

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 11044 of 2010

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M/s Bihar Rajya Beej Nigam Ltd. Kudra through its Plant Engineer P.S.
Kudra, Distt.- Kaimur

.... Petitioner

Versus

1. The State of Bihar Through Labour Enforcement Officer, Kudra, Kaimur
2. Dy. Labour Commissioner cum Appellate Authority, Magadh Division, Gaya
3. Assistant Labour Commissioner cum Controlling Authority, Dalmianagar, Rohtas
4. Ram Naresh Ram Father's Name Not Known Vill.- Sakari, P.O. + P.S.- Kudara, Distt.- Kaimur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Saurendra Pandey
Mr. Nalin Vilochan Tiwary

For the Respondent/s : AC to Addl. Advocate General – 6
Mr. Sunil Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

7. 05-10-2015 Heard Sri Saurendra Pandey, learned counsel, who was assisted by Sri Nalin Vilochan Tiwary, learned counsel for the petitioner, learned State counsel as well as Sri Sunil Kumar Singh, learned counsel, who has appeared on behalf of private respondent i.e. respondent no. 4.

The petitioner, which is an instrumentality of Govt. of Bihar, has approached this Court invoking its writ jurisdiction under Article 226 of the Constitution of India, with a prayer to quash an order dated 11-05-2009 passed by the Deputy Labour Commissioner-cum-Appellate Authority in Appeal No. 04 of



2007. By the said order, the appeal preferred by the petitioner against the order dated 19-02-2007 passed in 1 to 3 of 2005 by the Assistant Labour Commissioner-cum-Authority under Minimum Wages Act stood dismissed. By order dated 19-02-2007, the learned Assistant Labour Commissioner had allowed the claim under the provisions of Minimum Wages Act, 1948 in respect of respondent no. 4 and other two employees and directed the petitioner to pay the total differential amount of **Rs. 3,79, 344/-** (Rupees three lacs seventy nine thousand three hundred forty four) Against the order of the Assistant Labour Commissioner, the petitioner preferred an appeal, vide Minimum Wages Appeal No. 04 of 2007. By order dated 11-05-2009, the appeal stood dismissed on the reason that on number of dates, none appeared on behalf of appellant (petitioner) and secondly, it was barred by limitation.

Learned counsel for the petitioner assailing both the orders submits that the employment was not scheduled employment and as such, there was no application of provision of Minimum Wages Act in respect of employees of the Bihar Rajya Beej Nigam Ltd. It has further been argued that the claim raised by the private respondent was required to be rejected on the ground that it was time barred. He submits that under the



provisions of Section 20(2) of the Minimum Wages Act, claim was to be made within a period of six months, not beyond that. Accordingly, it has been prayed to quash the order passed by the Assistant Labour Commissioner. In respect of the order of the appellate authority, learned counsel for the petitioner tried to persuade the Court that the appeal was filed within time, however; the learned appellate authority has rejected the same on the ground of limitation also. On aforesaid ground, a prayer has been made to set aside both the orders.

Learned counsel appearing on behalf of respondent no. 4 has vehemently opposed the prayer of the petitioner. He submits that after the order passed under the Minimum Wages Act, a certificate proceeding was also initiated. Since in the certificate proceeding, the petitioner was not responding properly, ultimately, the certificate officer issued warrant of arrest. Only thereafter, from the petitioner's side, a submission was made before the certificate officer that entire claimed amount has already been paid and thereafter, the learned certificate officer withdrew the warrant of arrest. Learned counsel for respondent no. 4 submits that before the certificate officer, incorrect stand was taken from the petitioner's side. He submits that as per the certificate, huge amount was required to be paid, whereas, only



after payment of meager amount to the respondent no. 4, on false statement, the petitioner got the warrant of arrest withdrawn before the certificate officer. He further submits that after filing the appeal against the order of the Assistant Labour Commissioner, the petitioner was not taking any interest only with a view to defeat the right of the petitioner and as such, the learned appellate authority has rightly rejected the appeal filed by the petitioner.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. On perusal of the **Annexure – 1** i.e. order dated 11-05-2009 passed in Minimum Wages Appeal No. 04 of 2007, it is evident that on number of dates, the appellant (petitioner) had not appeared before the appellate authority. Accordingly, the learned appellate authority, keeping in view the fact that the appellant had left the interest in the appeal as well as on the ground of limitation, rejected the appeal. This order was passed on 11-05-2009, which was received by the petitioner on 04-07-2009. Again thereafter, the petitioner had not taken immediate step in approaching this Court. After several months from the date of receipt of the order of the appellate authority, the petitioner has filed the present writ petition on 16-07-2010. It is further evident from perusal of the counter

affidavit that from the petitioner's side, fair stand was not taken. On perusal of order dated 30-07-2010/04-08-2010 in certificate proceeding, it appears that after the issuance of warrant of arrest, from the petitioner's side, a written information was given to the certificate officer that arrear amount had already been paid. Thereafter, warrant of arrest was withdrawn by the certificate officer, however; this was not the correct stand of the petitioner, which was subsequently noticed on complaint made by the respondent no. 4 before the certificate officer.

Keeping in view the fact that the order impugned has been passed under the provisions of Minimum Wages Act, which is an Act for the welfare of the employees as well as the fact that the petitioner has not approached immediately after the order of the appellate authority and not with fair stand, this Court is not inclined to interfere with the matter.

The writ petition stands dismissed.

(Rakesh Kumar, J.)

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