

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2880 of 2001

- =====
1. Smt. Aruna Sinha wife of Sri Gangadhar Pd. Singh, Principal, Jawaharlal Nehru Medical College Bhagalpur, P.S. Barari, District Bhagalpur.
 2. Sri Vijay Krishna Kumar son of Late Raghubar Dayal, Head Warden, Prof. Radiology, Jawaharlal Nehru Medical College Bhagalpur, P.S. Barari, District Bhagalpur.
 3. Jogendra Chaudhary son of Vakil Choudhary, Prof. Pathology, Jawaharlal Nehru Medical College Bhagalpur, P.S. Barari, District Bhagalpur.
 4. Kartik Prasad son of Late Sant Lal Prasad, Assistant Warden, Hostel No.2, ENT, Jawaharlal Nehru Medical College Bhagalpur, P.S. Barari, District Bhagalpur.
 5. Sunil Kumar Chakroborty son of Sudhir Kumar Chakroborty, Laboratory In-charge, Jawaharlal Nehru Medical College Bhagalpur, P.S. Barari, District Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Presiding Office r, Industrial Tribunal, Patna.
3. Presiding Officer, Labour Court, Bhagalpur.
4. Labour Superintendent, Labour Court, Bhagalpur.
5. Sarif Das son of Sri Sitabi Das resident of village and P.O. Maheshpur P.S. Pathargama, District Godda
6. Manoj Kumar Mishra son of Late Bachan Kant Mishra, resident of village G.C.Banerjee Road, Bhikhanpur (Mundichak), Bhagalpur.
7. Binod Mehtar son of Sri Basu Super, resident of Old Hospital Sadar (Bari) Near Bishhari Asthan, Bhagalpur.
8. Pradeep Mehtar son of Sri Jagesar Mehtar, resident of Surkikal, Bari Khanjarpur, Barari district Bhagalpur.
9. Ramdeo Mandal son of Late Mannu Mandal, resident of village and P.O Kamlakund, P.S. Ismailpur, Bhagalpur.
10. Prakash T anti son of Sri Kaleshwar Tanti, resident of village Jhurkhuriya, P.O. Bahadurpur P.S. Sabour, Bhagalpur.
11. Arjun Prfasad Sah son of Late Bilayati Sah, resident of Aliganj, Gulabibagh, P.O. Mirjanhat, P.S. Majahidpur, Bhagalpur.
12. Pintu Kumar Singh son of Late Tej Narain Singh, resident of Dr. R.P/Singh Bari Post Office Shankar Bhawan, Bose Park, Bhagalpur.
13. Raju Kumar Mehtar son of Sri Ragesar Mehtar resident of Surkikal Bari Khanjarpur Barari, Bhagalpur.
14. Sanjay Kumar Suman son of Suresh Prasad Mandal, resident of village Kaneri P.O. Chandpur P.S. Jagdishpur, Bhagalpur.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. AJOY KUMAR CHAKRABORTY
For the Res. 5 to 14 : Mr. Shailendra Kumar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date: 19-03-2015

Heard counsel for the petitioners and the respondents.

In the present case, petitioner no.1 is the Principal of the College and the rest are Professors and other staff of Jawaharlal Nehru Medical College, Bhagalpur, (for short, the 'College').

In the present petitioners are challenging the order dated 10th February 2001 passed by the Presiding Officer, Industrial Tribunal Patna in M.W.Appeal No. 1 of 2000 who affirmed the order dated 20th July 2000 passed in M.W.Case No. 48 of 1998 by Presiding Officer, Labour Court, Patna.

As per the claim of the private respondents, they were working in the Hostel of the College catering service to the students of the College for year together i.e. 1981 to 1997 regularly from 7 O'clock in the morning to 4 O'clock in the evening. They claimed that they were not getting the wages in terms of the Minimum wages fixed by the Government of Bihar fixed at Rs.51/- per day and were getting Rs.750/- per month which was less than the minimum rates of wages fixed by the Government. They claimed that they were entitled to Rs. 9,580/- each employee as arrear of pay from June 1993 to 1998.

The claim of the petitioners is that they were not employee of the College but the students who were residing in the Hostel of the College had formed a committee employed them for their own purpose as domestic servant and the College had nothing to do with them. It is stated that the Hostel Committee is the employer and the committee runs by the occupants/ students for their domestic purpose and the responsibility cannot be shifted upon the head of the college. The claim of the private respondents with respect to their



working hour was disputed and it was stated that they work for 2 or 3 hours per day. Further claim has been made that there is no minimum wages fixed by the Government for educational institution nor it has been added in scheduled employment. Parties have led their oral and documentary evidence. The parties to litigation got themselves examined and also laid their documentary as well as oral evidence and the court below considered and arrived to a finding that there was relationship of master and servant and heavily placed reliance on memorandum, Ext-10, Annexure-5 to this petition, comprising statement of petitioner No. 1 (Principal of College) amply clarifies position of private respondents were employees of the College working in hostel.

Memorandum of settlement (Ext-10) also shows that direction was given to the warden to furnish the list of those workers working for last 15 to 20 years for their regularization in service. This document establishes the case of private respondents about their relationship with College so much so less payment of wages than minimum rates of wages. The Labour court placed heavy reliance on this document arrived to a conclusion that they were employed for doing work in the Hostel. It has not been disputed during the relevant period, minimum wages of labourers was fixed at Rs.51/- per day whereas they were getting Rs.25/- per day.

The labour court has passed order for payment of wages in terms of settlement for the entire period which was challenged before the Industrial Tribunal. Here also the Tribunal discussed the evidence threadbare and arrived to a conclusion that there was relationship of master and servant which cannot be denied.

Memorandum of settlement (Ext-10) is the clinching piece of evidence apart from other evidences amply clarify that the private respondents

employees of College were discharging the duty in the Hostel. Management's Evidences are not so strong to discredit the finding recorded by Labour Court so much so that there is no evidence to show that some other persons were also deputed by the State Government or by the College to discharge their duty in the Hostel.

The Hon'ble Supreme Court in number of judgment said that the employees employed cannot be paid less than the minimum wages which is paid to them to meet bare minimum requirement. In such view of the matter, the Tribunal has rightly modified the order of the trial court on the ground of limitation, as there was no application for condoning the delay nor such order was passed by Labour Court and as such granted the relief for six months which is statutorily permissible in law.

This Court finds no illegality in the order impugned. Accordingly, this petition is dismissed. However, it is directed that the payment should be made to the parties to M.W. Case No. 48 of 1998 or to their heirs, as the case may be.

Jay/-

U			
---	--	--	--

(Shivaji Pandey, J)