

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16597 of 2016

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Raj Kumar Singh, Son of late Rajendra Singh, Resident of Village- Dharmpur Jarang, Police Station- Vaishali (Belsar O.P) in the District of Vaishali.

.... Petitioner

Versus

1. The State of Bihar through the Labour Commissioner, Government of Bihar, Patna.
2. The Labour Superintendent, Vaishali.
3. The Labour Enforcement Officer, Patedhi in the district of Vaishali.
4. The Addl. Collector, Vaishali at Hajipur.
5. The Circle Officer-cum-Authority, Minimum Wages Act-1948 Patedhi Belsar Circle in the district of Vaishali.
6. Birendra Das, Son of late Gopal Das Resident of Village-Dharmpur Jarang Police Station- Vaishali (Belsar O.P) in the District of Vaishali.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar, Advocate

For the Respondent/s : Mr. Kumar Samarjeet Singh, AC to SC-21

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 23-07-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

2. In instant writ petition, the petitioner has challenged the order dated 26.03.2016 passed by the Additional Collector-cum,-Appellate Authority, Vaishali in Minimum Wages Appeal No. 1 of 2013 by which the appeal preferred against the order dated 22.11.2011 passed by the Circle Officer-cum-Authority under the Minimum Wages Act (for short 'the Act') in Minimum Wages Case No. 01 of 2011-12 whereby and whereunder, the petitioner has been directed to pay sum of Rs. 16,020/- as wages



and Rs. 32040/- as compensation for the alleged violation of provisions of Section 20(2) of the Act has been dismissed. The petitioner has also challenged the notice dated 29.12.2011 issued to him for recovery of the amount from him for payment to respondent no. 6 in pursuance of the order passed by the Authority under the Act.

3. The facts of the case, in brief, are that after getting a written complaint from the respondent no. 6 regarding non-payment of minimum wages from the 2002 to 20.11.2010 by the petitioner, the Labour Enforcement Officer, Belsor made an inquiry into the matter. Thereafter, he filed a claim case in a prescribed Form-6 on 30.03.2011 on behalf of the respondent no. 6 before the Authority under the Act, which was registered as M.W. Case No. 1 of 2011-12. After hearing the parties and considering the evidence, the Authority passed an order dated 22.02.2011 in the said case directing the petitioner to pay a sum of Rs. 16,020/- as wages and Rs. 32,040/- as compensation to the claimant-respondent no. 6 for the alleged violation of the provisions of Section 20(2) of the Act. Against the aforesaid order dated 22.11.2011, the petitioner filed a writ petition bearing CWJC No. 5920 of 2012 before this Court, which was disposed of vide order dated 18.01.2013 giving opportunity to the petitioner to file an appeal with a direction to the



Appellate Authority to consider the appeal, if so filed against the aforesaid order dated 22.11.2011. In pursuance of the said order dated 18.01.2013, the petitioner filed Minimum Wages Appeal No.1 of 2013 before the Appellate Authority. After due consideration of the pleadings advanced on behalf of the parties, the Appellate Authority dismissed the appeal vide order impugned dated 26.03.2016 and affirmed the order dated 22.11.2011 passed by the Authority under the Act.

4. Assailing the aforestated order dated 26.03.2016, learned counsel appearing for the petitioner submitted that the order passed by the Authority which has been affirmed by the Appellate Authority is not sustainable in law. He contended that if the same is not set aside, the petitioner would suffer irreparable loss and injuries. He pleaded that even without proper enquiry as to whether respondent no. 6 had ever worked with the petitioner or not, the Authority had passed the impugned order and even the Appellate Authority did not decide the case on merit rather he dismissed the appeal on the ground that the petitioner had not deposited 50 percent of the claimed amount in order to make his appeal maintainable.

5. On the other hand, learned counsel appearing for the State submitted that the order passed by the Authority does not



suffer from any illegality. Cogent reasons were given by the Authority while passing the order against the petitioner and directing him to pay wages and compensation to the respondent no. 6 in terms of the Act. He contended that while filing the minimum wages appeal, the petitioner failed to deposit 50 percent of the claimed amount which is a statutory provision as envisaged under sub-Section (5-A) of Section 20 of the Act and in absence of the payment of the statutory amount, the Appellate Authority has rightly dismissed the appeal.

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

7. Under sub-section (5-A) of Section 20 introduced under the State Amendment, an employer at the time of hearing the application is required to deposit 50 percent of the claimed amount. Sub-Section (5-A) of Section 20 reads as under:-

“20. Claims-(1) xxx xxx xxx

(2) xxx xxx xxx

(3) xxx xxx xxx

(4) xxx xxx xxx

(5-A) At the time of hearing the Authority may direct the employers to deposit at least 50 per cent of claimed amount with the Authority excluding the amount of compensation. The said amount may be paid to the claimant which shall be adjusted subsequently with the decreed amount.”



8. Admittedly, the writ petitioner never deposited the aforesaid amount during the hearing before the Authority and in spite of the order dated 29.12.2011, he failed to deposit the amount awarded. As such, not a penny was paid to the respondent no.6 during pendency of the claim or thereafter. Non-payment of minimum wages to a workman is unconscionable and against the basic character of humanity. In absence of deposit of 50 percent of the amount awarded, if the appellate authority has dismissed the appeal, no fault can be found with the order impugned moreso, when the order has been passed by the appellate authority after giving proper opportunity to the petitioner.

9. The application being devoid of any merit is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.07.2018
Transmission Date	NA

