

Before the Appropriate Authority under the Minimum Wages Act, 1948, Circle 1 Gurgaon Haryana.

In the matter of:  
Bibha Devi versus M/s Modelama Exports

Replication by the Complainant

1. The reply is denied as false and an attempt to deceive.
2. The entire averments made in the reply are denied as the respondent is using a mere technicality to deny worker her rights which is not allowed in law as already propounded by the honourable Supreme Court in various cases. Procedural laws are the handmaids of substantial law and cannot be used to defeat its purpose.
3. The Complainant has already pleaded condonation in the complaint and if this authority pleases we can also furnish a separate application. The respondent failed to notice the same.
4. The respondent's claim of not filing the Complainant under the correct form is again denied as the use of mere technicality by the respondent and there is only minor difference from the form VII which can be allowed by the authority.
5. The assertion of not using the correct forms is again denied as being trivial and childish and is again the use of technicality by the respondent and cannot be allowed to defeat the purposes of the Act as a whole.
6. The respondent shows the clear ignorance and disregard to the authority of the law of the land. We also deny that proper Wages were paid to the worker. The objections are denied as a whole.
7. The respondent claims that he was paying lower Wages with the consent of the worker . Our question is whether this can be allowed by law, was the respondent not taking the advantage of the weak financial condition of the worker.
8. The respondent blatantly denies to follow the Haryana Govt. Minimum Wages Notification and the provisions enumerated therein. The principle of deemed promotion is also denied by the respondent which shows how ill versed the respondent is in law. The figures given by the respondent to support its case I'd denied in totality.
9. The Minimum Wages Notification says that the basic should not be less than the wage mentioned and not the entire salary.
10. The respondent's assertion of the respondent that the worker did not disclose her experience is a hidden acceptance to the fact that lower Wages were being paid to the worker. If the company did not know about the experience of the worker why did it hire her as a checker instead of a helper
11. In para 8 the respondent directly accepting that it does not know that bifurcation of basic wage is not allowed as per the notification.
12. Under the concept of deemed promotion actual promotion in hierarchy is not necessary. The respondent fails to understand that. The respondent's assertion that it is the respondent's prerogative to promote the worker is absolutely fictitious.

13. The respondent used to pay Wages in two parts once when salary slips were issued and once by transferring money as incentive without any salary slips to the account of the worker. This hints at the malpractice of forced overtime by the company. This is shown by the account statement of the worker in the complaint.
14. No day of rest was provided to the worker.
15. The entire reply is false , fictitious, deceptive, contradictory and fails its own purpose and should be rejected and the complaint be allowed.

Place: Gurgaon  
Date: 05.10.2016

**Worker/ Complainant**

*Kumar Ravishankar*  
Through ARs  
Kumar Ravishankar/ Shreya Sarkar