

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.322 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 16499 of 2001

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1. Mostt. Sabuhan Khatoon Wife of Late Jasimuddin Resident of village - Karup (Indrahiyan), P.S. Sasaram, District - Rohtas

.... Appellant/s

Versus

1. Bihar State Electricity Board, through its Chairman, Vidyut Bhawan, Now Bihar State Power Holding Company through its Managing Director - in - Chief, Bailey Road, Patna
2. General Manager - Cum - Chief Engineer, Central Area Electricity Board, Patna Now Bihar State Power Holding Company Ltd. Serpentine Road, Patna
3. The State of Bihar through the Secretary, Labour Department, New Secretariat, Patna
4. Deputy Labour Commissioner, Commissioner under Workmen's Compensation Act, Bailey Road, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajoy Kumar Chakraborty

For the Respondent/s : Mr. Madhukar Krishna Sinha- SC1

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

Date: 11-01-2017

Re.: Interlocutory Application No. 1272 of 2016

The I.A. has been filed for condonation of delay of 261 days in filing of the present Letters Patent Appeal.

For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.



Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No. 322 of 2016

The present Appeal has been preferred under Clause-10 of the Letters Patent of Patna High Court Rules, 1916 against the order dated 27.03.2015 passed by learned Single Judge of this Court in C.W.J.C. No. 16499 of 2001 whereby the order dated 13.09.2000 passed by the Deputy Labour Commissioner-cum-Commissioner, Workmen's Compensation Act, Patna in W.C. Case No. 11 of 2000 has been quashed holding that the power to decide the contested cases lies with the respective Presiding Officer of the Labour Court of the area concerned and not with the Deputy Labour Commissioner, hence all the batch writ applications including the writ application of the appellant were remanded back to the respective Deputy Labour Commissioners with a direction to transmit the record of the cases to respective Labour Courts who will decide the case on priority basis preferably within six months from the date of receipt of the file from the respective Deputy Labour Commissioner. The concerned Labour Court was given liberty to decide the cases even *ex parte* in case the parties failed to co-operate in the proceeding.

As the factual matrix of the case would unveil that the appellant preferred W.C. Case No. 11 of 2000 before the Deputy Labour Commissioner, Patna against Bihar Electricity Board, Patna



for compensation/pension/gratuity etc., claiming that her husband being employee of in Bihar Electricity Board was posted in the office of Junior Electrical Engineer, Electric Supply Sub-division, Dehri-on-Sone and got electric shock while working on the electric pole, consequently died during medical treatment on 14.08.1989 in Patna Medical College Hospital, Patna.

The Bihar Electricity Board entered appearance and raised objection on the question of jurisdiction of Deputy Labour Commissioner, Patna to decide the contested case since the notification dated 31st December, 1991 as contained in Annexure-3 to the writ application issued in exercise of the powers conferred by Sub-section (1) and (2) of Section 20 of the Workmen's Compensation Act, 1923, authorizes the presiding Officers of the Labour Court as ex-officio Commissioners for Workmen's Compensation to deal with all contested cases arising under the said Act and the Rules framed thereunder. Clause (a) of the said Notification reads as follows:-

“The Presiding Officers of the Labour Court, as ex-officio Commissioners for Workmen's Compensation shall deal with all contested cases arising under the said Act and the Rules framed thereunder.”

The Deputy Labour Commissioner-cum-Commissioner, Workmen's Compensation Act, Patna vide order dated 13.09.2000



allowed the claim of the appellant after condoning the delay of eleven years holding Bihar Electricity Board responsible for delay with 12% interest and 50% compensation on the total claim and directed to deposit the money in the court.

The Electricity Board preferred C.W.J.C. No. 16499 of 2001 claiming that the Deputy Labour Commissioner has no jurisdiction to hear and decide the contested case. Moreover delay of eleven years has been condoned without assigning any reason. The learned Single Judge disposed of the batch of the writ applications including the writ application of the appellant being C.W.J.C. No. 16499 of 2001 holding that notification dated 31st December, 1991 has been issued by Government of Bihar under sub-sections 1 and 2 of Section 20 of the Workmen's Compensation Act which provides that the Labour Commissioner being 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 Officers of the Labour Courts as ex-officio Commissioner under Workmen's Compensation Act who is authorized to deal with the contested cases. Hence, 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 and directed the Deputy Labour Commissioner to remand the file to the respective Labour Courts when the respective Labour Courts were directed to decide the case on priority basis preferably within six months from the date of receipt of the file from the respective Deputy Labour Commissioner with a liberty to decide the cases ex-party if the parties would fail to appear.

It is submitted by learned counsel for the appellant that Section 30 (1)(a) of the Employee's Compensation Act, 1923 provides that an appeal lies to the High Court against the order of the Commissioner. The Bihar Electricity Board in their written statement simply claims that the claim was contested one but no specific ground of it being contested one was pleaded. It is lastly submitted that if the contention of the appellant does not find favour then the Labour Court should be directed to dispose of the case expeditiously.

Learned counsel for the Bihar Electricity Board submits that as per the notification dated 31st December, 1991 as contained in Annexure-3 to the writ application, the contested case has to be decided by the Presiding Officer of the concerned Labour Court, hence the order of Deputy Labour Commissioner, Patna was absolutely without jurisdiction. The order of the Deputy Labour Commissioner, Patna reflects that on 13.09.2000, the written argument was submitted where it was claimed that the case was



contested one but the Deputy Labour Commissioner failed to decide the issue whether the case is contested one or not.

Considering the rival submissions of the parties, it is not in dispute that as per notification dated 31st December, 1991 as contained in Annexure-3 of the writ application, the Presiding Officer of the Labour Court is authorized to hear the contested case.

The claim of the Bihar Electricity Board that the case is contested one has been consistent which gets reflected from the order of Deputy Labour Commissioner, Patna dated 13.09.2000 passed in W.C. Case No. 11 of 2000. The relevant portion of order reads as follows:-

“प्रतीवादी के विद्वान अधिवक्ता ने दिनांक १३.०९.२००० को इस न्यायालय में लिखित बहस दाखिल किया जिसमें उन्होंने न्यायालय को बताने का प्रयास किया है कि यह मामला विवादित है । अतः मामला इस न्यायालय द्वारा सुनवाई किये जाने के क्षेत्राधिकार के बाहर है । इसे पीठासीन पदाधिकारी श्रम न्यायालय को स्थानान्तरित कर दिया जाय ।”

Moreover the case being contested one has also been pleaded in paragraph no.77 of the writ application which reads as follows:-

“That, the petitioner appeared and filed petition raising objections on the question of Jurisdiction to hear and decide the case by the Respondent no. 2 as for the contested case the Respondent no.2 has no jurisdiction and as per notification dated 31.12.1991 the Labour Court or respective jurisdiction has power and jurisdiction to hear and decide the case.”



Learned Single Judge also found the claim to be contested one as it has been recorded.

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

However neither written argument nor show cause submitted by Bihar Electricity Board before the Deputy Labour Commissioner-cum-Commissioner Workmen's Compensation is on record.

It is settled principle of law that the court or the authority cannot adjudicate the dispute without authority of law otherwise the order becomes nullity, even the agreement of the parties cannot confer the jurisdiction of the court or the authority who have no jurisdiction to deal with the matter.

In view of the discussions made above, we find no error with the order of the learned Single Judge. The learned Single Judge vide order dated 27.03.2015 directed the Labour Court to dispose of the appeal within a period of six months, even *ex parte*, from the date of receipt of the records from the court of Deputy Labour Commissioner, Patna, hence if the case has not been disposed of by the Presiding Officer, Labour Court, Patna then he is expected to dispose of the same within a period of two months from the date of receipt/production of the copy of this order.



Accordingly, the present Letters Patent Appeal is
dismissed.

(Hemant Gupta, ACJ)

Amrendra/-

(Dinesh Kumar Singh, J)

AFR/NAFR	NAFR
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