

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/01752/2018

DATED THIS THE 16TH DAY OF JANUARY, 2020

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C.V. SANKAR, MEMBER (A)

Smt. Jyothi S,
W/o Shri Shanmuga Sundaram,
Aged about 40 years,
Working as Casual Labour,
Under Assistant Director of Income Tax (Investigation),
No. 307, 21/16, Ayakar Bhavan,
Residency Road, Nazarbad,
Mysuru: 570 010

....Applicant

(By Advocate Shri P.A. Kulkarni)

Vs.

1. Union of India
To be Represented by its Secretary,
Ministry of Finance, Department of Revenue,
North Block, New Delhi 110 001

2. Central Board of Direct Taxes,
North Block, New Delhi 110 001,
By its Chairman

3. Principal Chief Commissioner of Income Tax,
Bengaluru -1, Central Revenue Buildings,
Queen's Road, Bengaluru 560 001

4. Director General of Income Tax (Investigation)
C.R. Buildings, Queens Road,
Bengaluru: 560 001

5. Assistant Director of Income Tax (Investigation)
No. 307, 21/16, Residency Road,
Nazarbad, Mysuru: 570 010

.....Respondents

(By Shri K. Gajendra Vasu, Counsel for the Respondents)

ORDER (ORAL)
(HON'BLE DR. K.B. SURESH, MEMBER (J))

Apparently the matter is covered by Annexure-A9 in OA No. 1720/2018, F.No. Pr.CCIT/AP&TS/Welfare/Casual Labour/2017-18 dated 31.05.2017, which we quote:

"F.No. Pr.CCIT/AP&TS/Welfare/Casual Labour/2017-18 Date: 31.05.2017

OFFICE MEMORANDUM

Sub: Payment to Casual Labourers on daily wage basis – regarding –

In supersession of the orders passed earlier regarding payment to Casual Labourers on daily basis, the following order is issued:

In pursuance of CBDT's directions in F.No. C-30014/41/2015-V&L dated 16.10.2015, payment to Casual Labourers have to be made @ 1/30th of minimum scale payment to Group-D staff (Now called as MTS) as per 6th Central Pay commission for Rs. 5200 + 1800 (Grade Pay) plus D.A. at the current rate for matriculate labourers and Rs. 5200 + 1300 (Grade Pay) Plus D.A. at the current rate for non-matriculate labourers.

*Now, in view of the implementation of the 7th Central Pay commission recommendations and Department of Posts O.M. dated 31.03.2017, it is hereby ordered that payment to the casual labourers whose nature of work is the same as that of regular employee will be made @ 1/30th of the minimum scale payable at Level-1 i.e., Rs. 18,000/- plus Dearness Allowance at the current rate **w.e.f. 01.04.2017.***

The payment of daily wages to such casual labour / Daily Paid Labourers will be automatically revised with effect from the date of revision of Dearness Allowance as being notified by the Government of India from time to time. This order is applicable to the daily wage labourers presently working in various Income Tax Offices within Andhra Pradesh and Telangana States.

This order will be subject to the outcome of any judicial pronouncement in the matter by any Superior Court of Law at a later stage. An undertaking may be taken by the Head of office from the individual Casual Workers (Daily Wagers) for recovery of excess payment, if any, arises due to clarification / directions received from the CBDT or any judicial pronouncement at a later stage.

This order is for limited purpose of fixing of daily wages and does not grant in any way any permanent/temporary status to such workers and, accordingly, they will not be entitled for any employment benefits attached to above mentioned categories.

Sd/-

(Sushil Khumar)

Pr. Chief Commissioner of Income-tax
Andhra Pradesh & Telangana”

2. Thereafter, apparently it is followed all over India and the applicants herein also seek the same benefit. The matter seems to be covered by Annexure-RJ1 in OA No. 1720/2018, Notification S.O. 190 (E) dated 19.01.2017, which we quote:

“NOTIFICATION

New Delhi, the 19th January, 2017.

S.O. 190(E).— *Whereas the draft proposal to revise the minimum rates of wages per day payable to the categories of employees mentioned in the Schedule annexed there to and engaged in the employment of “Sweeping and Cleaning excluding activities prohibited under the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993” was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide notification of the Government of India in the Ministry of Labour and Employment number S.O. 2836 (E), dated the 1 st September, 2016, as required by clause (b) of sub-section (1) of section 5 of the Minimum Wages Act, 1948 (11 of 1948), for information and inviting objections and suggestions from all persons likely to be affected thereby, within a period of two months from the date on which copies of the Gazette of India containing the said notification were made available to the public;*

AND whereas the copies of the said Gazette were made available to the public on the 2nd September, 2016;

AND whereas objections and suggestions received on the said proposal have been considered by the Central Government;

NOW, THEREFORE, in exercise of the powers conferred by clause (b) of sub-section (1) of section 3 read with clause (i) of sub-section (1) of section 4 and sub-section (2) of section 5 of the Minimum Wages Act, 1948 (11 of 1948), and in supersession of the

notification of the Government of India in the Ministry of Labour and Employment, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O.1994(E), dated the 7th August, 2008, except as respects things done or omitted to be done before such supersession, the Central Government after consulting the Advisory Board hereby revises the minimum rates of wages payable to the employees engaged in the employment of Sweeping and Cleaning excluding activities prohibited under the Employment of Manual Scavenges and Construction of Dry Latrines (Prohibition) Act, 1993.

(1) The revised minimum rates of wages shall be effective from the date of publication of this notification in the Official Gazette.

(2) The said revised wages shall consist of, –

(a) basic rates of wages as set out in column (2) of Part I of the Schedule mentioned hereunder; and

(b) a special allowance (hereinafter referred to as Variable Dearness Allowance) at the rate as set out in column (2) of Part II of the said Schedule and payable to the employees working in areas mentioned in column (1) thereof. The Variable Dearness Allowance shall be adjusted by the Chief Labour Commissioner (Central) at an interval of every six months commencing on 1st October and 1st April of every year on the basis of the average Consumer Price Index Number for Industrial Workers (Base 2001=100) for the preceding period of six months ending on 30th June and 31st December every year respectively at the rate of and in the manner specified in the column (2) of Part II of the Schedule as below:

SCHEDULE

Part – I Basic rates of minimum wages:

Area	Minimum Wages per day (In Rupees)
<i>(1)</i>	<i>(2)</i>
<i>A</i>	<i>523.00</i>
<i>B</i>	<i>437.00</i>
<i>C</i>	<i>350.00</i>

Part – II Rate of Variable Dearness Allowance :

Area	Rate of Variable Dearness Allowance for every point rise or fall beyond 271, which is the average monthly Consumer Price Index Number for Industrial Workers.(Base 2001=100) for the period January-June, 2016.
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Area	Variable Dearness Allowance (In Rupees)
(1)	(2)
A	1.93
B	1.61
C	1.29

Explanation: For the purposes of the notification,-

1. Area “A” and Area “B” as indicated in Annexure to this notification shall respectively comprise all the places as specified in the said Annexure as such areas, and include all places within a distance of fifteen kilometers from the periphery of a Municipal Corporation or Municipality or Cantonment Board or Notified Area Committee of a particular place. Area “C” shall comprise of all the other places not mentioned in Area “A” and “B” of the Annexure and to which the Minimum Wages Act, 1948 extends;

2. the places added or upgraded from time to time by the Ministry of Finance for the purpose of payment of House Rent Allowance to Central Government employees shall be taken to be added from the date of such addition or up-gradation for the purposes of classification specified in Annexure to this notification;

3. where the existing rates of wages of any employee based on contract or agreement or otherwise are higher than the rates notified herein, the higher rates shall be protected and treated as minimum rates of wages, applicable for the purpose of this notification to such employees;

4. the minimum rates of wages include the wages for weekly day of rest;

5. the minimum rates of wages are applicable to employees employed by contractors also;

6. the minimum rates of wages for disabled persons shall be same as payable to the workers of appropriate category;

7. the men, women and transgender employees shall get the same rates of wages for the same work or work of similar nature;

8. the minimum rates of wages and Variable Dearness Allowance both constitute the minimum rates of wages to be enforceable under the Minimum Wages Act, 1948 (11 of 1948);

9. where in any area the minimum rates of wages fixed by this notification are lower than the minimum rates of wages fixed by the State Government for employees of the aforesaid employments in relation to which the State Government is the appropriate Government, the rates of wages fixed by the State Government shall,

in respect of such areas, be deemed to be the minimum rates of wages payable under this notification.

[F. No. S-32017/1/2016-WC (MW)]
Dr. D. CHAUDHURI, Dy. Director General

CLASSIFICATION OF AREAS

AREA – “A”					
Ahmedabad	(UA)	Hyderabad	(UA)	Faridabad complex	(M. Corpn)
Bangaluru	(UA)	Kanpur	(UA)	Ghaziabad	(UA)
Delhi	(UA)	Chennai	(UA)	Noida	
Greater Mumbai	(UA)	Nagpur	(UA)	Secunderabad	
Kolkata	(UA)	Lucknow	(UA)	Gurgaon	(M. Corpn)
Navi Mumbai	(UA)	Pune	(UA)		
AREA – “B”					
Agra	(UA)	Gwalior	(UA)	Port Blair	(UA)
Ajmer	(UA)	Hubli-Dharwad	(M. Corpn)	Puducherry	(UA)
Aligarh	(UA)	Indore	(UA)	Raipur	(UA)
Allahabad	(UA)	Jabalpur	(UA)	Raurkela	(UA)
Amravati	(M. Corpn)	Jaipur	(M. Corpn)	Rajkot	(UA)
Amritsar	(UA)	Jalandhar	(UA)	Ranchi	(UA)
Asansol	(UA)	Jalandhar-Cantt.	(UA)	Saharanpur	(M. Corpn)
Aurangabad	(UA)	Jammu	(UA)	Salem	(UA)
Bareilly	(UA)	Jamnagar	(UA)	Sangli	(UA)
Belgaum	(UA)	Jamshedpur	(UA)	Shillong	
Bhavnagar	(UA)	Jhansi	(UA)	Siliguri	(UA)
Bhiwandi	(UA)	Jodhpur	(UA)	Solapur	(M. Corpn)
Bhopal	(UA)	Kannur	(UA)	Srinagar	(UA)
Bhubaneshwar	(UA)	Kochi	(UA)	Surat	(UA)
Bikaner	(M. Corpn)	Kolhapur	(UA)	Thiruvananthapuram	(UA)
Bokaro Steel City	(UA)	Kollam	(UA)	Thrissur	(UA)
Chandigarh	(UA)	Kota	(M. Corpn)	Tiruchirappalli	(UA)
Coimbatore	(UA)	Kozhikode	(UA)	Tiruppur	(UA)
Cuttack	(UA)	Ludhiana	(M. Corpn)	Ujjain	(M. Corpn)
Dehradun	(UA)	Madurai	(UA)	Vadodara	(UA)
Dhanbad	(UA)	Malappuram	(UA)	Varanasi	(UA)
Durgapur	(UA)	Malegaon	(UA)	Vasai-Virar City	(M. Corpn)
Durg-Bhilai Nagar	(UA)	Mangalore	(UA)	Vijayawada	(UA)
Erode	(UA)	Meerut	(UA)	Vishakhapatnam	(M. Corpn)
Firozabad		Moradabad	(M.	Warangal	(UA)

			Corpn)		
Goa		Mysore	(UA)		
Gorakhpur	(UA)	Nanded Waghala	(M. Corpn)		
Greater Visakhapatnam	(M.Corpn)	Nasik	(UA)		
Gulbarga	(UA)	Nellore	(UA)		
Guntur	(UA)	Panchkula	(UA)		
Guwahati	(UA)	Patna	(UA)		

Note 1.-Area 'C' shall comprise all areas not mentioned in this list but to which the Minimum Wages Act, 1948 (11 of 1948) extends.

Note 2.- U.A. means Urban Agglomeration.

**Area wise Rates of Minimum Wages for Scheduled Employments
in the Central Sphere**

As on 01.10.2018

Name Scheduled Employment	Category Worker	Rates of wages including V.D.A per day (in Rs.)		
		Area A	Area B	Area C
1. Agriculture	Unskilled	355.00	324.00	321.00
	Semi-Skilled/Unskilled Supervisory	389.00	357.00	328.00
	Skilled/Clerical	422.00	389.00	356.00
	Highly Skilled	467.00	434.00	389.00
2. Workers engaged in Stone Mines for Stone Breaking and Stone Crushing	1. Excavation & removal of over burden with 50 meters lead/1.5 meters lift:			
	(a) Soft Soil		376.00	
	(b) Soft Soil with Rock		566.00	
	(c) Rock		750.00	
	2. Removal and Staking of rejected stones with 50 metres lead 1.5 metres lift		302.00	
	Stone breaking or Stone Crushing for the stone size			
	(a) 1.0 inch to 1.5 inches		2312.00	
	(b) Above 1.5 Inches to 3.0 Inches		1977.00	
	(c) Above 3.0 Inches to 5 Inches		1160.00	
	(d) Above 5.0 Inches		952.00	
3. Sweeping and Cleaning	Unskilled	558.00	466.00	373.00
4. Watch and	Without Arms	679.00	617.00	527.00

Ward				
	With Arms	738.00	679.00	617.00
5. Loading and Unloading	Unskilled	558.00	466.00	373.00
6. Construction	Unskilled	558.00	466.00	373.00
	Semi-Skilled/Unskilled Supervisory	617.00	527.00	437.00
	Skilled/Clerical	679.00	617.00	527.00
	Highly Skilled	738.00	679.00	617.00
7. Non-Coal Mines		Above Ground	Below Ground	
	Unskilled	373.00	466.00	
	Semi-Skilled/Unskilled Supervisory	466.00	558.00	
	Skilled/Clerical	558.00	651.00	
	Highly Skilled	651.00	728.00	
Name of Scheduled Employment	Nomenclature			
1. Agriculture	Agriculture			
2. Workers engaged in Stone Mines for Stone Breaking and Stone Crushing	<i>Workers engaged in Stone Mines for Stone Breaking and Stone Crushing</i>			
3. Sweeping and Cleaning	<i>Employment of Sweeping and Cleaning excluding Activities prohibited under the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993</i>			
4. Watch and Ward	<i>Employment of Watch and Ward</i>			
5. Loading and Unloading	<i>Employment in Loading and Unloading in (i) Goods Sheds, Parcel Offices of Railways; (ii) Other Goodssheds, Godowns, Warehouses etc. and; (iii) Docks and Ports</i>			
6. Construction	<i>Construction or maintenance of Roads or Runways or in Building Operations including laying down Underground Electric, Wireless, Radio, Television, Telephone, Telegraph and Overseas Communication Cables and similar other Underground Cabling Work, Electric Lines, Water Supply Lines and Sewerage Pipe Lines</i>			

3. At this point of time, Shri Gajendra Vasu, learned counsel for the respondents, raises an objection that in the other cases which were implemented all over India there might be a slight difference that the question of skilled or unskilled labourers may come in. He would say that

these people, because they are not matriculates, may be considered as unskilled and others may have been matriculates and therefore skilled. Even though this is a very tenuous distinction, we will leave it to the authorities concerned to look into this matter and pass an appropriate order. But, if there is equity and equality between those who have been granted this benefit, then Annexure-A9 in OA No. 1720/2018 must be followed to the hilt.

4. The OA is allowed to this extent. The order to be implemented within the next two months. No order as to costs.

(C.V. SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/01752/2018

Nil

Annexures referred in reply statement

Annexure R1 Copy of the order dated 03.04.2018

Annexures referred in additional reply

Annexure R2 Copy of the Recruitment of casual workers and persons on daily wages – Review of policy

Annexure R3 Copy of the OM dated 04.09.2019

Annexure R4 Copy of the order of Hon'ble High Court of Karnataka dated 03.01.2019 in WP No. 15404-15412/2014

Annexure R5 Copy of the letter dated 29.08.2019

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