

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9828 of 2015

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1. Vijay Chaudhary @ Vijay Kumar Son of Lakshman Chaudhary Resident of Village- Shiv Asthan Thakurbari Raod Aurangabad, Police Station- Aurangabad, District Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, labour Welfare Department, Government of Bihar, Patna.
3. Deputy Labour Commissioner cum Appellate Authority, Magadh Commissionery, Gaya.
4. Assistant labour Commissioner Cum Authority, Dalmai Nagar,(Rohtas)
5. Labour Enforcement officer and inspector, Dalmaia Nagar,(Rohtas)
6. Sudama mistri@Sudama (Sharma) Son of Rambaran Mistri resident of Village-Nima, P.O. Nima Anjan P.s Madanpur, District Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Singh No-10, Adv.
Mr. Ashok Kumar, Adv.
For the State : Mr. Vijay Bharti, A.C. to SC-7
For Respondent No.6 : Mr. Lal Bahadur Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 27-07-2017

Heard Mr. Sunil Kumar Singh, learned counsel for the petitioner, Mr. Vijay Bharti, learned counsel for the State and Mr. Lal Bahadur Singh, learned counsel for the respondent no.6.

2. This writ application has been filed for quashing the order dated 15.04.2015 passed by the Deputy Labour Commissioner-cum-Appellate Authority, Magadh Division, Gaya in Minimum Wages Appeal Case No. 01 of 2013 whereby he has upheld the order dated 12.07.2012 passed by the Assistant Labour Commissioner-cum-



Authority, Dalmia Nagar in Minimum Wages Case No. 29 of 2003 and has directed the petitioner to pay a sum of Rs.34,650/- to the respondent no.6.

3. Respondent No.6 had filed a case bearing Minimum Wages Case No.29 of 2003 in the court of Assistant Labour Commissioner-cum-Authority, Dalmia Nagar under Minimum Wages Act, 1948 stating therein that he was engaged by his employer Vijay Chaudhary, i.e. the petitioner for work on daily wages at the rate of Rs.250/- per day. It is stated that though he worked for six months but only a sum of Rs.3,000/- was paid to him by the petitioner. He claimed for payment of the dues amount of his wages.

4. During pendency of the case, the petitioner expressed his willingness to compromise the matter with respondent no.6. He took several adjournments on the pretext of compromise but no compromise could be arrived at. The respondent no.6 also remained absent on the dates fixed by the Authority.

5. Considering the materials on record, vide order dated 12.07.2012, the Authority passed an order directing the petitioner to pay Rs.34,650/- to the respondent no.6.

6. Being aggrieved by the order dated 12.07.2012, the petitioner filed an appeal before the Deputy Labour Commissioner-cum-Appellate Authority, Magadh Division, Gaya vide Minimum



Wages Appeal No. 01 of 2013. After notice, the respondent no.6 appeared and filed his written statement. However, during hearing of the appeal, the petitioner continuously remained absent on several dates even after notices. Eventually, the appeal was fixed for ex-parte hearing. After going through the memo of appeal and the documents available on record, the Appellate Authority vide order dated 15.04.2015 dismissed the appeal and directed the petitioner to pay Rs.34,650/- within thirty days.

7. Challenging the aforesaid appellate order dated 15.04.2015, the petitioner has contended that since his wife had fallen ill and he was busy with her treatment at Vellore, he could not attend the proceedings before the Appellate Authority. His claim is that due to unavoidable reason and compelling circumstances he remained absent and thus the impugned order, which has been passed ex-parte against him, needs to be set aside. It has also been contended that though no amount is due and the entire payment of the respondent no.6 was made by the petitioner, he is still ready to pay a sum of Rs.15,000/- to the respondent no.6.

8. On the other hand, learned counsel for the respondent no.6 submitted that in the name of compromise the petitioner had taken several adjournments before the Appellate Authority but no genuine effort was made by him to compound the case. He has



submitted that the plea of the petitioner that he was busy with the treatment of his wife is also not true. He has contended that the findings of fact arrived at by the Assistant Labour Commissioner-cum-Authority and the Deputy Labour Commissioner-cum-Appellate Authority are based on sound reasoning and since there is no question of law involved in the case, it would not be proper for this Court to interfere with the concurrent finding of fact.

9. I have heard learned counsel for the parties and perused the record.

10. I find substance in the submission made on behalf of the respondent no.6. No question of law is involved in the present case. The facts involved in the case on the basis of relevant materials and documents have been considered by the Assistant Labour Commissioner-cum-Authority and the Deputy Labour Commissioner-cum-Appellate Authority exercising power under the Minimum Wages Act, 1948. From the order passed by the Authority, it would be evident that inspite of service of notice, the petitioner neither filed his show cause nor contested the claim of workman. He did not contest even before the Appellate Authority on merit. Firstly, he lingered the matter in the name of compromise and then abandoned his case. On the other hand, the claimant supported his claim of lesser payment of wages. The petitioner has failed to point out any error



apparent on the face of the record.

11. In that view of the matter, I see no merit in the present writ petition. It is accordingly dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	29-07-2017
Transmission Date	

