

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.956 of 2011
IN
Civil Writ Jurisdiction Case No. 2973 of 2010**

- =====
1. Parmeshwar Prasad. Son of Bhola Prasad, Vill Bharwalia Ps Majhaulla West Champaran
 2. Nageshwar Prasad, Son of Bhola Prasad, Vill Bharwalia Ps Majhaulla West Champaran

.... Appellant/s

Versus

1. The State Of Bihar
2. The Labour Commissioner Cum Appellate Authority, Dept Of Labour Resources, Bihar, Patna
3. The Assistant Labour Commissioner Bettiah West Champaran
4. M/S Sadhu Baba Zari Booti And Ayurvedic Medicines Shop West Champaran

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Brij Kishore Prasad

For the State : Mr. Arun Kumar Bhagat, AC to AAG 12

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 12-09-2017

Seeking exception to an order dated 10.05.2011 passed
by the learned Writ Court in CWJC No. 2973 of 2010 this appeal
has been filed under Clause 10 of the Letters Patent.

Respondents were working in the appellants'
establishment and filed a claim raising a dispute with regard to



non-payment of minimum wages to them. Matter went to the minimum wages authorities under the Minimum Wages Act which had initially refused to take cognizance of the matter and dismissed the claim by holding that the claim does not come within the purview of the Minimum Wages Act. After the order dated 07.08.2004 was passed the appeal was filed by the respondents workmen and on 27.04.2006 vide Annexure-2 the appellate authority found that the claim pertains to payment of wages, less than the minimum wages prescribed. Hence it comes within the purview of the Minimum Wages Act as the payment made to the workmen is less than the minimum wages prescribed and remanded the matter back to the authority concerned. The authority considered the matter and vide order passed in Annexure-3 dated 25th May, 2007 found that a sum of Rs.11,520/- has been paid less to the employee and directed for paying the aforesaid amount with three time penalty of Rs.34,560/- totaling Rs.46,080/- to each of them. The appeal filed against the aforesaid order having been dismissed the writ petition was filed by the employer and the learned Writ Court only on account of the fact that the question as to whether the claim is falling within the Minimum Wages Act or is only a claim for balance due other than the agreed rate, remanded back to the minimum wages authorities and, therefore,



this appeal by the employees.

Having considered the rival contentions and the orders in Annexures- P/3 and P/4 we find that it was a case of the employees that the minimum wages fixed and notified was not paid to them. Minimum wages notified was Rs.1920/- per month whereas they have been paid less wages @Rs.640/- per month. Their claim was to pay the difference of wages which is less than minimum wages paid, and this has been directed to be paid to the employees.

In our considered view, it was not necessary for the learned Writ Court to remand the matter back once it is a case of payment of wages less than the minimum wage notified. Even if it is a difference of amount of wages it is nothing but payment less than the one notified under the Minimum Wages Act and the jurisdiction was available to the statutory authority under the Minimum wages Act to decide the matter and this having been decided it was not necessary to remand the matter. The concurrent finding of fact based on evidence available on record passed by the Minimum Wages Authority and the appellate authority did not warrant any interference.

In view of the aforesaid, this appeal is allowed, the order of the learned Writ Court is quashed and the writ petition



stands dismissed and the orders passed by the competent authority and the appellate authority as contained in Annexures P/3 and P/4 dated 25.05.2007 and 04.01.2010 are upheld.

The appeal stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl

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