

BEFORE THE JUDGE
FIRST LABOUR COURT, KOLKATA

AWARD

DATED 4th DAY OF DECEMBER 2024

SHRI MADHUSUDAN PAL

JUDGE

(J.O. Code :- WB 00925)

**CASE NO. 13/2018 / U/S 17(2) OF THE WORKING JOURNALISTS AND OTHER
NEWSPAPER EMPLOYEES (CONDITIONS OF SERVICE) AND MISCELLANEOUS
PROVISIONS ACT, 1955**

BETWEEN :

Sri Subhendu Ghosh,
son of Late Sudhir Kumar Ghosh,
residing at Sundaram Apartment,
Flat No.-305, 3rd Floor,
Sodepur Road, Madhyamgram,
Kolkata – 700129.

.....APPLICANT

(REPRESENTED BY RANANEESH GUHA THAKURTA, LD. ADVOCATE)

/VERSUS/

M/s. H.T. Media Ltd.
having their registered office
at Hindustan Times House,
18-20 Kasturba Gandhi Marg,
New Delhi – 11 001
and also having their Kolkata Office
at DLF IT Park-I,
Tower-1, 12th Floor, Block-AF,
8, Major Arterial Road,
New Town, Rajarhat, Kolkata – 700 156.

.....O.P./COMPANY

(REPRESENTED BY VARUN KEDIA, LD. ADVOCATE)

Judgement

This industrial dispute has been referred to before this Ld. Court by the Government of West Bengal, Labour Department Order No. Labr/290/(LC-IR)/Estt/TRIB./1L-24/17 dated 23.04.2018 read with Corrigendum being no. Labr/463/(LC-IR)/Estt/TRIB/1L-24/17 dated. 28.06.2018 for adjudication of dispute between the parties above-named regarding demand for payment of arrears to be paid by the O.P./Company to the applicant/claimant for the period from 11.11.2011 to 08.01.2017.

Applicant's contention

1. That the applicant / claimant was a photo journalist by profession. He worked at O.P./Company as Photo Journalist/Deputy Chief Photographer regarding Kolkata Edition of Hindusthan Times Newspaper since April 2006 till 9th January 2017 which is a product of H.T. Media Ltd. i.e. the O.P./Company having over Rs.1000 crores annual turnover.
2. Applicant was a holder of State Government Accreditation Card issued by Government of West Bengal (commonly known as "Press Card") which was issued to the applicant by Government of West Bengal, after H.T. Media Ltd. recommended his name to Information and Cultural Affairs Department, Government of West Bengal.
3. That on 09.01.2017 applicant was forced to resign by signing a pre typed resignation letter along with two / three employees on payment of two months' salary as compensation by O.P./Company depriving them the benefits of Majithia Wage Board Recommendations which was given effect from 11.11.2011.
4. That Central Govt. used to form Wage Fixation Commission for working employees in newspapers from time to time as The Majithia Wage Board recommendations were given effect from 11.11.2011.
5. That as per the report of the chartered accountant, the applicant is entitled to receive a sum of Rs.32,08,435/- only as arrears from the O.P./Company as per such recommendations of Majithia Wage Board.
6. The applicant has prayed for an order from this Court thereby directing the O.P./Company to pay such amount to the applicant/claimant along with interest at the rate of 18% per annum.

Contention of O.P./Company

1. That the Claimant was lastly employed as Deputy Chief Photographer in Multimedia Content Management Division. He was employed in managerial and administrative capacity which is explicit from the Role Sheets and Appraisal Records submitted before this Court by the O.P./Company.

His role included guiding the team working under him, implementation of progress and processes for better team work, leading in producing collective briefs coordinate picture features and allocate assignment to the team, directing story packages, mentor trainees.

His role included guiding the team-working under him, implementation of programmes processes for better team work, leading in producing collective briefs, coordinate picture features and allocate assignment to the team, directing story packages, mentor trainees and juniors. His work included planning and creating using faculty of mind, monitoring layouts and releasing time which is given to only higher level employees, leading teams, guiding and mentoring junior colleagues. He was responsible for timelines which is very incumbent for nature of work of present management and can be delegated to only higher level employees, adding value to stories etc. He was also required to co-ordinate and communicate with editors, photographers, designers and reporters to identify opportunities for collaborative work and packages.

2. That the claimant was not a working journalist within the meaning of working journalist Act. The claimant does not fall under the category of employees upon whom the recommendation of Majithia Wage Board will apply. The claimant opted for CTC and benefits given to him were more than those prescribed by the Wage Board which is in line with the provisions of Section 16 of the Working Journalists Act.
3. That during his tenure of employment applicant never disputed his wages and benefits. The Majithia Wage Board was notified in 11.11.2011 and the claimant never raised any demand or claim till his resignation on 09.01.2017.
4. That the claimant was working with H.T. Media Limited and was lastly employed with Multimedia Content Management Division which is not a part of any newspaper establishment. In fact it is a part of non newspaper business like Radio, Event Management, Internet Business. This fact is evident from the Service Contract dt. 09.02.2015. From Appraisal Report it can also be discerned that claimant was engaged in managing online mobile and web based content. The said division does not qualify as newspaper establishment as defined under Section 2(d) of the Working Journalists Act . That Division neither prints or publish any newspaper nor conduct any news agency or syndicate. Consequently the recommendation of Majithia Wage Board does not extend to such multimedia content management division of H.T. Media Ltd.
5. The claimant served his resignation vide letter dt. 09.01.2017 voluntarily. The claimant post his resignation wilfully, which severs the relationship between him and the respondent company and he cannot be allowed to raise any claim whatsoever against the company thereafter.
6. The claimant has wrongfully claimed the O.P./Company as Class-I Establishment as per Majithia Wage Board Recommendation. Without prejudice to the fact that the unit/division wherein the claimant had been employed last was not a 'newspaper establishment', if the claimant is assumed to have been associated with 'newspaper' establishment as per the classification of news agency as contained in Section II(6) of Chapter XIX of the Majithia Wage Board Recommendations, the Kolkata newspaper establishment of the O.P./Company, having average annual revenue of Rs.4.87 Crore

during the relevant period, falls under Class VII. The revenue of the Kolkata unit for the relevant years are as follows “-

2007 – 08	Rs. 4.72 Cr.
2008 – 09	Rs. 4.84 Cr.
2009 – 10	Rs. 5.05 Cr.

The same would be evident from the financial records of the O.P./Company for the relevant years.

In terms of provision to Section II 3(ii) of Chapter XIX of the Majithia Wage Board Recommendations, notwithstanding clubbing of different departments, branches and centers of newspaper establishments on basis of gross revenue, the Kolkata unit of the Respondent which is under Class VII, cannot be stepped up by more than two classes i.e. Class V. The claimant in any event was being paid higher wages than the prescribed for employees working in a Class V newspaper establishment.

7. That applicant joined the company with effect from 01.04.2006 vide agreement dated 09th May 2006 entered into with the company. He specially opted /agreed not to be governed by any Wage Board machinery under this service agreement as he himself negotiated his salary before joining the company. In terms of Clause 4 of the agreement dt.1st March 2012 he had categorically agreed to not have any claim to a grade prescribed or may be prescribed by any wage fixation machinery. The claimant by agreeing to and enjoying a CTC pay and special benefits thereunder, is estopped from claiming benefits under recommendation of wage board if at all applicable.
 8. That issuance of accreditation card by the Govt. of West Bengal is irrelevant to this adjudication since it does not disclose the specific duties being discharged by the claimant while he was engaged with the Multi Media Content Division of the O.P./Company.
 9. The claimant was paid the sum of Rs.53,166/- towards the full and final settlement of dues, gratuity amount of Rs.1,20,888/-.
- As the company already paid more than the recommendation of Majithia Wage Board, so payment of arrear does not arise.
10. That the Labour Commissioner of West Bengal submitted compliance affidavit on behalf of State of West Bengal in Contempt Petition no. 411/2014 in WP(C) 246/2011 based on the directions given by the Hon’ble Supreme Court of India. In the said compliance affidavit the names of the newspaper establishment who did not implement the recommendations of Majithia Wage Board were listed. However the name of H.T. Media Ltd. was not been included therein.

As usual the written statement of the O.P./company ends with prayer for dismissal of the instant proceedings with cost upon claimant. The claimant is not entitled to receive any alleged arrear as such due from the O.P./Company.

Evidences on Record

To prove this case, applicant Subhendu Ghosh examined himself as P.W.-1 and Subhodeep Kanjee was examined as P.W.-2. Copy of Order of reference issued by Dy. Secretary, Government of West Bengal, Labour Department, dated 23.04.2018 along with Corrigendum Order dated 28.06.2018 was marked as **Exhibit-1 (Collectively)**, photocopy of Identity Card issued in the name of applicant by Department of Information and Cultural Affairs, Government of West Bengal was marked as **Exhibit-2**, photocopy of Identity Card issued in favour of applicant by HT Media Limited was marked as **Exhibit-3**, photocopy of H.T. Media Certificate of Achievement issued in favour of applicant was marked as **Exhibit-4**, photocopy of Service Contract dated 09.05.2006 (2 pages) between applicant and H.T. Media Ltd. was marked as **Exhibit-5**, photocopy of letter dated 10.05.2007 issued by the Executive Director, Operations and H.R. of Editor in Chief of H.T. Media Ltd. along with annexure (2 Pages) was marked as **Exhibit-6**, photocopy of letter dated 26.05.2008 issued by Mala Bali, Vice President, Human Resources of H.T. Media Limited along with annexure-B (3 pages) was marked as **Exhibit-7**, photocopy of letter dated 17.05.2020 issued by Sharad Saxena, Executive Director, Operations and H.R. of H.T. Media Limited along with annexure (2 Pages) was marked as **Exhibit-8**, photocopy of letter dated May 2011 issued by Sharad Saxena, Executive Director, Operations and H.R. of H.T. Media Limited (2 pages) was marked as **Exhibit-9**, photocopy of letter dated 16.05.2012 issued by Sharad Saxena, Executive Director, Operations and H.R. of H.T. Media Limited with annexure (2 pages) was marked as **Exhibit-10**, copy of letter dated 18.05.2013 issued by Sharad Saxena, Executive Director Operations and H.T. of H.T. Media along with annexure (2 pages) was marked as **Exhibit-11**, photocopy of letter dated 18.05.2014 issued by Sharad Saxena, Executive Director, Operations and H.R. of H.T. Media Limited along with annexure (2 pages) was marked as **Exhibit-12**, photocopy of letter dated 11.05.2015 issued by Sharad Saxena, Executive Director, Operations and H.R. of H.T. Media Limited along with annexure (2 pages) was marked as **Exhibit-13**, photocopy of letter dated 18.05.2013 issued by Sharad Saxena, Executive Director, Operations and H.R. of H.T. Media Limited was marked as **Exhibit-14**, Annual Performance Review form for the year April 2009 to March 2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014 and 2015 – 2016 (23 pages) was marked as **Exhibit-15 (Collectively)**, photocopy of letter dated 19.01.2009 issued by Sharmila Ghosh, Assistant Vice President, HR of HT Media Ltd for renewal of agreement with the applicant as Deputy Chief Photographer in H.T. Editorial Department for the period of 3 years with effect from 01.04.2009 was marked as **Exhibit-16**, photocopy of letter dated 01.03.2012 issued by Sharmila Ghosh, Vice President, HR of HT Media Ltd for renewal of service contract for the period of 3 years in continuous of service contract dated 19.01.2009 was marked as **Exhibit-17**, photocopy of service contract dated 01.03.2012 between applicant and H.T. Media

Limited (3 pages) was marked as **Exhibit-18**, photocopy of service contract dated 09.02.2015 between applicant and H.T. Media limited (4 pages) was marked as **Exhibit-19**, photocopies of Annual Reports of H.T Media Limited for the year 2007-2008, 2008-2009, 2009-2010 and 2010-2011 (201 pages) were marked as **Exhibit-20 (Collectively) (objected to)**, photocopy of resignation letter was marked as **Exhibit-21**, photocopy of Acceptance of resignation letter signed by authorised signatory for H.T. Media Limited was marked as **Exhibit-22**, photocopy of letter dated 01.02.2017 issued by Nalin Garg, Chief Human Resource Officer of H.T. Media limited along with salary statement (5 pages) was marked as **Exhibit-23 (Collectively)**, photocopies of paper publications for works done by applicant along with ID Proofs (40 pages) were marked as **Exhibit-24 (Collectively) (objected to)**, photocopies of Certificate of the Arrear Salary for the period 11.11.2011 to 09.01.2017 (11 pages) as per “The Majithia Wage Boards Recommendation” prepared and signed on 14.02.2017 by K.L. Chatrath & Co., Chartered Accountants were marked as **Exhibit-25 (Collectively) (objected to)**, photocopies of recommendation of Majithia Wage Board Order dated 25.10.2011 issued by Ministry of Labour and Employment, Government of India and the Gazette Notification published on 11.11.2011, New Delhi (60 pages), were marked as **Exhibit-26 (Collectively)**, photocopy of Order dated 28.01.2019 (4 pages) passed in MA, 171 of 2019 in contempt petition (Civil) No. 411 of 2014 in Writ Petition((Civil) No. 242 of 2011 (Avishek Raja and others – vs – Sanjay Gupta and others passed by the Hon’ble Justice Ranjan Gogoi and Hon’ble Justice Sanjib Khanna, Supreme Court of India was marked as **Exhibit-27**, the file number Comp 54/17/EL in response to the summons issued by the Ld. Court was marked as **Exhibit-28**. copy of Role Sheet of Subhendu Ghosh was marked as **Exhibit-A**. They were fully cross-examined.

O.P./Management examined Arghya Sengupta as O.P.W.-1. Copy of service contract dt. 09.02.2015 was marked as **Exhibit-B**, He was fully cross examined.

Rulings cited by applicant

Reliance is placed on 1969 FLR 186, ABP(SC),
 1980(41) FLR 156, Waman Ganpat Raut(Bom DB), para 9, 10
 1985(II) LLJ 401, Arkal Govind Raj(SC), paras 8, 11, 12 and 16
 1988(56) FLR 148, National Engineering(SC)
 2006(111) FLR 581, Anand (SC), para 12 to14
 2007(114) FLR585, C.Gupta(SC), para 20
 1996(II) LLN 871, FCI(SC) @ para-15, (2014) 3 SCC 327, ABP
 Limited
 1978(1) LLJ 322, KCP(SC), last para.

Rulings cited by O.P./Company

Ref No. 31/2018 (Old I.D. No. 113/2017) before the Presiding Officer, Principal Labour Court, Bengaluru between Niranjansingh Shekawat – vs The Management of H.T. Media Ltd.

2019 SCC Online All 4536 : (2020) 164 FLR 1046: (2020) 2 LLJ 750 : (2020) 3 ALL LJ (NOC 109) 43 : (2020) 1 CLR 872

(2024) 4 S.C.R. 100 : 2024 INSC 265 M/S Bharti Airtel Ltd. Vs A.S.Raghavendra SCC 1994 Supp (3) Supreme Court Cases 126 M/s. P.K. Ramalah and Company vs Chairman & Managing Director, National Thermal Power Corpn.

2017 SCC Online All 4957 : (2017) 3 CLR 647 : (2017) 155 FLR 391 Hindustan Media Ventures Ltd. – vs State of U.P. and 3 others

Decision with Reasons

Let me begin my exegesis by drawing attention to particulars of facts and laws ---

Record reveals vide letter No. Labr/290/(LC-IR)/Estt/TRIB/1L-24/17 dt. Kolkata 23.04.2018 of Labour Department, Govt. of West Bengal, reference was made from Labour Department, Govt. of West Bengal for adjudication of the Industrial Dispute between Subhendu Ghosh and M/s. H.T. Media and this Court was also directed to submit its Award to State Government in terms of Sub-Section (2A) of Section 10 of the Industrial Disputes Act 1947 (14 of 1947) subject to the other provision or provisions of the said Act. So, plea of the O.P./Company that as the Labour Commissioner of West Bengal submitted compliance affidavit on behalf of State of West Bengal in Contempt Petition no. 411/2014 in WP(C) 246/2011 based on the directions given by the Hon'ble Supreme Court of India and in the said compliance affidavit the names of the newspaper establishments who did not implement the recommendations of Majithia Wage Board were listed but not the name of H.T. Media Ltd., and as such there cannot be any need for adjudication as to claim of arrear from O.P./Company cannot be accepted.

Thus, first of all it is pertinent to decide whether applicant is a working journalist within the meaning of The Working Journalists and Other Newspaper Employees (Condition of service) and Misc. Provisions Act 1955.

According to **Section 2(f)** of The Working Journalists and Other Newspaper Employees (Conditions of service) and Misc. Provisions Act 1955 **Working Journalist** means a person whose principle avocation is that of a journalist and [who is employed as such, either whole time or part time, in, or in relation to, one or more newspaper establishments], and includes an editor, a leader writer, news editor, sub-editor, feature writer, copy tester, reporter, correspondent, cartoonist, news photographer and proof reader, but does not include any such person who

- (i) is employed mainly in a managerial or administrative capacity, or

- (ii) being employed in a supervisory capacity, performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature.

According to **Section 2(d)** of The Working Journalists and Other Newspaper Employees (Conditions of service) and Misc. Provisions Act 1955 **Newspaper establishment** means an establishment under the control of any person or body of persons, whether incorporated or not, for the production or publication of one or more newspapers or for conducting any news agency or syndicate [and includes newspaper establishments specified as one establishment under the Schedule.

Explanation.- For the purpose of this Clause , -

- a) different departments, branches and centres of newspaper establishments shall be treated as parts thereof;
- b) a printing press shall be deemed to be a newspaper establishment if the principal business thereof is to print newspaper;

Usually, alternative titles for a journalist job include Reporter, press officer, features writer. Newspaper or magazine journalist write articles and stories for local, regional, national and online publications.

However there is difference between a journalist and a content creator.

While a journalist can easily expand his or her work to include content creation, a content creator cannot easily play the role of journalist. Anyone can be a content creator, but not anyone can be a journalist. Journalism is a profession. There are laws and code of ethics guiding the practice of journalism.

Multimedia content is information containing more than one form of data including text audio, image, animation, or video- in a single presentation. Multimedia content provides a powerful means to simplify complex, concepts through visualizations, animations, and alternative elements, making them more understandable and digestible for the audience. Higher conversion rates: Multimedia content has the potential to drive higher conversion rates.

Multimedia Authoring or development is the process of creating content which includes multiple forms of media. For example a CD can contain audio, video, pictures, etc. Presentations are rich with multimedia and often include visuals, text, audio and video.

7 multimedia contents are seven types of multimedia content which are text, images, audio, video, animation, interactive content and virtual reality. Even type serves a unique purpose and can be used in different ways to enhance communication and engagement.

Multimedia content creators create video media content that aligns with a brand's marketing objectives. They may also create and maintain social media content and ensure that a university's web pages are visually appealing and up-to-date.

Content creators can work as independent contractors or as salaried employees. They can charge by the project, by the hour, or by the month.

Content creators and journalists have different roles and goals:

Content creators focus on personalised, niche content across various platforms to build a dedicated audience.

Journalists work for established media outlets to deliver news and information to a broader audience. They emphasize accuracy, objectivity and public interest.

Multimedia content creators can work for a variety of organizations, including newspaper, and can have different roles depending on the organization.

However Multimedia Journalists Write or narrate news storied, reviews, or commentary for print broadcast or other media outlets, such as newspapers, magazines, radio or television. They may collect and analyze information through interviews, investigations, or observation.

Now from materials on record more particularly from Exhibit 5, 16, 17,18, 19 service agreements and role sheet (Exhibit A) it is evident that applicant Subhendu Ghosh as Deputy Chief Photographer in HT Editorial Department had to do such duties and responsibilities as may be assigned by the company to him from time to time. He had to work under and in close coordination with Resident Editor, HT Editorial, New Delhi. Duties and functions of Subhendu Ghosh were to administer and coordinate the news gathering and news coverage activities for the Hindustan Times. Subhendu Ghosh had to undertake such other assignments as may be entrusted to him by the Editor/Management. Subhendu Ghosh was responsible for maintaining highest standards of quality and efficiency. Subhendu Ghosh had to maintain the highest ethics and quality during his tenure and had ensured full coordination with other departments.

Exhibit-19 also revealed that as Deputy Chief Photographer in the Multimedia Content Management Division he had to work closely with online team and Senior Editors to ensure that content flows to the web and mobile applications smoothly and also that appropriate material is available for print production. Subhendu Ghosh had to undertake such other assignments as may be entrusted to him by the Editor/Management. Subhendu Ghosh was responsible for maintaining highest standards of quality and efficiency. Subhendu Ghosh had to maintain the highest ethics and quality during his tenure and had ensured full coordination with other departments.

As per Role Sheet (**Exhibit-A**) he also had to contribute creatively to implementation HT's Digital First vision among team members, Guide team towards opportunities for multi-platform coverage of content, volunteer to contribute multi-media slideshows, file images for the net on priority, produce & ensure production of high

quality, news worthy and well composed images for multiple platforms, handle diverse image assignments from different HT departments /products, ideate, propose special photo stories/feature packages that enhance reader engagement, must have a strong network of sources and proactively scouts for news photo opportunities, contribute to quality improvement programmes and adequately caption images, attend reader feedback sessions, must possess strong image editing skill, allocate assignments to the team on daily basis and ensure timely completion, ensure use of available software to optimal use in image management process by the team, innovate with image shooting and presentation techniques, contribute to such changes that strengthen HT's news coverage, changes in processes and systems for better news output.

He was given further responsibly of Communicate and coordinate well with reporters, copy editors and news managers, work with photo editor to identify opportunities for collaborative work and packages, help in implementation of programmes/processes for better team work, offer to lead in producing collective briefs, proactively guide and mentor junior colleagues and keep them motivated, ensure hiring of the right talent with HR support.

However by way of cross examinations O.P./Company failed to shake which exhibit 5 to 19 proves his working as Press Photographer/Dy. Chief Photographer at O.P./Company.

It is trite law that a working journalist with further responsibility of some supervisory work, do not become himself a supervisor or management cadre person.

Record does not reveal that applicant concerned had any capacity to grant leave to any employee or to appoint any one or to dismiss anyone or to punish anyone in any way including drawing of departmental proceedings etc. against any one.

This court accordingly holds applicant Subhendu Ghosh a working journalist within the meaning of section 2(f) of The Working Journalists and Other Newspaper Employees (Conditions of service) and Misc. Provisions Act 1955 and not a person belonging to supervisory or management cadre.

Admittedly H.T. Media Ltd. used to publish newspaper along with other activities. The service contracts (Exhibit 5, 16, 17,18, 19) all were entered in between the applicant Subhendu Ghosh and H.T. Media Ltd., New Delhi 110001 with all over India posting liability. No service contracts were entered in between the applicant and H.T. Media Ltd., Kolkata Unit. So applicant was an employee of H.T. Media Ltd. New Delhi posted at Kolkata and not an employee of H.T. Media Ltd, Kolkata Unit as a separate organisation or entity and it stands proved that at least upto 08.01.2017 applicant was an employee of H.T. Media Ltd. posted at Kolkata.

Consequently for the purpose of fixing class of the O.P./Company it is to be considered as per overall Annual Turnover Report of the H.T. Media Ltd. New Delhi, not as H.T. Media Kolkata Unit, as a separate entity.

Now record reveals in spite of several opportunities and directions O.P./Company did not produce Annual Turnover Reports concerned, for reasons best known to it. There cannot be any doubt that O.P./Company concerned was the best person to produce them and also custodian of all such Annual Turnover Reports. Thus this Court is constrained to take adverse inference against the O.P./Company. Besides evidence of the applicant/witness that O.P./Company comes under Class-I category as per recommendations of Majithia Wage Board, remains unshaken by cross examinations of O.P./Company. Thus this Court holds O.P./Company concerned as a Class-I establishment.

Now it is to be decided whether applicant is entitled to Majithia Wage Board Recommendations in spite of receiving benefits under contract with O.P./Company. Ld. Lawyer for O.P./Company argued for Principles of Acquiescence and argued that when applicant accepted his wages as per service agreement / contract without any protest and also received all payments from O.P./Company as per O.P./Company's calculation on resignation without any objection, applicant is estopped from claiming any more benefit as per Majithia Wage Board Recommendations.

It is trite law that Indian Evidence Act is not applicable in stricto sensu to industrial disputes, proceedings. In proceedings under Industrial Tribunal and Labour Courts only principles thereto are to be adhered. A wage board is a committee that reviews an Industry's capacity to pay and states what should be the minimum wages. The Wage Board is made up of representatives of workers, employers and independent persons. The purpose of Wage Board is to resolve wage related disputes and making decisions on minimum wages, cost of living, adjustments and other issues. Majithia Wage Board for working journalists and non journalists newspaper employees are also for the said reasons. Govt. of India constituted Wage Boards, (Majithia Wage Board) one for Working Journalists and other for Non Journalists Newspaper Employees in 2007, under the Chairmanship of Justice Majithia.

The Majithia Wage Board's recommendations inter alia included wage increase, variable pay, dearness allowance increase etc. Hon'ble Supreme Court uphold the constitutional validity of Majithia Wage Board in 2014. Hon'ble Court directed newspapers establishments to pay their employees in accordance with that recommendations starting from April 2014. However arrears were to be paid in four instalments starting from November 11, 2011.

Considering golden threads of principles of law laid down by Hon'ble Apex Court in **Ramdev Food Products (P) Ltd. vs Arvindbhai Rambhai Patel & Ors.** (2006) 8 SCC 726, Any cases involving equity of justice the conduct of parties has also to be considered to be a ground for attracting the background of Estoppel by acquiescence of waiver for infringement of their rights. Acquiescence is sitting by or allowing another to invade the rights and spending money on it. It is a course of conduct

inconsistent with the claim for exclusive rights of claimant. It implies positive acts not merely silence or inaction such as involved in laches. Therefore acquiescence is one facet of delay. If the plaintiff stood up by knowingly and let the defendants build up an important trade until it had become necessary to crush it, then the plaintiff would be stopped by their acquiescence. If the acquiescence as the infringement amounts to consent it will be a complete defence.

Here O.P./Company took the plea of acquiescence in relation to Section 16 of the The Working Journalists and Other Newspaper Employees (Condition of service) and Misc. Provisions Act 1955 and argued that benefits in the service contract with the O.P./Company for the applicant was more beneficial than Majithia Wage Board Recommendations and as such applicant availed the same. However by cogent evidences O.P./Company has failed to prove the same that benefits accorded to the applicant in service contract (Exhibit 5, 16, 17,18, 19) were more beneficial than that of recommendations of Majithia Wage Board Recommendations. Besides there cannot any person who after getting better benefits than the wage board recommendations through a service contract will sue the company concerned afresh for benefits under Majithia Wage Board Recommendations. Again Majithia Wage Board was established to meet up requirements of minimum needs of the working class. By way of service agreement / contract such beneficial provisions cannot be snatched away by any person from the applicant. It was opined by Hon'ble Apex Court in the above referred ruling that the defense of acquiescence thus would be satisfied only when the plaintiff assents to or lays by in relation to the acts of another person and in view of that assent or laying by and consequent acts it would be unjust in all the circumstances to grant the specific relief, which is not in this case.

Hence, this Court holds that applicant is entitled to Majithia Wage Board Recommendations benefits from 11.11.2011 to 08.01.2017 and ruling cited by Ld. Lawyer for O.P./Company are not applicable here in the facts and circumstances of this case as because,

Ruling cited by Ld. Lawyer for O.P./Company reveals that -----

In **[2024] 4 SCR 100 : 2024 INSC 265** Claimant concerned himself described his position as a member of Senior Manager cadre, in charge of supervising the Accounts Managers. There he was also assessing manager of his team having car hiring charges, petrol and maintenance, Driver's salary etc. So, I am of view that facts and circumstances of present case and that of in **[2024] 4 SCR 100 :** are different and this ruling is not applicable here in my view.

In **209 SCC Online AII 4536 : (2020) 164 FLR 1046**

Reference was made to Labour Court with regard to the legality/validity of the termination of workman, in my view which is not similar to the facts and circumstances of present case and this ruling is also not applicable here in my view.

Regarding 1994 Supp (3) Supreme Court Cases 126, I am of view that therein moot question was whether there was subsisting contract for reference after acknowledgement of final measurement and acceptance there of and also whether claim was barred by limitation, which are different from facts and circumstances of this case and such ruling is not applicable in my view in present facts and circumstances of this case.

Regarding **2017 SCC Online AII 4957 : 2017 3CLR 647** I am of view that there in the question was whether amount directed to be paid by Asstt. Labour Commissioner may be described as 'due under this Act' for the purpose of S.17(1) of the Act or whether it is a claim made by the employees of the petitioners that requires prior adjudication through reference procedure in accordance with S.17(2) of the Act, which are in my view different from facts and circumstances of this case and this ruling is not applicable in the present facts and circumstances of this Case.

Award of Presiding Officer, Principal Labour Court, Bengaluru dt. 30th September 2019 in Reference No.31 of 2018, in my view Court cannot help the O.P./Company being different in facts and circumstances from this case and also having no binding force on this Labour Labour Court, Kolkata, West Bengal.

RELIEF

In view of aforesaid discussions, this Court holds that this applicant / claimant is entitled to following relieves :-

- i. O.P./Management is directed to pay the applicant **Subhendu Ghosh** due wages including Dearness Allowance amounting to Rs. **11,03,181.00 (Rupees eleven lakhs three thousand one hundred eighty-one) only** for the period from 11.11.2011 to 08.01.2017 within four (4) months from the date of this order particulars of which have been set down in the schedule supplied herewith.
- ii. From kind observations of Hon'ble High Court, Calcutta in its Judgment on **10.09.2014 in M.A.T. 1661 of 2013 with CAN 10733 of 2013** it can be safely hold that following the principles of law as laid down in Hon'ble Supreme Court in **case of S.K. Dua Vs State of Haryana and another** reported in **2008 (3) SCC** in spite of absence of statutory rule or guideline or administrative instructions or absence of any provision of Industrial Disputes Act for payment of interest, in consonance with **part III** of the constitution relying on **Article 14, 19, 21**, an employee can get simple interest at the rate of **10% per annum** from the date of filing this proceedings **U/S 33C(2)** of The Industrial Disputes Act 1947 till the date of actual payment thereof.

Thus, following such principles of law, O.P./Company shall also be liable to pay 10% interest on total due wages Rs. **11,03,181.00 (Rupees eleven lakhs three thousand one hundred eighty-one) only** from the date of filing of this proceedings **U/S 17(2)** of The Working Journalists and Other Newspaper

Employees (Conditions of Service) and Miscellaneous Provisions Act 1955 till the date of actual payment.

Accordingly this proceedings is **allowed on contest but in part** and without any cost.

AND

This is my Award.

Let a certified copy of this Award U/S 17AA of the Industrial Disputes Act 1947 be given free of cost to the parties and also a copy of the same be sent to Department concerned of Government of West Bengal for necessary action.

The Government is directed to publish the award in such manner as it thinks fit within a period of 30 days from the date of receipt of the same.

The Award shall become enforceable on the expiry of 30 days from the date of its publication.

The Government is directed to intimate the publication of award to all the parties to the case by registered post with acknowledgement due, without fail.

Announced in open court on 04.12.2024.

(Typed to my dictation directly by the Judgment Writer and Stenographer, corrected and then signed by me on this the 4TH DAY OF DECEMBER 2024)

**MADHUSUDAN PAL
JUDGE
FIRST LABOUR COURT
KOLKATA, WEST BENGAL
04.12.2024**

Arrear wages including Dearness Allowance of Subhendu Ghosh from 11.11.2011 to 08.01.2017

Particulars	Amount (Rs.)
From 11.11.2011 to 31.03.2013	2,48,735.00
From 01.04.2013 to 31.03.2014	2,18,357.00
From 01.04.2014 to 31.03.2015	2,22,287.00
From 01.04.2015 to 31.03.2016	2,24,867.00
From 01.04.2016 to 08.01.2017	1,88,935.00
Total Arrear wages including Dearness Allowance	11,03,181.00

Interest @**10%** to be added on the aforesaid amount of Rs. **11,03,181.00 (Rupees eleven lakhs three thousand one hundred eighty-one) only** from the date of filing this proceedings **U/S 17(2)** of The Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act 1955till the date of actual payment thereof.

Government of West Bengal
Labour Department, I. R. Branch
N. S. Building, 12th Floor, 1, K. S. Roy Road, Kolkata – 700001

No. Labr/ 36 / (LC-IR)/22015(16)/7/2025

Date : 08/01/2025

ORDER

WHEREAS an industrial dispute existed between M/s. H.T. Media Ltd. having their registered office at Hindustan Times House, 18-20 Kasturba Gandhi Marg, New Delhi – 11001 and also having their Kolkata Office at DLF IT Park-I, Tower-1, 12th Floor, Block-AF, 8, Major Arterial Road, New Town, Rajarhat, Kolkata – 700 156 and their workman Shri Subhendu Ghosh, S/o Late Sudhir Kumar Ghosh, Sundaram Apartment, Flat No.-305, 3rd Floor, Sodepur Road, Madhyamgram, Kolkata – 700129, regarding the issues, being a matter specified in the second schedule to the Industrial Dispute Act, 1947 (14 of 1947) ;


AND WHEREAS the 1st Labour Court, Kolkata has submitted to the State Government its Award dated 04.12.2024 in Case No. 13/2018 on the said Industrial Dispute Vide e-mail dated 18.12.2024 in compliance of u/s 10(2A) of the I.D. Act, 1947.

NOW, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Governor is pleased hereby to publish the said Award as shown in the Annexure hereto.

ANNEXURE

(Attached herewith)

By order of the Governor,



Assistant Secretary
to the Government of West Bengal

No. Labr/ 36 /1(5)/(LC-IR)/ 22015(16)/7/2025

Date : 08/01/2025

Copy with a copy of the Award forwarded for information and necessary action to :-

3. M/s. H.T. Media Ltd. having their registered office at Hindustan Times House, 18-20 Kasturba Gandhi Marg, New Delhi – 11001 and also having their Kolkata Office at DLF IT Park-I, Tower-1, 12th Floor, Block-AF, 8, Major Arterial Road, New Town, Rajarhat, Kolkata – 700 156.
4. Shri Subhendu Ghosh, S/o Late Sudhir Kumar Ghosh, Sundaram Apartment, Flat No.-305, 3rd Floor, Sodepur Road, Madhyamgram, Kolkata – 700129.
3. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The OSD & EO Labour Commissioner, W.B., New Secretariat Building, 11th Floor, 1, Kiran Sankar Roy Road, Kolkata – 700001.
6. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.



Assistant Secretary

No. Labr/ 36 /2(3)/(LC-IR)/ 22015(16)/7/2025

Date : 08/01/2025

Copy forwarded for information to :-

1. The Judge, 1st Labour Court, N. S. Building, 3rd Floor, 1, K.S. Roy Road, Kolkata – 700001 with respect to his e-mail dated 18.12.2024.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata – 700001.
3. Office Copy.


Assistant Secretary