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# HINDUSTAN SANITARYWARE: SUPREME COURT VERDICT ON THE VALIDITY OF THE MINIMUM WAGES NOTIFICATION ISSUED BY THE GOVERNMENT OF HARYANA

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On 29 April 2019, the Supreme Court of India (Supreme Court) in *Hindustan Sanitaryware and Industries Limited and Ors v State of Haryana, Civil Appeal Nos. 2539 of 2010 and 4454 of 2019* (Hindustan Sanitaryware) ruled on the validity of the minimum wages notification dated 21 October 2015 issued by the Department of Labour, Government of Haryana (Notification). The ruling is significant when viewed from the standpoint of the powers of the appropriate government under Section 4 of the Minimum Wages Act 1948 (MW Act).

## Background

The civil appeals before the Supreme Court arose in the backdrop of the Notification which *inter alia* provided as follows:

- Unskilled employees with 5 years of experience would be deemed to be semi-skilled 'A' employees. Thereafter, after 3 years of service as semi-skilled 'A', the employees would be deemed to be in the semi-skilled 'B' category.
- In relation to contract workers, the principal employer shall be personally responsible for ensuring the payment of minimum rates of wages by the contractor.
- In relation to trainees, the minimum rates of wages shall be at the rate of 75% of the wages applicable to the relevant category. Such minimum rates of wages shall not be less than those prescribed for an unskilled category in any case. Further, the period of training for such trainees shall not be more than 1 year.
- There shall not be any segregation of the minimum rates of wages into components in the form of allowances by the employer.

The aforesaid provisions were challenged before the High Court of Punjab and Haryana (High Court), which rejected the contentions of the appellants. As regards the classification of employees based on their experience, the High Court reasoned that the same was not only permissible but also necessary given that the workmen continued to be employed in their grades for many years, thus being vulnerable to stagnation.

## Supreme Court's Ruling in Hindustan Sanitaryware

The Supreme Court held the provision in the Notification classifying the employees based on the number of years of work to be invalid, opining that such classification was in direct contravention of the contract between the employer and the employee. The MW Act has not given any power of this nature to the appropriate government.

Further, the Supreme Court held that not all trainees can be included in the notification of the appropriate government declaring the minimum rates of wages. Only a trainee who is employed for 'hire or reward' could fall under the definition of 'employee' in the MW Act. Accordingly, a trainee who is not paid wages would not fall within the definitional attributes of the term 'employee' and would, therefore, be out of the purview of the MW Act. The Supreme Court also held that the appropriate government has no power to prescribe the minimum period of training for the trainees engaged by an organisation and that such provision in the Notification is *ultra vires* the provisions of the MW Act.

As regards the segregation of wages into allowances, the Supreme Court reiterated its position in *Airfreight Limited v State of Karnataka, (1999) 6 SCC 567* (Airfreight), and held that "if certain components of the remuneration are taken care of by the employer, he cannot be asked to pay twice over such allowance." The prohibition on segregation of wages into components was not a valid exercise of power by the Government of Haryana.

To the extent as mentioned above, the Notification was held to be invalid. The Supreme Court, however, rejected the contention of the appellants that the contract workers are not covered under the MW Act in view of Section 2(e) thereof.

### *Comments*

The Supreme Court has followed the letter of the law to determine the power of the appropriate government to fix minimum rates of wages. While Section 3(3) of the MW Act expressly allows the appropriate government to fix minimum rates of wages for different classes of work (skilled, unskilled etc.), no such provision is made for fixing the minimum rates of wages on the basis of the experience of the employee in a certain class of work. Similarly, the Supreme Court declaring the provision relating to principal employer's responsibility in respect of contract workers valid is in view of the term 'employer' as used in the MW Act. The term 'employer' refers to any person who employs one or more employees in any scheduled employment, 'whether directly or through another person'.

In relation to segregation of components of wages, the Supreme Court has reiterated its judgment in Airfreight, where it held that when an employer is paying total sum which is equal to or higher than the minimum rates of wages fixed under the MW Act, the employer would be in compliance with the MW Act, provided that such wages are calculated in accordance with Section 2(h) thereof. In other words, if the remuneration paid to the employees (after deducting the value of house accommodation, the contribution made by the employer towards welfare schemes, travelling allowance, gratuity and any sum paid to the employee to defray special expenses incurred by him by the nature of his employment) is equal to or more than the minimum rates of wages, the employer has complied with the law in substance.

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