

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15377 of 2017

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Suresh Chandra Tripathi, Son of Late Chakrapani Pandya, Resident of Saidabad,
P.S. Pali, District Jehanabad. The then Panchayat Sachiv, Gran Panchayat, Jagpura,
Block Makhdumpur, District Jehanabad.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Labour Department, Govt. of Bihar,
2. The Collector, Jehanabad.
3. The Sub-Divisional Officer-Cum-Authority, Minimum Wages, Act, Jehanabad.
4. The Sharam Parwartan Padhakari, Makhdumpur, Jehanabad.
5. The Block Development Officer, Makhdumpur, Jehanabad.
6. Sri Rambali Prasad, Son of Late Nanhu Prasad, Resident of Village-Ganglobigha, P.S. Makhdumpur, District Jehanabad.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Pritish Kumar Lal, Advocate
For the Respondent/s : Mr. Sorvesh Kumar - GP24

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-04-2018

Heard learned counsel for the petitioner and the State.

2. In para-1, the petitioner has claimed for the following reliefs :-

“(i) An appropriate writ(s), order(s), directions(s) for quashing the order dated 01.09.2017 (Annexure-6) passed by the Sub-divisional Officer-cum-Authority, under



Minimum Wages Act, Jehanabad, i.e. respondent no. 2 in Minimum Wages Case No. 23 of 2013-14 whereunder the petitioner has been ordered to pay Rs.11,39,80/- (one lac. thirteen thousand nine hundred and eighty) towards the arrears of wages to 15 persons with penalty of Rs.11,39,80/- (one lac. thirteen thousand nine hundred and eighty) in total Rs.22,796,0/- (two lacs twenty seven thousand nine hundred and sixty) within one month from the date of order.

(ii) An appropriate writ(s), order(s), direction(s) for staying the operation of the aforesaid order dated 01.09.2017 (Annexure-6) passed in Minimum Wages Case No. 23 of 2013-14 pending disposal of this application.

(iii) To any other relief(s) to which the petitioner is found entitled to for giving complete justice to the petitioner.”

3. Learned counsel for the petitioner submitted that the order dated 01.09.2017 passed by the Sub-divisional Officer-cum-Authority under the Minimum Wages Act, Jehanabad in Minimum Wages Case No. 23 of 2013-14 whereby he has ordered the petitioner to pay Rs.11,39,80/- towards arrears of wages to 15 persons with penalty of rupees one lac thirteen thousand nine hundred and eighty within one month from the date of the order is illegal. He submitted that without holding any proper enquiry an



erroneous order has been passed.

4. On the other hand, learned counsel for the State has raised a preliminary objection that the petitioner has an alternative remedy of appeal and without availing the same an application under Article 226 of the Constitution of India be not entertained.

5. In reply, learned counsel for the petitioner submitted that the petitioner does not have the remedy of appeal and the order passed by the Authority is final. Hence, the application is maintainable before this Court.

6. Section 20 of the Minimum Wages Act, 1948 (for short 'the Act') deals with the claims to be made under the Act. Sub-section (1) of Section 20 prescribes that the appropriate Government may, by notification in the Official Gazette, appoint any officer to be the authority to hear and decide for any specified area all claims arising out of payment of less than the minimum rates of wages for any specified area all claims arising out of payment of less than the minimum rates of wages. Sub-section (2) of Section 20 of the Act stipulates that where an employee has any claim of the nature referred to in sub-section (1), the employee himself, or any legal practitioner or any official of a registered trade union authorized in writing to act on his behalf, or any Inspector, or any person acting with the permission of the authority appointed



under sub-section (1), may apply to such authority for a direction under sub-section (3). Sub-section (3) stipulates that when any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer, or give them an opportunity of being heard, and after such further inquiry, if any, as it may consider necessary, may, without prejudice to any other penalty to which the employer may be liable under this Act, direct in the case of a claim arising out of payment of less than the minimum rates of wages, the payment to the employee of the amount by which the minimum wages payable to him exceed the amount actually paid, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount of such excess.

7. In its application to the State Bihar vide Bihar Act 5 of 1983 certain amendments have been made in Section 20 of the Act. Sub-section (6) of Section 20 of the Act stipulates that every direction of the authority shall be final. However, amended sub-section (6) in respect of Bihar provides for the employer and the worker aggrieved by any direction made under sub-section (3) by an authority appointed under sub-section (1), on an application made under sub-section (2), may prefer an appeal within 30 days from the date of the direction before the authority. By the aforesaid amendment, after sub-section (6) (6-A) has been inserted wherein the appellate



authority has also been vested with power to condone delay on being satisfied that the appellant was prevented by sufficient cause from preferring appeal within a further period of 30 days.

8. In view of the fact that for enforcement of right flowing from the statutory provisions prescribed under the Act when the State Government has provided for specific forum of appeal, I am not inclined to entertain this writ petition under Article 226 of the Constitution of India as the petitioner has failed to avail of an equally efficacious alternative remedy. Accordingly, it is dismissed.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.04.2018
Transmission Date	NA

