

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12882 of 2001

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1. Bihar State Electricity Board & Patna through its Chairman, Vidyut Bhawan, Bailey Road, Patna-1.
 2. General Manager-cum-Chief Engineer, Central Area Electricity Board, Serpentine Road, Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Labour & Employment, New Secretariat, Patna..
2. Deputy Labour Commissioner-cum-Commissioner, Workmen's Compensation, Labour Building, Bailey Road, Patna.

..... Respondent/s

with

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Civil Writ Jurisdiction Case No. 12157 of 2002

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Bihar State Electricity Board through its Chairman, Vidyut Bhawan, Bailey Road, Patna-1.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Labour & Employment, New Secretariat, Patna..
2. Deputy Labour Commissioner-cum-Commissioner, Workmen's Compensation, Darbhanga.
3. Smt. Chandrakala Devi W/o Late Yaubir Chaudhary, resident of village –Sohra, PO-Anandpur, PS-Ashok Paper Mill, District-Darbhanga.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4981 of 2002

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General Manager.-cum-Chief Engineer, Barauni Thermal Power Station, Barauni.

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Labour & Employment Department, New Secretariat, Patna-1
2. Deputy Labour Commissioner-cum-Commissioner, Workmen's Compensation, Begusarai
3. District Commandant, Home Guard Office, Begusarai
4. Smt. Dayavati Devi W/o Late Surendra Rai, resident of village –Rachiahi, PS-Matihani, Begusarai.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 16499 of 2001

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1. Bihar State Electricity Board through its Chairman, Vidyut Bhawan, Bailey Road, Patna-1.
 2. General Manager-cum-Chief Engineer, Central Area Electricity Board, Serpentine Road, Patna.

.... Petitioner/s

Versus

- 1 The State of Bihar through the Secretary, Labour Department, New Secretariat, Patna..
- 2 Deputy Labour Commissioner-cum-Commissioner under Workmen's Compensation Act, Bailey Road, Patna.

.... Respondent/s

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Appearance :

(In CWJC No. 12882 of 2001)

For the Petitioner/s : Mr. V.N.Sahay
Mr. Arun Shrivastava
For the State Mr. M. K. Sinha, SC-1
Mr. Rakesh Kumar AC to SC-9
For the Respondent No. 3 Mr. Abhinay Raj

(In CWJC No. 12157 of 2002)

For the Petitioner/s : Mr. V.N. Sahay
Mr. Arun Shrivastava
For the State Mr. Rakesh Kumar AC to SC-9
For the Respondent No. 3 Mr. Abhinay Raj

(In CWJC No. 4981 of 2002)

For the Petitioner/s : Mr. Arun Srivastava
For the Respondent/s : Mr. (SC7)
Mr. Abhinay Raj
Mr. Deepak Kumar
Mr. Sushil Kumar Sinha
For the State Mr. Raj Nandan Prasad, SC-9
Mr. Rakesh Prabhat, AC to SC-9

(In CWJC No. 16499 of 2001)

For the Petitioner/s : Mr. Arun Srivastava
For the Respondent/s : Mr. (SC7)
Mr. Abhinay Raj
Mr. Ajay Kumar Chakravarty

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 27-03-2015

Heard learned counsel for the petitioners and
learned counsel for the State.

In these cases, common issue has been raised about

the power and jurisdiction of Deputy Labour Commissioner to decide the contested cases under the Workmen's Compensation Act.

For deciding these cases, there is no need to discuss the facts in detail. Necessary facts of CWJC No. 12157 of 2002 is taken into consideration Respondent no. 3 filed an application before the Deputy Labour Commissioner-cum-Commissioner, Darbhanga for compensation amounting to Rs. 1,31,950/- plus interest.

The Bihar State Electricity Board appeared and filed the show cause dated 18.12.2011 disputed the liability, claiming that he was not on duty 12.12.1999 because of Sunday, so much so, no complaint was received from the village where the accident had taken place in respect of interruption of the electric supply. The case was registered as Case No. WC 3/2001, vide order dated 02.07.2002, adjudicated the dispute and directed for payment of Rs. 1,31,950/- and Rs. 39,600/- as interest.

Challenge has been made in the present case on the ground that the Deputy Labour Commissioner does not have a jurisdiction to decide the contested cases. When a contest was made by the Board, it was duty of the Labour Commissioner, Darbhanga to remit the matter to the appropriate Labour Court for

adjudication, placing reliance on Notification S.O. No. 1188 dated 31st December 1991.

The counsel for Respondent no. 3 has submitted that the present writ application is not maintainable on account of provision of appeal provided under Section 30 of the Workmen's Compensation Act, placing reliance on the judgment of Letters Patent Appeal No. 280 of 2008.

At the outset, this Court is of the view that the order passed in Letters Patent Appeal No. 280 of 2008 is not applicable to the fact of this case, as in that case, the jurisdiction and power of the Deputy Labour Commissioner was not in issue to decide the contested cases nor has been dealt with, merely the point was raised that without giving hearing to the other side, the Deputy Labour Commissioner decided the case, this Court in the order of Letters Patent Appeal held that there is a proper forum of appeal under Section 30 of the Workmen's Compensation Act but in the present case, the issue has been raised by the counsel for the petitioners that the Deputy Labour Commissioner was not authorised to decide the contested cases.

Notification dated 31st December 1991 has been issued by Government of Bihar, sub-section 1 and 2 of Section 20 of the Workmen's Compensation Act provides that the Labour



Commissioner is ex-officio Commissioner under Workmen's Compensation Act shall deal with all uncontested cases arising under the said Act and the Rules framed thereunder, clause (a) of notification provides Officer of the Labour Courts as ex-officio Commissioner under Workmen's Compensation Act will deal contested cases.

The Deputy Labour Commissioner has been notified as adjudicator for the respective area to deal with the non-contested cases whereas the Labour Court of the respective area has been notified as Commissioner to deal with the contested cases.

It is well known principle of law, a Court or authority cannot adjudicate the dispute without authority of law otherwise the order will be nullity. Even the agreement of the parties cannot confer jurisdiction upon the Court or authority, does not have a jurisdiction, to deal with the matter.

In the present case, admittedly the claim raised by Respondent no. 3 has been disputed by the petitioners.

In such view of the matter, the power to decide the contested cases lie to the respective Presiding Officer of the Labour Court of the area concerned. In such view of the matter, the Deputy Labour Commissioner of Darbhanga Division cannot exercise its power to adjudicate the contested case.

Hence impugned orders passed by Labour Commissioner are without jurisdiction, accordingly, impugned orders of these cases are being quashed and the matter is remanded back to all respective Deputy Labour Commissioners with the direction, on receipt of the order, he will send the files of cases to respective Labour Courts who will decide the case on priority basis preferably within six months from the date of receipt of file from the respective Dy. Labour Commissioners.

It is directed to the parties to co-operate the proceeding. If the parties would fail to co-operate the proceeding, the respective Labour Courts will have liberty to decide the cases even *ex parte*.

Accordingly all writ petitions are allowed.

(Shivaji Pandey, J)

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