

## REVISIONAL CIVIL

*Before Mehar Singh, C.J.*

UNION OF INDIA,—Petitioner.

*versus*

PRITAM SINGH,—Respondent.

**Civil Revision No. 593 of 1966.**

January 31, 1969.

*Payment of Wages Act (IV of 1936)—Sections 2(vi) (b), 15 and 22—Claim for over-time work and interest on the amount due—Whether triable by Civil Courts—Bona fide dispute as to the amount claimed—Whether to be decided by Civil Courts.*

*Held*, that any remuneration in respect of over-time work is within the definition of 'Wages' under section 2(vi) (b) of Payment of Wages Act and claim to it is within the jurisdiction of the authority under section 15 of the Act. Hence the jurisdiction of a Civil Court in regard to any such claim is barred under section 22 of the Act. The claim of interest on the amount due as remuneration for over-time work is within the scope of section 15 of the Act, because under sub-section (3) of section 15 of the Act, a worker can claim compensation for deducted or delayed wages and interest is in the nature of a claim of compensation. In regard to such claim also, the jurisdiction of the Civil Courts is barred.

(Para 4)

*Held*, that clause (a) of the proviso to sub-section (3) of section 15 of the Act prohibits only the making of a direction for the payment of compensation in the case of delayed wages and does not prohibit the making of a direction regarding the refund of the amount deducted or the payment of delayed wages as laid down in sub-section (3) of section 15; therefore, the proviso does not suggest that all *bona fide* disputes as to the amount payable are to be tried by the Civil Courts.

(Para 5)

*Petition under Section 115 of the case of Civil Procedure, 1908, for revision of the order of Shri Arjan Singh Chugh, Sub-Judge III Class, Hoshiarpur, dated the 14th February, 1966, holding that the Civil Court has no jurisdiction to try the suit.*

BIRINDER SINGH, ADVOCATE, for the Petitioner.

PRITAM SINGH, respondent in person.

**JUDGMENT**

MEHAR SINGH, C.J.—The respondent was in railway service when he made his claim in the Court below on July 15, 1965. He claimed Rs. 242.53 Paise plus interest due to him for over-time work. He valued the suit for purposes of Court-fee at Rs. 242.53 Paise. He did not calculate interest due to him on the amount he was claiming to the date of his plaint and did not pay Court-fee on that.

(2) The applicant raised a preliminary objection to the claim of the respondent that civil Court had no jurisdiction in the claim in view of section 22 of the Payment of Wages Act, 1936 (Act 4 of 1936), as the claim of the respondent comes within the scope of section 15 of that Act. This did not prevail with the learned trial Judge who by his order of February 14, 1966, came to the conclusion that he had jurisdiction in the claim of the respondent. He said that he had carefully considered the provisions of sections 15 and 22 of Act 4 of 1936 and had found that nothing in those provisions barred his jurisdiction. It is against the order of the learned trial Judge that the applicant has filed this revision application.

(3) The claim of the side of the applicant is that the respondent is claiming something which is due to him for over-time work and in section 2(vi)(b) of Act 4 of 1936, any remuneration in respect of over-time work is within the definition of the term 'wages', and hence claim to it is within the jurisdiction of the authority under that Act under section 15, which means that under section 22 the jurisdiction of a civil Court in regard to any such claim is barred.

(4) In reply the respondent has urged two arguments. One is that where a claim is composite, partly coming within the jurisdiction of the authority under Act 4 of 1936 and partly within the jurisdiction of a civil Court, then the claim is triable by a civil Court, as held by the learned Judges in *C. V. Narayanaswamy Iyer v. K. A. Vasudeva Iyer* (1). The respondent says that his claim to interest is not within the jurisdiction of the authority under Act 4 of 1936, but can only be within the jurisdiction of an ordinary civil Court. So even if remuneration claimed by him for over-time work is 'wages' under section 2(vi) of Act 4 of 1936, the claim as regards interest is not 'wages' and, therefore, his suit being for a composite claim, the civil Court has jurisdiction to try it. In the first place, although the respondent has, while claiming the exact amount as remuneration for over-time work, added to it 'plus interest', but he has not calculated interest up to the date of his plaint and has not paid any Court-fee on that. In substance, therefore, he had made no claim for interest before the civil Court. His claim in his plaint cannot be described as a composite claim. Apart from this, secondly, assuming that he can make a claim for interest that I consider is also within the scope of section 15 of Act 4 of 1936, because under sub-section (3) of section 15 he can

(1) A.I.R. 1958 Mad. 360.

claim compensation for deducted or delayed wages and interest is in the nature of a claim of compensation. So this argument on the side of the respondent cannot be accepted.

(5) The only other argument that has been advanced by the respondent is that if there is a dispute about the amount claimed, whether it is due or not, then that is a claim which is for the civil court and not for the authority under Act 4 of 1936. In this respect he relies upon the judgment of Beckett, J., in *Simpalax Manufacturing Co. Ltd. v. All-ud-Din* (2), in which the learned Judge after referring to proviso to sub-section (3) of section 15 of Act 4 of 1936 was of the view that any *bona fide* dispute as to the amount payable as wages are to be tried by the civil courts because the authority under the Act can only try claim for wages which are admittedly due. Proviso (a) to sub-section (3) of section 15 of the Act reads—"Provided that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to—(a) a *bona fide* error or *bona fide* dispute as to the amount payable to the employed person. "In clear terms, this part of the proviso merely concerns direction for the payment of compensation and not direction by the authority under the provisions of the Act for payment of deducted or delayed wages. In *Sarangdhar Singh v. Lakshmi Narayan Wahi* (3), the learned Judges held that clause (a) of the proviso to sub-section (3) of section 15 prohibits only the making of a direction for the payment of compensation in the case of delayed wages and does not prohibit the making of a direction regarding the refund of the amount deducted or the payment of delayed wages as laid down in sub-section (3) of section 15; therefore, the proviso does not suggest that all *bona fide* disputes as to the amount payable are to be tried by the Civil Courts. The Lahore case (*Simpelax Manufacturing Co., Ltd's case* (2) obviously proceeds on not quite a correct approach to clause (a) of proviso to sub-section (3) of section 15 and I agree with the learned Judges in *Sarangdhar Singh's case* (3). So this argument cannot be accepted from the side of the respondent either.

(6) Apparently his claim is for over-time work, which is within the definition of the term 'wages' as in section 2(vi) of Act 4 of 1936 and he has not really claimed interest, but if he had that was also

(2) A.I.R. 1945 Lah. 195.

(3) A.I.R. 1955 Patna 320.

Mangat Rai v. Ved Parkash (Sarkaria, J.)

claimable before the authority under that Act under sub-section (3) of section 15. So whether his claim is merely for over-time work or for over-time work and interest on the amount due; in either case the claim is within the jurisdiction of the authority under Act 4 of 1936. In regard to such a claim; the jurisdiction of the civil Court is barred under section 22 of that Act.

(7) In the circumstances, the order of the trial Court is reversed and the respondent, if so advised, may take back his plaint and present it to the authority under Act 4 of 1936. There is, however, no order in regard to costs in this revision application.

K. S. K.

REVISIONAL CIVIL

Before Mehar Singh, C.J., and R. S. Sarkaria, J.

MANGAT RAI,—Petitioner.

versus

VED PARKASH,—Respondent.

**Civil Revision No. 29 of 1967**

January 31, 1969.

*East Punjab Urban Rent Restriction Act (III of 1949)—Section 13(2) (i) Proviso—"First hearing"—Pre-requisites for determination of—Stated—Tenant being duly served in ejectment proceedings appearing before Rent Controller—Rent Controller suspending such proceedings on misconstruction of a stay order of the High Court—"First hearing" in the proceedings—Whether the date when tenant first appears before the Rent Controller—Proviso to the section 13(2) (i)—Whether casts unilateral duty on the tenant.*

Held, that the expression "first hearing", has not been defined in the East Punjab Urban Rent Restriction Act. In order to constitute "first hearing" within the meaning of Section 13(2) (i), Proviso, the following pre-requisites must co-exist:—

- (i) There should be a 'hearing' which presupposes the existence of an occasion enabling the parties to be *heard* and the Court to hear them in respect of the *cause*.
- (ii) Such hearing should be the *first* in point of time after *due service* of the summons/notice on the tenant.

Both these essentials are positive, and, in the absence of either of them, there can be no 'first hearing'. (Para 17)