
PRINCIPLE OF “NO WORK NO PAY” APPLICABLE IN EXTRAORDINARY CIRCUMSTANCES THE SITUATION OF LOCKDOWN, DUE TO OUTBREAK OF COVID-19 PANDEMIC?

What is Doctrine of “no-work-no-wages”?

The doctrine of “**no-work-no-wages**” is a fundamental axiom in industrial relations. The philosophy is *very simple*. When a person is employed, it is *expected that the work assigned will be carried out and completed*. When this work is not done, the *employee is not eligible for payment of any salary*.

Even when a *general strike* or *countrywide ban disrupts public transport systems*, and *consequently employees are unable to reach their workplaces*, the *same principle prevails*. Even die-hard trade union leaders respect this principle of equity and natural justice. “*No work, no pay*” *lays a strong foundation to industrial peace and harmony in the long run*.

The Aurangabad Bench of the Bombay High Court recently observed that during this present time of the COVID-19 pandemic, the principle of “**no work- no wages**” cannot be made applicable by the employers

- ❖ Justice Ravindra Ghuge directed *Aurangabad's Tuljabhavani Mandir Sansthan trust to ensure that all its contract labourers, who have been unable to work due to closure of temples and places of worship in the wake of the pandemic, are paid full wages till the month of May, 2020;*
- ❖ The Court was hearing a plea filed by Rashtriya Shramik Aghadi, a contract labourers' union, which claimed that despite the lockdown, members of the workers' union expressed their willingness to be deployed as security guards and on other duties;
- ❖ However the temple trust was not permitting them to perform their duties on account of the COVID-19 lockdown;
- ❖ It was also pointed out that the payments made to the union members by contractors for the months of March, 2020 and April, 2020 were less than what was paid in January, 2020 and February, 2020;
- ❖ The temples and places of worship are shut on account of the nation-wide lockdown on account of which the services of the workers were not allotted any work;
- ❖ The inability of the principal employer to allot any work to these workers offering their services was also highlighted before the Court.
- ❖ After hearing brief arguments in the case, Justice Ghuge said the court cannot turn a blind eye to the situation at hand and said “*I feel that the principle of “no work- no wages” cannot be made applicable in such extraordinary circumstances*. The Court cannot be insensitive to the plight of such workers, which has unfortunately befallen them on account of the Covid-19 pandemic.”

- ❖ The court vide its judgment dated 12th May,2020 directed the Osmanabad district collector, in his capacity as president of the trust, to ensure full wages are disbursed by contractors to the labourers for the months of March, April and May of this year;
- ❖ The court also said the principle of no work-no wages shall not be invoked until further orders in the petition, and posted the matter for further hearing on June 9

However recently, the Supreme Court had asked the central government not to take any coercive action against companies and employers who are unable to pay full wages to their employees. A Bench of Justice of justices L N Rao, S K Kaul and B R Gavai, hearing multiple petitions on the issue through video conferencing, observed that the Ministry of Home Affairs (MHA) circular dated March, 29 *was an omnibus order and said there may be small industries, which are affected and can sustain for 15 odd days and are unable to make payments.*

The government has withdrawn its order directing companies and commercial units to pay full wages to workers even when they are not in operation due to COVID-19. *The government's move is expected to bring relief to a large number of industries and companies which were unable to pay full wages to their employees.*

March 29 order: *“All employers, be it in the industry or in shops and commercial establishments shall make payment of wages of their workers, at their workplaces, on the due date, without any deduction, for the period their establishments are under closure during the lockdown”*

Although the March 29 Order of MHA stands withdrawn but is it withdrawn with retrospective effect or prospective!!! Is a real Question which requires sufficient clarity.

Please feel free to reach out to us!!!

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