

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22034 of 2013

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Prakash Kumar Mishra S/O Sri Kashi Nath Mishra, Resident of Village -
Sukhsena, P.S. Barhara Kothi, District - Purnia

.... Petitioner

Versus

1. The State of Bihar through Presiding Officer, Labour Court, Purnia
2. Dr. Rohit Kumar, MBBS, MD S/O Late Ramdeo Jha, the then Assistant
Civil Surgeon, Sadar Hospital, Katihar Resident of Mohalla - Ashram Road,
P.O., P.S. and District - Araria

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Sinha- I

For the Respondent/s : Mr. AC to GP-11

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 22-07-2015 Heard Sri Alok Kumar Sinha, learned counsel for the

petitioner and learned AC to GP-11.

The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has prayed for quashing of an order dated 07.07.2012 passed by the learned Presiding Officer, Labour Court, Purnia in Misc. Case no.01 of 2009. By the said order, the learned Presiding Officer, Labour Court has rejected Misc. Case no.01/2009, which was filed by the petitioner claiming due wages. The petitioner had filed a case under Section 33(c) (2) of the Industrial Disputes Act, 1947 in the court of Presiding Officer, Labour Court, Purnia with a prayer to direct the Respondent no.2 to pay his arrears of wages, which

was due from 05.08.2001 to 18.10.2006 . The case was filed in the year 2009. Before the court below, Respondent no.2 appeared and disputed the claim, primarily on two grounds; firstly the petition was barred by limitation and secondly it was pleaded that the applicant was never employed by Respondent no.2. Besides this, other several objections were raised.

After considering the matter, the learned Presiding Officer has dismissed the petition.

On perusal of the impugned order, it is evident that it not a case, where there was any order or award or settlement in between the parties. By way of filing such petition, a claim was raised, which was disputed by the so called employer. Regarding maintainability of such case, law has already been set at rest in a case reported in (1995) 1 SCC 235; Municipal Corporation of Delhi Vs. Ganesh Rajak & Anr. The question on this issue has already been settled long back by a Constitution Bench of the Hon'ble Apex Court. The Hon'ble Apex Court has held that primarily this provision is not required to be invoked for deciding the dispute of entitlement of the workman. In view of law settled by the Hon'ble Apex Court, the learned Presiding Officer has rightly rejected the claim filed by the petitioner.

I do not find any ground to interfere with the impugned

order.

The writ petition stands dismissed.

(Rakesh Kumar, J)

