

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6626 of 2008

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Binod Kumar Singh son of Shree Jagdish Singh, resident of Mohalla Naya Tola (H/o Sri Inderdeo Singh) Police Station Kadamkuan, District Patna
..... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Labour and Employment, Bihar, Patna
2. The Presiding Officer, Industrial Tribunal, Patna and Appellate Authority U/S 28 (7) of the B.S.E.Act
3. The Manager , M/s Bharti Bhawan (P & D), Thakurwari Road, Police Station Kadamkuan, District Patna

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rabindra Prasad Singh, Advocate
For the Respondent Nos. 1 & 2 : Mr. Dhananjay Kumar, AC to GP 16
For the Respondent No.3 : Mr. Alok Kumar Sinha, Advocate
Mr. Indrajeet Bhushan, Advocate
Mr. Manish Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

11 28-04-2015

Heard the parties.

2. The petitioner is aggrieved by the order dated 18.01.2006 (Annexure-1) passed by the learned Presiding Officer, Labour Court, Patna in B.S.E. Case No. 09 of 2003 whereby the claim raised on behalf of the petitioner in terms of Section 28 (1) of the Bihar Shops & Establishments Act, 1953 (in short, “the Act”) has been rejected being barred by limitation. The petitioner is also aggrieved by the appellate order/judgment dated 26.03.2007 (Annexure-2) passed in B.S.E. Appeal No. 02 of 2006 by the learned Presiding Officer, Industrial Tribunal, Patna and Appellate Authority under Section 28 (7) of the Act whereby the aforesaid appeal filed on behalf of the petitioner has been dismissed and the order passed by the learned Labour Court has been affirmed.

3. It is not in dispute that the petitioner raised his claim under Section 28(1) of the Act for the period from 1994 to March, 2002. The aforesaid petition was filed on 15.10.2003. Rule 22 (1) of the Bihar Shops & Establishments Rules, 1995 prescribes that an application under Section 28 (1) of the Act can be filed within a period of six months from the date when cause of action arises. Proviso to Rule 22 (1) gives power to the prescribed authority to condone the delay in filing such application if sufficient cause is shown by the employee in filing such claim belatedly.

4. Learned Labour Court as also learned Industrial Tribunal have recorded the finding of facts in the impugned orders as contained in Annexures- 1 and 2 that the petitioner failed to show sufficient cause in filing application under Section 28 (1) of the Act beyond the time prescribed. The claim filed on behalf of the petitioner was dismissed on the ground of limitation.

5. Learned counsel appearing on behalf of the petitioner though argued the matter at length, but he has not been able to point out either any procedural error or legal infirmity in the orders impugned.

6. In above view of the matter, particularly, in view of the finding of facts recorded by two courts, this Court finds no good ground to interfere with the impugned orders.

7. In the result, the writ petition has to fail and is, accordingly, dismissed. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

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