



IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (M/S) No. 2165 of 2026

M/S Unique Security & Another ... Petitioners

Versus

Maan Singh Gautam & Others ... Respondents

Mr. Rakshit Joshi, Advocate, for the petitioner.

J U D G M E N T

Hon'ble Manoj Kumar Tiwari, J.

Petitioner is the employer. An application was filed against her by her workmen under Payment of Wages Act, alleging that they have not been paid wages for certain period. Notices were sent to petitioner on their application, however, when despite repeated notices, no one appeared on behalf of employer, the Prescribed Authority passed an order on 28.11.2017 for proceedings ex parte in the matter. Ultimately, the application filed by the workmen (respondents herein) was allowed by the Prescribed Authority, vide order dated 15.6.2018, and petitioner was asked to pay the arrears of wages amounting to ₹85,000 and compensation amounting to ₹21,250, total ₹1,06,250. Petitioner thereafter moved an application for restoration on 21.7.2018, which was rejected by the Prescribed Authority, vide order dated 28.11.2018. Petitioner thereafter appears to have filed another application seeking restoration on 22.11.2024, which has been rejected by the Prescribed Authority/Deputy Labour Commission, vide



order dated 20.6.2026. In this writ petition, petitioner has challenged the order dated 20.6.2026, passed on second restoration application of petitioner. Petitioner has also challenged the original order passed by the Prescribed Authority on 15.6.2018 and also the order dated 28.11.2017, whereby the Prescribed Authority had directed to proceed ex parte.

2. This Court do not find any reason to interfere in the matter. Second restoration application filed by petitioner is on record. In that, petitioner has admitted that notices were sent by the Prescribed Authority at the address of petitioner, however she alleged that the postman was in collusion with the workmen, due to which he returned the notices sent by the Prescribed Authority undelivered. The averment made in the restoration application thus clearly indicate that notices were sent to petitioner and she did not accept the same and consequently, the notices were returned unserved every time.

3. Application filed by the workmen was allowed by the Prescribed Authority vide order dated 15.6.2018 and the restoration application, which was initially filed by petitioner, came to be rejected vide order dated 28.11.2018. Subsequent application was filed by petitioner in 2024, after delay of nearly six years. As per the proviso to Rule 8(3) of U.P. Payment of Wages (Procedure) Rules, 1958, an application for setting aside the order passed under Rule 8(2) of the said Rules has to be filed within 30 days. Since there was inordinate delay in filing the



restoration application, therefore, learned Prescribed Authority was justified in rejecting the same.

4. Learned Counsel for the petitioner relies upon a judgment rendered by Hon'ble Supreme Court in the case of *Grindlays Bank Ltd. v. Central Government Industrial Tribunal*, reported as 1980 (Supp) SCC 420. Para 13 of the said judgment is reproduced below:

"We are unable to appreciate the contention that merely because the ex parte award was based on the statement of the manager of the appellant, the order setting aside the ex parte award, in fact, amounts to review. The decision in Narshi Thakershi v. Pradyumansinghji is distinguishable. It is an authority for the proposition that the power of review is not an inherent power, it must be conferred either specifically or by necessary implication. Sub-sections (1) and (3) of Section 11 of the Act themselves make a distinction between procedure and powers of the Tribunal under the Act. While the procedure is left to be devised by the Tribunal to suit carrying out its functions under the Act, the powers of civil court conferred upon it are clearly defined. The question whether a party must be heard before it is proceeded against is one of procedure and not of power in the sense in which the words are used in Section 11. The answer to the question is, therefore, to be found in sub-section (1) of Section 11 and not in sub-section (3) of Section 11. Furthermore, different considerations arise on review. The expression 'review' is used in two distinct senses, namely (1) a procedural review which is either inherent or implied in a court or Tribunal to set aside a palpably erroneous order passed under a misapprehension by it, and (2) a review on merits when the error sought to be corrected is one of law and is apparent on the face of the record. It is in the latter sense that the Court in Patel Narshi Thakershi case held that no review lies on merits unless a status specifically provides for it. Obviously when a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected ex debito justitiae to prevent the abuse of its process, and such power inheres in every court or Tribunal."



5. The aforesaid judgment does not support the case of petitioner. Hon'ble Supreme Court has permitted review of an order passed by an Industrial Adjudicator only in the cases where review is sought due to procedural defect or due to some inadvertent error committed by the Tribunal, holding that such error should be corrected *ex debito justitiae*. In the present case, facts are entirely different. Petitioner herself was to be blamed for not appearing before the Prescribed Authority when notices were duly sent to her. Thus petitioner is seeking review on merit and not due to some procedural defect or inadvertent error. Even otherwise also, the said judgment deals with an industrial adjudication upon reference under Industrial Disputes Act, while we are concerned with the proceedings initiated under Payment of Wages Act. Thus the said judgment is not applicable to the facts of the case.

6. Writ petition thus fails and is dismissed.

(Manoj Kumar Tiwari, J.)
20.7.2026

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KUMAR