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In this view of the matter the impugned order is wholly without jurisdiction as it has been passed to the detriment of the petitioners by a person not authorised by law to pass it. This writ petition has, therefore, to be granted on this short ground and the impugned order has to be set aside.

Mr. Anand Mohan Suri, the learned counsel for the petitioners then wanted to urge certain other contentions in support of the writ petition. In the view that I have taken of the first argument of the learned counsel referred to above, I do not consider it necessary to mention or deal with those points. It would be open to Mr. Suri to raise them if and when it becomes necessary to do so in other appropriate proceedings.

It is significant that in the instant case the petitioners made a written representation to the Additional Deputy Commissioner as soon as they received the impugned orders questioning his authority. A copy of that representation has been filed with this writ petition as annexure 'B' thereto. This is dated 5th October, 1965 and the petitioners had prayed in it for the cancellation of the impugned orders on the solitary ground that the Additional Deputy Commissioner had no authority to pass them. The respondents, however, insisted on claiming the orders to be within the jurisdiction of the Additional Deputy Commissioner.

In the above circumstances this writ petition is allowed and the impugned order of the Additional Deputy Commissioner dated 30th September, 1965 (copy annexure 'A' to the writ petition) purporting to suspend the petitioners as Sarpanch and Panches, respectively of the above-named Gram Panchayat and debarring them from taking part in any act and proceedings of the Gram Panchayat is hereby set aside and quashed. The petitioners will have their costs from the respondents. Counsel fee Rs. 200.

K.S.K.

CIVIL MISCELLANEOUS

Before Inder Dev Dua and Prem Chand Pandit, JJ.

MUNICIPAL COMMITTEE, TARN TARAN,—*Petitioner.*

versus

THE STATE OF PUNJAB AND OTHERS,—*Respondents.*

Civil Writ No. 1373 of 1965.

1965

October 29th

Industrial Disputes Act (XIV of 1947)—S. 10—Minimum wages fixed by Government not paid by employer to its employees for certain period—Whether creates an industrial dispute which

can be referred for adjudication to Industrial Tribunal—Minimum Wages Act (XI of 1948)—Ss. 20 and 24—Whether a bar to such reference—Financial capacity of the employer—Whether to be considered in awarding minimum wages—Award of Industrial Tribunal—Whether to be precise.

Held, that the workmen could claim the difference between the minimum wages fixed by the Government and the amount paid by the Committee to them for the period in dispute, namely 12th May, 1960 to 1st June, 1961, by filing an application under section 20 of the Minimum Wages Act. Since, in the present case, the Government had, admittedly, by a notification dated 1st February, 1960, fixed the minimum wages of the employees of the petitioner-Committee and those wages were to be paid with effect from 12th May, 1960, therefore, the employees had a right to get those wages from the petitioner-Committee. The committee, however, started paying them the wages at the rates fixed by the Government with effect from 1st June, 1961, only that is, after more than a year from the date fixed in the notification. The employees demanded the payment with effect from 12th May, 1960, but the Committee refused to do that. A dispute, therefore, arose between the Committee and its workmen. The Government was satisfied that an industrial dispute existed between the parties and it, consequently, referred the same under section 10(1)(d) of the Industrial Disputes Act to the Industrial Tribunal for adjudication. There is no provision in the Minimum Wages Act, which creates any bar to such an industrial dispute being referred by the Government to the Tribunal for adjudication. Even those cases, which are covered by the provisions of the Minimum Wages Act, but where an industrial dispute has arisen, can be decided under the Industrial Disputes Act and there is no inconsistency between these two Acts and both of them can operate in their own spheres. The Industrial Tribunal to which an industrial dispute is referred for adjudication is not a 'Court' as used in section 24 of the Minimum Wages Act and so this section does not bar the jurisdiction of the Industrial Tribunal to adjudicate upon the present dispute.

Held, that under section 20 of the Minimum Wages Act, a limitation of six months has, no doubt, been prescribed for filing the claim. If this limitation had elapsed, it cannot be said that the rights of the workmen had been destroyed. All that can be said is that their remedy under that Act had been barred. Under the Industrial Disputes Act, it is for the Government to decide as to whether there exists or there is an apprehension of an industrial dispute and if they are so satisfied, then a reference is made to the Industrial Tribunal for its adjudication. There is no limitation prescribed under the Industrial Disputes Act. In the present case, the Government was satisfied that an industrial dispute did exist and consequently, the reference was made. No challenge has been made to the nature of the dispute by the petitioner in the present case. It was observed by the Supreme Court that as no limitation was prescribed under the Industrial Disputes Act, and, therefore, the Industrial Tribunal cannot import

any such consideration in dealing with the dispute referred to it for adjudication under the Industrial Disputes Act, even though under the Minimum Wages Act there is a period of limitation prescribed for determining the particular claim.

Held, that the financial capacity of the employer has not to be determined or taken into consideration when only minimum wages are awarded to the employees.

Held, that the award of a Tribunal, which is treated like a decree of a civil Court, has to be precise in all particulars, so that no difficulty is experienced by the parties thereto and the persons who have to execute the same.

Petition under articles 226 and 227 of the Constitution of India praying that a writ in the nature of certiorari or any other writ, order or direction be issued quashing the order of respondent No. 2 published in the Punjab Gazette, dated 8th June, 1963.

A. S. SARHADI AND S. S. DHINGRA, ADVOCATES, for the Petitioner.

ANAND SWAROOP AND R. S. MITTAL, ADVOCATES, for the respondents.

ORDER

PANDIT, J.—This petition under Articles 226 and 227 of the Constitution has been filed by the Municipal Committee, Tarn Taran in District Amritsar, and is directed against the order dated 5th June, 1964 passed by the Presiding Officer of the Industrial Tribunal, Punjab, Chandigarh, respondent No. 2, and the award given by him on 24th December, 1964. Pandit, J.

According to the allegations of the petitioner-Committee, it has a large number of employees working under it and they had been allotted different duties. On 1st February, 1960 the Punjab Government issued a notification fixing the minimum rate of wages of the employees of this committee, under section 4 of the Minimum Wages Act, 1948, with effect from 12th May, 1960. No demand was, however, made by any of the employees seeking any increase in their wages, but the petitioner itself enforced the payment of wages in accordance with this notification, with effect from 1st June, 1961. All the employees then started receiving payment at enhanced rates without any objection or protest. On 20th December, 1963, for the first time, the Municipal Lower Grade Employees

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Union, respondent No. 3, got a reference made from the State of Punjab under section 10(1) (d) of the Industrial Disputes Act, 1947, for adjudication to respondent No. 2 on the following two matters:—

(a) Whether the workmen are entitled to any compensation for non-payment of revised rate of minimum wages fixed under Labour Department Notification No. 352-3-Lb-II-60/2788, dated 1st February, 1960, with effect from 12th May, 1960? If so, with what detail?

(b) Whether the workmen are entitled to any compensation for non-grant of weekly rest? If so, with what detail?

The said reference was taken up by respondent No. 2 who called upon the petitioner to submit its objections. Thereupon, the petitioner objected *inter alia*, that the said reference was beyond the jurisdiction of respondent No. 2, because the statutory remedy of the workmen was provided under section 10 of the Minimum Wages Act, which also prescribed a period of limitation for that purpose. Respondent No. 2 then framed the following three preliminary issues:—

1. Is the reference bad in law for the reasons given in the written statement of the Municipal Committee?
2. Is the reference vague and indefinite? If so, what is its effect?
3. Is the amount demanded by the workmen recoverable only under the Minimum Wages Act and cannot a reference *qua* this amount be made to this Tribunal?

The parties then led their evidence on these issues and by his order dated 5th June, 1964, respondent No. 2 decided all these preliminary objections against the petitioner and then proceeded to give his award. The said award was made on 24th December, 1964, by which respondent No. 2, in item No. (a) held as follows:—

"The workmen were clearly entitled to be paid wages at the rate fixed by the Government by their

notification and the Committee should have paid them irrespective of a demand by them. I would, therefore, hold that the workmen are entitled to compensation for non-payment of the revised rates of minimum wage fixed by the Government notification. The management will now pay them the difference of wages between the rates at which they were paid and the rates fixed by the Government. All the workmen mentioned in the lists A-1 and A-2 with the exception of those mentioned in Ex. R. W. 1/1 and R.W. 1/2 will be paid the aforesaid wages within three months from the date of the publication of this award in the Official Gazette."

His finding on item No. (b) was :—

"The Octroi Moharrirs were entitled to weekly rests under Rule 23 of the Minimum Wages (Punjab) Rules. This rule came into force on 15th June, 1961. In these circumstances, I direct the committee to pay to the Octroi Moharrirs extra wages for such days of their weekly rests on which they were made to work between 15th June, 1961, when rule 23 came into force, to 1st September, 1961, up to which date the workmen claim the same."

This award was published in the Government Gazette on 8th January, 1965. That led to the filing of the present writ petition on 3rd May, 1965.

Learned counsel for the petitioner, while challenging the award and the findings of respondent No. 2 on the preliminary issues has raised the following contentions before us :—

1. That the disputes of the workmen in the present case had to be settled under the Minimum Wages Act, which was a complete Code in itself. It has also provided the machinery for this purpose. These workmen, having been given a statutory right under that Act, could not approach the Industrial Tribunal in this respect. The Industrial Tribunal had consequently, no jurisdiction to adjudicate upon the

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points referred to him by the Government. The Minimum Wages Act being a special Act for this purpose had to take precedence over Industrial Disputes Act, which was a general Act. Further, section 24 of the Minimum Wages Act barred the jurisdiction of all Courts from entertaining any suit for the recovery of wages. The Industrial Tribunal, being a civil Court had thus no jurisdiction to try this claim.

2. Section 20 of the Minimum Wages Act prescribes a period of limitation for filing claims with regard to the wages. That limitation having elapsed, the workmen in the present case were left with no rights and, as a result, there was no industrial dispute in existence for adjudication by respondent No. 2.

3. The reference under section 10(1)(d) pertained to the compensation for non-payment of revised rates of minimum wages fixed by the Government Notification. Respondent No. 2 clearly went beyond the ambit of the reference when he ordered the payment of difference of wages between the rates at which the workmen were paid and the rates settled by the Government.

4. The claim of the workmen was belated and, therefore, should not have been allowed by respondent No. 2.

5. Enhanced wages could, under the law, not have been awarded by respondent No. 2, without enquiring into the financial capacity of the employer.

6. The award was vague inasmuch as it did not give the names of the Octroi Moharrirs, who were to be paid for weekly rests and the amount, to which they were entitled.

With regard to the first contention of the learned counsel for the petitioner, it is no doubt true that the workmen could claim the difference between the minimum wages fixed by the Government and the amount paid by

the Committee to them for the period in dispute, namely 12th May, 1960 to 1st June, 1961, by filing an application under section 20 of the Minimum Wages Act. Since, in the present case, the Government had, admittedly, by a notification, dated 1st February, 1960, fixed the minimum wages of the employees of the petitioner-Committee and those wages were to be paid with effect from 12th May, 1960, therefore, the employees had a right to get those wages from the petitioner-Committee. The committee, however, started paying them the wages at the rates fixed by the Government with effect from 1st June, 1961, only, that is, after more than a year from the date fixed in the notification. The employees demanded the payment with effect from 12th May, 1960, but the Committee refused to do that. A dispute, therefore, arose between the Committee and its workmen. The Government was satisfied that an industrial dispute existed between the parties and it, consequently, referred the same under section 10(1)(d) of the Industrial Disputes Act to respondent No. 2 for adjudication. If in a particular case, in the opinion of the Government, an *industrial dispute* has arisen then the same can be referred to the Tribunal for adjudication. No provision of the Minimum Wages Act has been brought to our notice, which creates any bar to such an industrial dispute being referred by the Government to the Tribunal for adjudication. The Industrial Disputes Act was passed in the year 1947, whereas the Minimum Wages Act in 1948. In case the Legislature intended that the provisions of the Industrial Disputes Act were not to be applied to cases which were governed by the Minimum Wages Act, then the Legislature would have made a provision to that effect in the latter Act. The condition precedent to such a reference under the Industrial Disputes Act is the existence of an industrial dispute to the satisfaction of the appropriate Government. The petitioner-Committee does not challenge that the present dispute is not an industrial dispute. Therefore, one part of their contention that the present dispute could only be decided by the authorities under the Minimum Wages Act has no force. As regards the argument of the learned counsel that the Minimum Wages Act was a special Act and, therefore, it had to take precedence over the Industrial Disputes Act, in the first place, such a contention was neither raised before the Tribunal nor was it taken up in the writ petition. Secondly, in a case where an industrial dispute has arisen to the satisfaction of the Government, that can only be adjudicated

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upon under the Industrial Disputes Act. In that context, this Act would be called a special Act. Even those cases which are covered by the provisions of the Minimum Wages Act, but where an industrial dispute has arisen can be decided under the Industrial Disputes Act and there is no inconsistency between these two Acts and both of them can operate in their own spheres. A somewhat similar point arose for decision before a Bench of this Court in the *Jullundur Transport Co-operative Society, Jullundur* v. *The Punjab State and another* (1). There the question was whether an industrial dispute betwen a Co-operative Society and its workmen could under the law be referred to Industrial Tribunal set up under the Industrial Disputes Act or whether such a dispute could only be determined under the Punjab Co-operative Societies Act. While dealing with this point, the Bench observed—

> "it is also significant that there is no provision in the Co-operative Societies Act which excludes the applicability of the Industrial Disputes Act to the industrial disputes which may arise between co-operative societies and their workmen. Besides, the Industrial Disputes Act is a special enactment dealing with the special subject of industrial disputes and special provisions have been made in this statute for setting up Tribunals qualified for adjudicating upon them. The Punjab Co-operative Societies Act, when considered in this light, is, on the other hand, a general enactment and its provisions must yield to the provisions of the Industrial Disputes Act whenever the provisions of the latter Act are by their language clearly applicable to a particular dispute. In this view of things, there is no inconsistency between the Punjab Act and the Central Act. They can both co-exist and be enforced without clashing."

The learned Tribunal has relied on the Supreme Court decision in the *Bombay Gas Co. Ltd.* v. *Gopal Bhiva and others* (2), in holding that it had jurisdiction to adjudicate upon this dispute notwithstanding the fact that it could also be decided under the Minimum Wages Act. In that

(1) A.I.R. 1959 Punj. 34.
(2) A.I.R. 1964 S.C. 752.

case some award had been made by the Industrial Tribunal in favour of the employees of the Bombay Gas Company. They alleged that they were entitled to a certain benefit on account of the award and, therefore, moved the Labour Court to compute that benefit in terms of money and direct the Company to pay the same to them. The contention of the learned counsel for the Company was that this claim should have been made by the workmen under the provisions of the Payment of Wages Act, 1936, where the claim had to be made within six months from the date on which the cause of action accrued to the employees. His further submission was that in the State of Maharashtra, by local modification, that period was prescribed as one year. His argument was that the present claim made by the employees of the Company under section 33-C (2) of the Industrial Disputes Act was a claim for wages within the meaning of the Payment of Wages Act. If the employees had made such a claim before the Authority under the Payment of Wages Act, they could not have got relief after one year. According to the learned counsel, it was, therefore, anomalous that by merely changing the forum, the employees should be permitted to make a claim after 8 years under the Industrial Disputes Act. He also contended that by virtue of the provisions of section 22 of the Payment of Wages Act, a claim for wages could not be made by an industrial employee in a Civil Court after a lapse of one year, because though the period for such a suit might be three years under Article 102, a civil suit was barred by section 22. The jurisdiction conferred on the payment authority was exclusive and so far as the said Act went, all claims must be made within one year. Repelling these contentions, the Supreme Court observed thus—

> "*Prima facie,* there is some force in this argument. It does appear to be somewhat anomalous that a claim which would be rejected as barred by time, if made under the Payment of Wages Act, should be entertained under section 33-C(2) of the Act; but does this apparent anomaly justify the introduction of considerations of limitation in proceedings under section 33-C(2) ? Mr. Kolah (learned counsel for the Company) suggests that it would be open to this Court to treat laches on the part of the employees as a relevant factor even in dealing with cases under

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section 33-C(2) and he has relied on the fact that this Court has on several occasions discouraged belated claims in the matter of bonus. In appreciating the validity of this argument we do not propose to consider whether the jurisdiction conferred on the authority under the Payment of Wages Act is exclusive in the sense that a claim for wages cannot be made by an industrial employee in a Civil Court within 3 years as permitted by Article 102, that is a question which may have to be decided on the merits when it directly arises. For the purpose of the present appeal, the only point which we have to consider is, does the fact that for recovery of wages limitation has been prescribed by the Payment of Wages Act, justify the introduction of considerations of limitation in regard to proceedings taken under section 33-C (2) of the Act.

In dealing with this question, it is necessary to bear in mind that though the legislature knew how the problem of recovery of wages had been tackled by the Payment of Wages Act and how limitation had been prescribed in that behalf, it has omitted to make any provision for limitation in enacting section 33-C(2). The failure of the legislature to make any provision for limitation cannot, in our opinion, be deemed to be an accidental omission. In the circumstances, it would be legitimate to infer that Legislature deliberately did not provide for any limitation under section 33-C (2). It may have been thought that the employees, who are entitled to take the benefit of section 33-C(2), may not always be conscious of their rights and it would not be right to put the restriction of limitation in respect of claim which they may have to make under the said provision. Besides even if the analogy of execution proceedings is treated as relevant, it is well known that a decree passed under the Code of Civil Procedure is capable of execution within 12 years, provided, of course it is kept alive by taking steps in aid of execution from time to time as required by Article 182 of the Limitation Act; so that the test of one year or six months' limitation prescribed by the Payment of Wages Act cannot be

treated as a uniform and universal test in respect of all kinds of execution claims. It seems to us that where the legislature has made no provision for limitation, it would not be open to the courts to introduce any such limitation on grounds of fairness or justice. The words of section 33-C(2) are plain and unambiguous and it would be the duty of the Labour Court to give effect to the said provision without any considerations of limitation. Mr. Kolah, no doubt emphasised the fact that such belated claims made on a large scale may cause considerable inconvenience to the employer, but that is a consideration, which the legislature may take into account, and if the legislature feels that fair play and justice require that some limitation should be prescribed, it may proceed to do so. In the absence of any provision, however, the Labour Court cannot import any such consideration in dealing with the applications made under section 33-C(2)."

From the above observations, it would be apparent that a claim which could have been determined by the Authority under the Payment of Wages Act could also be decided under the provisions of the Industrial Disputes Act. Further, even though a limitation was prescribed under the Payment of Wages Act, the Authorities under the Industrial Disputes Act were not bound by the same because no such limitation was prescribed in the latter Act. In other words, it means that if the Authorities under the Industrial Disputes Act had no jurisdiction to deal with the matter, the Supreme Court would have held so and thrown out the claim of the employees on this ground alone that their remedy lay under the Payment of Wages Act. The Supreme Court authority, therefore, supports the view that the Industrial Tribunal had jurisdiction to adjudicate upon the present dispute, despite the fact that it could also be decided under the Minimum Wages Act. It is wrong to say that this precise matter had been left undecided by the Supreme Court, as contended by the learned counsel for the petitioner. What was left open was whether the claim for the wages in the Supreme Court case could not be made by an industrial employee in a *Civil Court* within three years as permitted by Article 102 of the Indian Limitation Act. That question, the learned Judges said, would be decided on the

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merits when it directly arose in some case. It may be mentioned that the provisions of section 22 of the Payment of Wages Act are similar to those of section 24 of the Minimum Wages Act.

Coming to the objection based on the provisions of section 24(d) of the Minimum Wages Act, it will be useful to reproduce this section which is as follows—

"*S.* 24. No Court shall entertain any suit for the recovery of wages in so far as the sum so claimed—

(a) forms the subject of an application under section 20 which has been presented by or on behalf of the plaintiff, or

(b) has formed the subject of a direction under that section in favour of the plaintiff, or

(c) has been adjudged in any proceeding under that section not to be due to the plaintiff, or

(d) could have been recovered by an application under that section."

Section 24(d) says that no Court shall entertain any suit for the recovery of wages which could have been recovered by an application under section 20. The words "Court" and "suit" have not been defined in the Minimum Wages Act. As held in a bench decision of this Court in *Kabul Singh* v. *Ram Singh and others* (3), the meaning of the word 'Court' varies with the context in which it is used. This word is not a term of art with fixed meaning, but has a variable import indicative of divergent things. A 'Court' is defined in Coke on Littleton as a place wherein justice is judicially administered. Now let us see what the word 'Court' means in the present context. In section 24, the word 'Court' is followed by the word 'suit'. The word 'suit' as occurring in section 22 of the Payment of Wages Act (which is similar to section 24 of the Minimum Wages Act) was defined in a Full Bench of the Bombay High Court in *Farkhundali Nannhay* v. *V. B. Potdar and another* (4), as under:—

"The word 'suit' is a term of art and ordinarily means a proceeding instituted in a Civil Court by the presentation of the plaint."

The Privy Council in *Hans Raj Gupta and others* v. *The Official Liquidators of the Dehra Dun Mussoorie Electric*

(3) I.L.R. (1965) 1 Punj. 452=1965 P.L.R. 378.
(4) A.I.R. 1962 Bom. 162.

Tramway Co. Ltd. (5), held that the word 'suit' ordinarily meant, and apart from some context must be taken to mean, a Civil proceeding instituted by the presentation of a plaint. The word "Court" therefore, in section 24 of the Minimum Wages Act means a "Civil Court." The Industrial Tribunal cannot be called a "Civil Court", because the proceedings there are not initiated by the presentation of a plaint. Everybody has not got a right to get his dispute adjudicated by it. It is only when the Government is satisfied in a particular case that an industrial dispute has arisen that a reference is made to the Tribunal for adjudication. Under these circumstances, section 24 of the Minimum Wages Act does not bar the jurisdiction of the Industrial Tribunal to adjudicate upon the present dispute.

The first contention of the learned counsel for the petitioner thus fails.

As regards the second contention, there is no merit in the same as well. It is true that under section 20 of the Minimum Wages Act, a limitation of six months has been prescribed for filing the claim. If this limitation had elapsed, it cannot be said that the rights of the workmen had been destroyed. All that can be said is that their remedy under that Act had been barred. Under the Industrial Disputes Act, it is for the Government to decide as to whether there exists or there is an apprehension of an industrial dispute and if they are so satisfied, then a reference is made to the Industrial Tribunal for its adjudication. There is no limitation prescribed under the Industrial Disputes Act. In the present case, the Government was satisfied that an industrial dispute did exist and, consequently, the reference was made. No challenge has been made to the nature of the dispute by the petitioner in the present case. It was observed by the Supreme Court in *Bombay Gas Co. Ltd's case* that as no limitation was prescribed under the Industrial Disputes Act, therefore, the Labour Court could not import any such consideration in dealing with the applications made under the provisions of the Industrial Disputes Act, even though under the Payment of Wages Act there was a period of limitation prescribed for determining that particular claim.

So far as the third contention is concerned, it may be mentioned that this point was not raised before the

(5) (1932) 60 I.A. 13.

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Tribunal. On merits also, there is no substance in it. In the reference, the first item was whether the workmen were entitled to any *compensation* for non-payment of revised rate of minimum wages fixed by the Government notification with effect from 12th May, 1960. The learned Tribunal has held that the workmen were clearly entitled to be paid wages at the rate fixed by the Government by their notification and the petitioner-Committee should have paid them the same irrespective of the fact whether a demand was made by them or not. The workmen were then held entitled to *compensation* for non-payment of the revised rate of minimum wages determined by the Government notification. The committee was then directed to pay them the difference of wages between the rates at which they were actually paid and the rates fixed by the Government. The difference in the wages paid by the Committee and those fixed by the Government notification was, according to the learned Tribunal, the compensation to which the workmen were entitled. This was the precise reference made to him. Thus, his award is in accordance with the reference made by the Government. As a matter of fact, in the impugned award, the learned Tribunal has mentioned that on merits the management practically conceded that the workmen were entitled to get the difference in wages as claimed by them.

Regarding the fourth contention, the learned Tribunal has given a definite finding that it was admitted by the management that the workmen had served the notice of demand on them on 11th December, 1961. The Claim related to the period between 12th May, 1960 and 1st June, 1961. The demand notice, according to the Tribunal, could not in these circumstances be deemed to be very much belated. This is a finding of fact based on evidence and cannot be interfered with in these proceedings. Besides, it was within the discretion of the learned Tribunal to entertain even a belated claim, but the fact remains that in the instant case the finding of the Tribunal is that the claim was not belated. This contention is, therefore, without any merit.

Coming to the fifth contention, it may be mentioned that the same was also not raised before the learned Tribunal. Moreover, there is no question of payment of enhanced wages to the workmen in the present case. What has been awarded to them by the learned Tribunal

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are the minimum wages that were fixed by the Government. The petitioner-Committee had not paid them those wages and, as a matter of fact, had given them less. The Tribunal had directed the Committee to pay them only the difference between the minimum wages fixed by the Government and those which had actually been paid to them by the Committee. It is undisputed that the determination of the question regarding the financial capacity of the employer has not to be taken into consideration, when only minimum wages have to be given to the employees (see in this connection the Supreme Court decision in *Express Newspapers (Private) Limited and others* v. *The Union of India and others* (6). This contention also is, thus, without any force.

As regards the last contention, learned counsel for the workmen concedes that the award does not specify the names of the Moharrirs, who had to be paid for the weekly rests and the amounts to which they were entitled. It is undisputed that the award of a Tribunal, which is treated like a decree of a Civil Court, has to be precise in all particulars, so that no difficulty is experienced by the parties thereto and the persons, who have to execute the same. Learned counsel for the respondents, therefore, suggests that the award may be sent back to the learned Tribunal for clarification in this respect under Article 227 of the Constitution. Learned counsel for the petitioner has also no objection to this course being adopted.

In view of what has been said above, I would accept this writ petition to this extent only that the impugned award be remitted to the learned Industrial Tribunal for making the necessary clarification, as mentioned above. The petition in other respects, however, fails. There would be no order as to costs.

Dua, J.

INDER DEV DUA, J.—I agree.

B.R.T.

ESTATE DUTY REFERENCE

Before Inder Dev Dua and Prem Chand Pandit, JJ.

PURSHOTAMDASS AND OTHERS,—*Appellants.*

versus

THE CONTROLLER OF ESTATE DUTY DELHI,—*Respondent.*

Estate Duty Reference No. 1 of 1964.

1965

November, 2nd

Estate Duty Act (XXXIV of 1953)—S. 7—Joint family disrupted—Sons taking their share and separating after writing a release-deed in favour of their father and mother—Mother not separating but continuing to live with her husband—Father, after disruption

(6) A.I.R. 1958 S.C. 578.