

The Commissioner of
Income-tax
v.
The Sheikhu-
pura Transport
Co., Ltd.
Khosla, C. J.

expenditure. That case, however, has no similarity to the case before us. In that case the old chimney continued working and was not only replaced by the new chimney but the entire furnace was a new one and at a different place. This was, therefore, clearly a new asset and an addition to the other capital assets owned by the company. In the present case, I am inclined to the view that the expenditure incurred on renewing the bodies was comparatively small and must be said to fall within the definition of current repairs. I would, therefore, answer the question referred to us in the affirmative. The respondent will be allowed his costs which we assess at Rs. 200.

Mahajan, J. MAHAJAN J.—I agree.

K.S.K.

REVISIONAL CRIMINAL.

Before Harbans Singh, J.

THE NEW SUTLEJ TRANSPORT COMPANY PRIVATE
LTD.,—*Petitioner.*

versus

STATE,—*Respondent.*

Criminal Revision No. 267 of 1960.

1960

Oct' 13th.

Minimum Wages Rules (1950)—Rule 26-A added by the Governor of Punjab in 1958—Whether ultra vires the Act.

Held. that the object of the Minimum Wages Act is to ensure the minimum wages to an employee and also to prescribe the maximum period of working which shall be considered as a normal working day, and further to see that extra payment is made for any overtime spent. Section 13 of the Act deals with the fixing of hours for a

normal working day and section 14 with the overtime. The object of rule 26-A and the form prescribed thereunder, is to facilitate the ascertainment of the period for which a driver or a conductor has worked during the day and the overtime spent by him. This obviously furthers the object of the Act and the rule in question can be taken to be for the carrying out of the purpose of the Act and is not *ultra vires* the Act.

Petition under section 439 of Criminal Procedure Code, for revision of the order of Shri Parshotam Sarup, Sessions Judge, Jullundur, dated 2nd January, 1960, affirming that of Shri Karta Krishan, Additional District Magistrate, Jullundur, dated 18th May, 1959, convicting the petitioner.

A. S. SARHADDI, ADVOCATE, for the Petitioner.

K. SURRINDAR SINGH, ADVOCATE, FOR ADVOCATE-GENERAL, for the Respondents.

JUDGMENT

HARBANS SINGH, J.—This is a revision against an order of a learned Magistrate, confirmed by the learned Sessions Judge, convicting the petitioner, who is the Managing Director of the New Sutlej Transport Company with its head office at Jullundur, under section 22-A of the Minimum Wages Act (hereinafter referred to as the Act) for breach of rule 26-A of the Minimum Wages Rules, 1950 (wrongly mentioned as 1952) (hereinafter referred to as the Rules). He was fined Rs. 5.

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According to the report of the Labour Inspector, no duty-cards had been issued to the drivers and conductors as prescribed under rule 26-A. This rule was added by a notification No. 2925-S-Lab-58/19244, dated the 10th/17th March, 1958, by the Governor of Punjab in exercise of the

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powers conferred by section 30 of the Act. The rule applies only in respect of employees engaged in public motor transport and requires every employer to issue a card in the form prescribed, which card is to be kept in the custody of the employee during the month and thereafter is to be returned to the employer who is to preserve the same for a period of three years. Entries in this card have to be made every day in the presence of the employee by the employer or any person authorised by him in this behalf. Form X prescribed under this rule, besides giving the information about the name of the employer, the garage or the depot and the name of the employee, requires that the reporting time, relieving time, rest intervals and overtime hours should be entered therein for each day.

The plea taken by the learned counsel for the petitioner is that this rule is *ultra vires* and goes beyond the provisions of the Act. Section 30(1) of the Act is in the usual form giving general powers to the Government to make rules "for carrying out the purposes of this Act". Sub-section (2) lays down certain matters on which, without prejudice to the generality of the power given under sub-section (1), the appropriate Government may make rules. Sub-clause (i) runs as follows:—

"Prescribe the form of registers and records to be maintained and the particulars to be entered in such registers and records."

The impugned rule 26-A and the form attached therewith would certainly fall under the category of "records to be maintained and the particulars to be entered in such records".

The point to be seen, however, is whether the rule is meant to carry out any of the purposes of the Act. The object of the Act is to ensure the minimum wages to an employee and also to prescribe the maximum period of working which shall be considered as a normal working day, and further to see that extra payment is made for any overtime spent. Section 13 of the Act deals with the fixing of hours for a normal working day and section 14 with the overtime. The object of rule 26-A and the form prescribed thereunder, is to facilitate the ascertainment of the period for which a driver or a conductor has worked during the day and the overtime spent by him. This obviously furthers the object of the Act and the rule in question can be taken to be for the carrying out of the purposes of the Act.

Reference was made by the learned counsel for the petitioner to section 18 of the Act. Sub-section (1) is in general terms which requires every employer to maintain such registers and records "giving such particulars of employees employed by him, the work performed by them, the wages paid to them, * * * and such other particulars and in such form as may be prescribed". Sub-section (3) provides that the appropriate Government may, by rules, provide "for the issue of wage books or wage slips * * * and prescribe the manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent". The learned counsel urged that in view of the provisions of this sub-section, the Government is not authorised to prescribe the issue of any other type of documents to the employees. I am afraid it is not possible to accept this contention. Sub-section (3) deals only with the wage books and wage slips. Rule 26 deals with the issue of such

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wage slips. In the ordinary trades, the provision of wage books and wage slips may be sufficient but probably the Government felt that in the case of transport workers, who move from place to place, that is not enough and that they should be provided with another document giving the time at which they reported or were relieved and the overtime spent by them. Such rule-making power is not only preserved by sub-section (1) of section 30, but is specifically given under sub-clause (i) of sub-section (2) of section 30, as stated above.

Having given my best consideration to the point, I find that there is no force in the contention of the learned counsel and rule 26-A is not *ultra vires* the Act, and the conviction of the accused is well-based. No arguments were addressed that the sentence is excessive. This revision is, consequently, dismissed.

B.R.T.