for payment of subsistence allowance, as their standing orders had been certified prior to the Model standing orders being framed. There is also no legislation or rule for payment of subsistence allowance to suspended workman, in establishments to which the Standing Orders Act, does not apply. It is, therefore, necessary to enact a legislation to provide for payment of subsistence allowance to suspended workman."

4. The Hon'ble Supreme Court in the case of **Hardeep Singh and Ors. Vs. State of Punjab and Ors** at paragraphs 41 and 42 held as follows:

41. No word in a statute has to be construed as surplusage. No word can be rendered ineffective or purposeless. Courts are required to carry out the legislative intent fully and completely. While construing a provision, full effect is to be given to the language used therein, giving reference to the context and other provisions of the Statute. By construction, a provision should not be reduced to a "dead letter" or "useless lumber". An interpretation which renders a provision an otiose should be avoided otherwise it would mean that in enacting such a provision, the legislature was involved in "an exercise in futility" and the product came as a "purposeless piece" of legislation and that the provision had been enacted without any purpose and the entire exercise to enact such a provision was



"most unwarranted besides being uncharitable." (Vide: Patel Chunibhai Dajibha etc. v. Narayanrao Khanderao Jambekar & Anr., AIR 1965 SC 1457; The Martin Burn Ltd. v. The Corporation of Calcutta, AIR 1966 SC 529; M.V. Elisabeth & Ors. v. Harwan Investment & Trading Pvt. Ltd. Hanoekar House, Swatontapeth, Vasco-De-Gama, Goa, AIR 1993 SC 1014; Sultana Begum v. Prem Chand Jain, AIR 1997 SC 1006; State of Bihar & Ors. etc.etc. v. Bihar Distillery Ltd. etc. etc., AIR 1997 SC 1511; Institute of Chartered Accountants of India v. M/s. Price Waterhouse & Anr., AIR 1998 SC 74; and The South Central Railway Employees Co-operative Credit Society Employees Union, Secundrabad v. The Registrar of Co-operative Societies & Ors., AIR 1998 SC 703).

42. This Court in Rohitash Kumar & Ors. v. Om Prakash Sharma & Ors., AIR 2013 SC 30, after placing reliance on various earlier judgments of this Court held:

"The Court has to keep in mind the fact that, while interpreting the provisions of a Statute, it can neither add, nor subtract even a single word... A section is to be interpreted by reading all of its parts together, and it is not permissible, to omit any part thereof. The Court cannot proceed with the assumption that the legislature, while enacting the Statute has committed a mistake; it must proceed on the footing that the legislature intended what it has said; even if there is some defect in the phraseology used by it in framing the statute, and it is not open to the court to add and amend, or by construction, make up for the deficiencies, which have been left in the Act.....The Statute is not to be construed in light of certain notions that the legislature might have had in mind, or what the legislature is expected to have said, or what the legislature might have done, or what the duty of the legislature to have said or done was. The Courts have to administer the law as they find it, and it is not permissible for the Court to twist the clear



language of the enactment, in order to avoid any real, or imaginary hardship which such literal interpretation may cause.....under the garb of interpreting the provision, the Court does not have the power to add or subtract even a single word, as it would not amount to interpretation, but legislation." Thus, by no means it can be said that provisions of Section 319 Cr.P.C. cannot be pressed into service during the course of 'inquiry'.

The word 'inquiry' is not surplussage in the said provision.

5. The issue involved in this petition was examined by the Division Bench of this Court in W.A. No.1973/2010 disposed on 18.11.2016 wherein, at paragraph-5 held as follows:

5. Therefore, reading of the said section makes it clear that the legislative intent is not to make it applicable only to those who are working in establishments where there is no Certified Standing Orders, this is the law which is applied to all the employees if they satisfy the definition of 'employee' contained in Section 2(a) . In fact, the word 'establishment' under Section 2(c) which includes any public sector undertakings or the Central Government as set out therein. It is also well settled that if there is any inconsistency in the object and statutory provisions, it is the statutory provisions which prevail over the object mentioned in the enactment. In the circumstances, the learned Single Judge was justified in holding that payment of subsistence allowance under the Subsistence Allowance Act, 1988 is more beneficial to the workman when compared to the subsistence allowance payable under the Certified Standing Orders and therefore, the respondent is entitled to the said benefit. We do not see any illegality committed by the learned Single Judge in passing the impugned order. The appeal is devoid of merits.



The Division Bench in the aforesaid case has held that if there is any inconsistencies in the standing orders and the Act, 1988, the statutory provisions will prevail over the object mentioned in the enactment, and therefore the workman therein was entitled to subsistence allowance payable under the Act, 1988 which is more beneficial compared to the subsistence allowance payable under the certified standing orders.

6. In view of the ratio enunciated by the Division Bench of this Court, the impugned order directing the petitioner to pay subsistence allowance to the respondent under the Act, 1988 does not warrant any interference. Accordingly, petition stands dismissed.

**Sd/-
JUDGE**

RKA
List No.: 1 SI No.: 5
CT: BHK