

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**OWP No. 698/2014 c/w
OWP No.2126/2017**

**Reserved on: 04.08.2026
Pronounced on: 05.10.2026
Uploaded on: 05.10.2026
Whether the operative part or full
judgment is pronounced: Full**

(OWP No.698/2014)

Col. R.S. Parmar, (Retd.), Aged 60 years,
S/O Lt. Col. Sukhdev Singh
R/O 3-C/C Gandhi Nagar, Jammu
Proprietor M/s Parmar Security and Placement
Services.

.... Petitioner(s)

Through: - Mr. Pranav Kohli, Sr. Advocate with
Ms. Rounak Gupta, Advocate &
Mr. Rajat Watal, Advocate.

v/s

1. Union of India,
Ministry of Labour & Employment,
Through Chief Labour Commissioner,
New Delhi.
2. Regional Labour Commissioner, Centre,
Jammu.
3. Labour Enforcement Officer, Jammu.
4. AFCONS Infrastructures Ltd.
Jammu-Udhampur N.H. 1A Road Project,
Bye Pass Road, Panjgran, Nagrota,
Jammu.
Through its Director/Project Manager.
5. Rajesh Singh S/O Sh. Swarn Singh
R/O Jagti.
6. Himmat Singh S/O Sh. Chain Singh
R/O Ban.
7. Neelam Singh S/O Sh. Gian Singh
R/O Jagti.
8. Surat Singh S/O Sh. Raghubir Singh
R/O Jagti.
9. Bikram Singh S/O Sh. Nahir Singh
R/O Panjgrain.
10. Manjeet Singh S/O Sh. Jeetan Singh
R/O Jagti.
11. Davinder Singh S/O Sh. Jitan Singh
R/O Jagti.
12. Arjun Singh S/O Sh. Sukh Dev Singh

- R/O Jagti.
13. Padam Dev Singh S/O Sh. Omkar Singh
R/O Jagti.
14. Ashwani Jamwal S/O Sh. Ramesh Singh
R/O Jagti.
15. Joginder Kumar S/O Sh. Des Raj
R/O Seri Khurd;
all residents of Tehsil Nagrota, District
Jammu.
16. Ashwani Kumar Bali S/O Sh. Bal Krishan,
R/O Aghar Ballian, Vijaypur, Reasi.
17. Ravinder Kumar S/O Sh. Om Parkash
R/O Ghaink, Tehsil Bhalwal.

.....Respondent(s)

Through :- None for respondent Nos.1 to 3.
Mr. D C Raina, Sr. Advocate with
Mr. Anuj Dewan Raina, Advocate for
respondent No.4.
Mr. Pawan Dev Singh, Advocate, for
respondent Nos.5 to 17.

(OWP No. 2126/2017)

1. AFCONS Infrastructure Limited
Through its Assistant General Manager
(Prs)
Amit Tewari, Age 54 years,
Having its registered office at AFCONS
House 16 Shah Industrial Estate Veera
Desai Road Azad Nagar P.O.
Andheri West Mumbai 400053
At present 353 Sector 1A Near Patnitop
Morh, Trikuta Nagar, Jammu.
2. Amit Tewari, Age 54 years,
S/O Late Sh. BC Tewari
Having its registered officer at AFCONS
House 16 Shah Industrial Estate Veera
Desai Road Azad Nagar P.O.
Andheri West Mumbai 400053
AFCONS Infrastructure Limited
Panjgrain Kandoli Nagrota
At present 353 Sector 1A Near Patnitop
Morh, Trikuta Nagar, Jammu.

.....Petitioner(s)

Through :- Mr. D C Raina, Sr. Advocate with
Mr. Anuj Dewan Raina, Advocate.

v/s

1. Union of India
Ministry of Labour and Employment
Through Chief Labour Commissioner

- New Delhi
2. Regional Labour Commissioner,
Centre Jammu
420-A Gandhi Nagar Jammu
 3. Col. R S Parmar
M/S Parmar Security and Placement
Services, 3 C/C Gandhi Nagar, Jammu
 4. Padam Dev Singh
S/O Omkar Singh
R/O Village Jagti Kandoli, Nagrota, Jammu
 5. Surat Singh
S/O Raghubir Singh
R/O Village Jagti Kandoli, Nagrota, Jammu
 6. Vikram Singh
S/O Nar Singh
R/O Village and P.O. Panjgrain Jammu
 7. Rattan Singh
S/O Dharam Singh, Village Seri Kalan PO
Panjgrain Jammu
 8. Neelam Singh
S/O Gian Singh
R/O Village Jagti Post Office Kandoli
Nagrota Jammu
 9. Manjeet Singh
S/O Jeetan Singh
R/O Village Jagti PO Kandoli Nagrota
Tehsil and District Jammu
 10. Ashwani Bali
S/O Bal Krishan Bali
R/O Village Aghar Ballian, PO Vijaypur
Tehsil and District Reasi
 11. Ravinder Kumar
S/O Om Parkash
R/O Village Khaink, PO Amb Grool,
Jammu
 12. Rajesh Singh
S/O Swarn Singh
R/O Village Jagti PO Kandoli Nagrota
Tehsil and District Jammu.

.....Respondent(s)

Through :- None for Respondent Nos. 1 & 2.
Mr. Pranav Kohli, Sr. Advocate with
Ms. Rounak Gupta, Advocate &
Mr. Rajat Watal, Advocate for respondent
No.3.
Mr. Pawan Dev Singh, Advocate, for
respondent Nos.4 to 12.

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

J U D G M E N T

1. These two writ petitions, involving overlapping questions of fact and law and arising out of the engagement and deployment of security personnel by M/S Parmar Security & Placement Services (hereinafter referred to as “the Agency-Employer”) at the project site of AFCON Infrastructure Limited (hereinafter referred to as “AFCON-Principal Employer”), are being disposed of by this common judgment.
2. **OWP No. 698/2014** has been filed by the Agency assailing the award dated 27.03.2014 passed by the competent Authority under Section 20(3) of the Minimum Wages Act, 1948, whereby the Agency was directed to pay differential wages and compensation to the workmen deployed at the Jammu–Udhampur Project, besides also wages for overtime. The Agency, while questioning the fastening of liability upon it, also seeks a direction against AFCON for reimbursement/payment of the amount which, according to it, represents the liability ultimately required to be borne by AFCON as the Principal Employer.
3. **OWP No. 2126/2017**, on the other hand, has been instituted by AFCON challenging the award dated 31.10.2017, whereby liability in respect of overtime wages and compensation payable to the security guards was fastened jointly on AFCON and the Agency.
4. The Agency was engaged for providing security personnel at the Jammu–Udhampur Project undertaken by AFCON. The relationship between the Agency and AFCON was governed by various agreements/work orders executed from time to time. Under the contractual arrangement, the

security personnel supplied by the Agency were deployed at the project site of AFCON.

5. During inspection, the Labour Enforcement Officer found that the security guards had not been paid wages in accordance with the revised statutory rates. It was further noticed that wages for weekly rest days had not been paid and that the workmen, despite having worked beyond the prescribed working hours, had not been paid overtime wages at the applicable rate.
6. Proceedings were consequently initiated under the Minimum Wages Act, culminating in the award dated 27.03.2014. The Authority directed payment of differential minimum wages to 336 workmen, besides compensation, and also directed payment in respect of weekly rest days to the workmen concerned.
7. The Agency does not essentially dispute the statutory entitlement of the workmen. Its case, however, is that the financial burden arising from revision of statutory wages and from overtime extracted in connection with AFCON's project could not ultimately be fastened exclusively upon it.
8. AFCON resists the said contention primarily on the strength of the contractual clauses under which responsibility for payment of salaries/wages and compliance with applicable labour laws was placed upon the Agency. According to AFCON, the Agency, being the immediate employer and disbursing authority, cannot transfer its statutory obligations to AFCON.
9. Ld. Sr. Counsel appearing for the Agency submits that the real controversy is not whether the workmen are entitled to overtime wages,

but whether the ultimate liability to bear such wages can legally and contractually be placed exclusively upon the contractor notwithstanding the statutory obligations of the Principal Employer under the Contract Labour (Regulation and Abolition) Act, 1970. It is contended that “wages”, within the meaning of the Payment of Wages Act, include remuneration payable in respect of overtime, holidays and leave periods. It is further submitted that the contractual provisions cannot be construed in isolation and must necessarily be read together with the statutory scheme governing contract labour.

10.Ld. Senior Counsel appearing for AFCON, per contra, submits that the Agency was solely responsible for payment of wages to the personnel deployed by it and for compliance with all statutory obligations under the applicable labour laws. It is urged that the Agency cannot avoid its obligation as employer merely by describing AFCON as the Principal Employer.

11.Upon consideration of the rival submissions and the material placed on record, the principal questions which arise for determination are:

- i. whether the contractual obligation of the Agency to disburse wages absolves AFCON, as Principal Employer, of liability arising under the applicable labour welfare legislation;
- ii. whether the liability in respect of revised minimum wages and overtime wages is required ultimately to be borne exclusively by the Agency or by AFCON as Principal Employer; and

iii. whether AFCON, having settled the claims of 91 similarly situated workmen forming part of the dispute culminating in the award dated 31.10.2017, can resist the claims of the remaining nine workmen.

12. There can be no manner of doubt that the workmen were legally entitled to receive the minimum wages notified by the appropriate Government and, where work was extracted beyond the normal working hours prescribed by law, to receive overtime wages in accordance with the applicable statutory provisions.

13. The controversy, therefore, does not essentially concern the entitlement of the workmen. The real issue lies in determining the **inter se liability between the contractor and the Principal Employer** for ultimately bearing the financial burden arising from such statutory entitlement.

14. The contractual stipulations between the parties undoubtedly place upon the Agency the responsibility for payment and disbursement of wages to the personnel deployed by it. Such clauses, however, cannot be read in isolation or construed in a manner which would render nugatory the statutory obligations imposed upon the Principal Employer under labour welfare legislation.

15. The agreements executed between the parties must be read as a whole and in conjunction with the statutory scheme embodied in the Minimum Wages Act, 1948, the Payment of Wages Act, 1936 and the Contract Labour (Regulation and Abolition) Act, 1970. Of particular significance is Section 21 of the Contract Labour (Regulation and Abolition) Act, 1970. While sub-section (1) places the initial responsibility for payment of wages upon the contractor, sub-sections (2) and (3) contemplate the

presence and supervisory role of the authorised representative of the Principal Employer in the process of wage disbursement. Sub-section (4) further provides for the Principal Employer to make payment in the event of failure on the part of the contractor to make payment or where short payment is made, with a corresponding right of recovery from the contractor.

16. The statutory scheme, therefore, does not permit the Principal Employer to remain altogether detached from the payment of wages merely because the immediate obligation of disbursement has contractually been entrusted to the contractor. The material on record further demonstrates that the security personnel supplied by the Agency were deployed exclusively at AFCON's project site. Their attendance, deployment, shift requirements and operational utilisation were substantially under the control of AFCON. The contractual arrangement also contemplated disbursement of wages in the presence of AFCON's representative and submission of wage-cum-muster records to AFCON's personnel department for certification.

17. These circumstances assume particular significance while determining liability for overtime. Where the personnel are deployed at the project site and their working hours and operational requirements are governed by the exigencies of the Principal Employer's project, the Principal Employer cannot altogether disassociate itself from the financial consequences flowing from work extracted beyond the statutorily prescribed hours.

18. The work order dated 01.09.2011 expressly stipulated that the duty hours of the security personnel were **“not allowed beyond eight hours”** and the

corresponding rates were fixed for an eight-hour shift. If, notwithstanding such stipulation, services were extracted beyond the prescribed working hours in connection with AFCON's project, the statutory consequence of such deployment cannot be ignored.

19. Section 14 of the Minimum Wages Act recognizes the entitlement of an employee to overtime wages where work is performed beyond the prescribed normal working day. Overtime remuneration, being remuneration payable to the workman on account of services rendered beyond normal working hours, forms part of the statutory wage liability. Consequently, the additional liability arising from such deployment cannot, in the facts of the present case, be fastened exclusively upon the Agency without regard to AFCON's position and operational control as Principal Employer.

20. There is yet another circumstance of considerable significance. In respect of the dispute involving 100 workmen which culminated in the award dated 31.10.2017, it stands conceded that AFCON itself settled the claims of 91 workmen, leaving the claims of only nine workmen to undergo adjudication. This circumstance cannot be brushed aside as inconsequential. If, as contended by AFCON, the liability for payment of overtime wages rested exclusively upon the Agency, there was ordinarily no occasion for AFCON itself to negotiate and settle identical claims of 91 workmen.

21. Having settled the claims of 91 similarly situated workmen, AFCON cannot be permitted to adopt an inconsistent position qua the remaining nine merely because they chose to pursue adjudication instead of entering

into a settlement. The source and character of the claims remain the same.

A distinction founded merely upon the mode by which the workmen pursued satisfaction of their claims would have no rational basis in the circumstances of the case.

22. The contention that the contractual clauses alone determine the entire liability between the parties cannot be accepted. The provisions of the Minimum Wages Act, 1948, the Payment of Wages Act, 1936 and the Contract Labour (Regulation and Abolition) Act, 1970 operate in the field of labour welfare and must be construed harmoniously so as to advance, rather than defeat, the statutory protection afforded to workmen.

23. The immediate obligation to disburse wages and the ultimate inter se liability to bear the financial burden are conceptually distinct. The fact that the Agency was responsible for actual disbursement of wages does not, by itself, conclude the question as to which party must ultimately bear the financial incidence of revised statutory wages or overtime arising from deployment at the instance and under the operational requirements of the Principal Employer.

24. Accordingly, any liability arising on account of revision of statutory wages, overtime and consequential differential amounts must be determined by reading the contractual terms together with the statutory obligations of the parties. Where the Principal Employer has discharged the statutory liability and the contractor has failed to make corresponding payment to the workmen, the Principal Employer would necessarily retain such right of recovery against the contractor as is available under law. The position which emerges from the foregoing discussion is that a contractual

stipulation placing responsibility for disbursement of wages upon a contractor cannot be construed as completely excluding the statutory obligations of the Principal Employer. The contractual arrangement must yield to, and be construed consistently with, the mandatory requirements of labour welfare legislation.

25. While the contractor may bear the immediate responsibility for disbursement of wages to contract labour, the question of ultimate financial liability between the contractor and Principal Employer must be determined upon a conjoint reading of the contract and the governing statutes, having due regard to the nature of deployment, operational control, working hours and the circumstances in which the additional wage liability arose. In the present case, having regard to AFCON's operational control over the deployment of the security personnel, the statutory scheme governing contract labour, the circumstances in which overtime liability arose, and AFCON's own settlement of identical claims of 91 similarly situated workmen, AFCON cannot be absolved of the ultimate liability determined hereinabove.

OWP NO. 698/2014

1. In the award dated 27.03.2014, the differential wages and compensation quantified at ₹15,42,532/- in respect of 336 workmen and the wages for weekly rest days as Rs.3,19,261/- were directed to be paid by the Agency.
2. For the reasons recorded hereinabove, the ultimate financial liability in respect thereof is required to be borne by AFCON as Principal Employer but having regard to the fact that it was not a party before the authority

below and had been impleaded only at the writ stage whereas in terms of the aforesaid legal position AFCON was necessary party into claim proceedings before the authority below and as the award has been passed in its absence the same cannot stand in the eyes of law. This is because without impleading the Principal Employer the authority below has landed in error in fasting liability on the petitioner. Having said so, the award dated 27.03.2014 is set aside. The matter is remanded back to the authority below wherein AFCON as the Principal Employer shall stand impleaded as party non-applicant enabling the authority below to accord fresh consideration to the issues before it and proceed to pass award in accordance with law. Needless to mention here that AFCON shall to be entitled to file its pleadings and after hearing both sides the authority below shall proceed to pass fresh orders in accordance with law. In that background, this petition is **allowed** as aforesaid.

3. The amount deposited before the Registry shall be remitted back to the accounts of authority below which in turn shall keep the amount so received in Fixed Deposit earning interest renewable at regular intervals pending consideration of the claim by the authority below.

OWP NO. 2126/2017

1. Insofar as the award dated 31.10.2017 is concerned, no ground warranting interference is made out. AFCON, having already settled the identical claims of 91 out of 100 workmen, cannot be permitted to resist satisfaction of the claims of the remaining nine workmen by taking a position inconsistent with its own previous conduct. The authority under

the Act of 1948 landed in error in fastening liability on the Agency hence the award impugned to the extent of Agency shall stand modified.

2. The award dated 31.10.2017 shall, therefore, be satisfied by AFCON in its entirety. OWP No. 2126/2017 is, accordingly **partly allowed** to the extent, stated above.

(SANJAY PARIHAR)
JUDGE

SRINAGAR

05.10.2026

Akshil Dev

Whether the order is speaking? : Yes

Whether the order is reportable? : Yes

