

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No 1118 of 2013**

**IN**

**Civil Writ Jurisdiction Case No 6439 of 2009**

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1. Kishore Kumar Ambashtha Son Of Late Haribans Prasad Resident Of Lig Flat No. 303, Block No. 4, Sector- 3, Bahadurpur Housing Colony, P.S. Agam Kuan, Patna-800 020

2. Siyaram Thakur Son Of Late Ram Kripal Thakur Resident Of Sahadev Kuti, Langer Toli Gali, P.S. Kadam Kuan, Town And District- Patna

.... .... Appellant/s

Versus

1. The State Of Bihar

2. The Deputy Labour Commissioner, Patna Division, Labour Resources Department, Government Of Bihar, Shram Bhawan, Bailey Road, Patna- 800 001

3. The Presiding Officer, Labour Court, Shram Bhawan, Bailey Road, Patna- 800 001

4. The Management, M/S Bharati Bhawan (P&D), Thakurbari Road, P.S.- Kadam Kuan, Patna- 800 003

.... .... Respondent/s

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For the Appellant/s : Mr Siyaram Thaku (In Person)

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**CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH**

**And**

**HON'BLE JUSTICE SMT NILU AGRAWAL**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)**

**Date: 19-07-2016**

Delay in filing the appeal is condoned.

**2** Heard Shri Siyaram Thakur in person who is appellant No 2 and, being the Secretary of the Union, submits that he has authority to appear on behalf of Kishore Kumar Ambastha as well.

**3** The two of the appellants claim to be employees of M/s Bharati Bhawan (P&D), respondent No 4. They claim that though the Management of Bharati Bhawan was paying minimum statutory bonus at the rate of 8.33% to its employees but when the employees

demanded higher bonus, some of the employees were given the maximum bonus whereas some were denied the same. Thereafter, the employees made a representation to the Labour Commissioner who directed the Management to consider the same. The Management, not having changed its position, the appellants then filed an application under Section 33C (2) of the Industrial Disputes Act, 1947 (for brevity, *the Act*) in those proceedings. The Management took a preliminary objection that there being no quantified demand, the execution proceedings under Section 33C (2) of the Act were not maintainable. The Deputy Commissioner, Patna Division, Patna upheld the preliminary objection of the Management and dismissed the application of the appellants. It is this order that was challenged before the learned Single Judge and, in our view, the learned Single Judge rightly dismissed the writ petition holding that an application under Section 33C (2) of the Act was not maintainable where the amounts were not being quantified by any statutory authority or the amounts were not admitted.

**4** We have no reason to take a different view of the matter. This appeal is, accordingly, dismissed.

**(Navaniti Prasad Singh, J)**

**(Nilu Agrawal, J)**

**M.E.H./-AFR**

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