

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1482 of 1998

1. Sakhi Chand Mandal.

2. Dilip Kumar

Both sons of Late Ajab Lal Mandal, Janta By-Cycle
Store, Station Road, Jamalpur, Police Station Jamalpur,
District- Munger.

.... Petitioners

Versus

1. The State of Bihar.

2. The Assistant Labour Commissioner-cum-Incharge Court of Minimum Labour
Wages Act, Asstt. Labour Commissioner Office, P.S. Sadar, Dist- Munger.

3. Sri Birendra Kumar, Labour Superintendent, Munger.

4. Raja son of Md. Mustafa, Bari Kalisthan, Jamalpur, P.S. Jamalpur, Dist-
Munger.

5. Anand Mistri, son of Raju Mistri, Chhoti Ashikpur Jamalpur, P.S. Jamalpur,
Dist- Munger.

.... Respondent/s

Appearance :

For the Petitioner : None

For the Respondent/s : Mr. Syan Shankar, AC to GP-6

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 16-02-2015

No one appears for the petitioner.

Heard counsel for the State.

In the present case, the petitioners are challenging
the order dated 26.08.1997 (Annexure-2) passed by the Respondent
No. 2, the Assistant Labour Commissioner under the Minimum
Wages Act in Claim Case No. 169 of 1997, whereby and
whereunder, he has computed the difference of minimum wages to
the tune of Rs. 93,656/- that includes ten times compensation.

The short facts of this case is, one Birendra



Kumar, Labour Superintendent of Munger, made an inspection of the establishment namely M/s. Janta By-cycle Store and where he found that three persons namely Raja son of Mustafa, Anand Mistri and Nand Kishore Tanti were appointed and were paid salary @ Rs. 800/-, 400/- and 1200/- per month respectively, other than the minimum rate of wages which was fixed by the Government of Rs. 1032.20 and after recording their statement, an application under Section 20(2) of the Minimum Wages Act was filed. Records shows that the notice was given to the petitioners but they refused to receive the same, looking no way out ex-parte order was passed by the Assistant Labour Commissioner and he found that Raja was entitled to difference of wages of Rs. 928.80/- and compensation at ten times of Rs. 9288/- and Anand Mistri was entitled to the difference of wages of Rs. 7583.40/- and ten times compensation of Rs. 75,854/- in total of Rs. 93,656.20/-. When the money was not deposited a Certificate Proceeding was initiated against the petitioners.

As per the claim of the petitioners, they were not given the notice and also claimed that the claim has been filed against ghost as no person of such name was employed by the petitioners. From the record, it shows that during the ex-parte proceeding only, Labour Superintendent was examined and both

the persons on whose behalf the claim was filed were not examined before the authority concerned. So much so, persons on whose behalf case was filed were impleaded as Respondent Nos. 4 and 5 notices were issued to them, report of process shows their location were not traceable. In such view of the matter, the ex-parte proceeding was initiated, two persons on whose behalf the claim was filed were not examined and the notice could not be served upon the two persons as their location could not be traced out, so much so awarding 10 times compensation in mechanical manner is not sustainable.

In such view of the matter, the order dated 26.08.1997 (Annexure-2) is hereby quashed and the matter is remanded for fresh consideration after giving notice to both the parties.

The petition is allowed.

(Shivaji Pandey, J)

Md. Ibrarul/-

U			
---	--	--	--