

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19210 of 2016

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Mukesh Kumar Sahani Son of Shree Laxman Sahani Resident of Village and Post
Office Bhore, P.S. - Khanpur, District - Samastipur.

.... Petitioner

Versus

1. The Union of India through the Cabinet Secretary, Ministry of Agriculture, Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi - 1.
2. The Cabinet Secretary, Ministry of Agriculture, Government of India, Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi - 1.
3. The Cabinet Secretary, Ministry of Labour and Employment, Government of India, Shram Shakti Bhawan, Rafi Marg, New Delhi - 1.
4. The Central Warehouse Corporation through Managing Director, Warehouse Bhawan, 4/1, Shri Institutional Area, August Kranti Marg, New Delhi - 16.
5. Managing Director, The Central Warehouse Corporation, Warehouse Bhawan, 4/1, Siri Institutional Area, August Kranti Marg, New Delhi - 16.
6. The Regional Manager, The Central Warehouse Corporation, Maurya Lok Complex, Block - A, 2nd Floor, Dakbunglow Road, Patna - 800001.
7. The Chief Labour Commissioner (Central), Ministry of Labour, Government of India, Shram Shakti Bhawan, Rafi Marg, New Delhi - 1.
8. The Director, Ministry of Labour (Wage Cell), Government of India, Shram Shakti Bhawan, Rafi Marg, New Delhi - 1.
9. The Regional Labour Commissioner (Central), Room No. 6/16, Block - A, 2nd Floor, Maurya Lok Complex, Dakbunglow Road, Patna - 800001.
10. The Food Corporation of India through its Chairman-cum-Managing Director, Barakhamba Road, New Delhi.
11. The General Manager, The Food Corporation of India, The Food Corporation of India, Arunachal Building, Exhibition Road, Patna.
12. The Employees Provident Fund through its Commissioner, Bhavishya Nidhi Bhawan, 14 Bhikajee Kama Place, New Delhi - 110065.
13. The Regional Commissioner, Employees Provident Fund, Bhavishya Nidhi Bhawan, Road No. 6, Serpentine Road, R - Block - M.L.A. Flats, Patna - 800001.
14. The State of Bihar through the Principal Secretary, Ministry of Labour, Vikash



Bhawan, Bailey Road, Patna - 800001.

15. The Labour Commissioner, Ministry of Labour, Government of Bihar, Vikash
Bhawan, Bailey Road, Patna - 800001.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Gyanendra Kumar Singh, Advocate

For the Respondent/s : Mr. Chitranjan Sinha, PAAG-2

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 06-09-2018

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

2. No one appears either on behalf of Union of India or on
behalf of Food Corporation of India.

3. In the present writ petition, the petitioner has prayed for
commanding the respondent-authorities to make payment of wages
at par with minimum wages fixed by the government notification
through Resolutions to the loading and unloading workers engaged
in the Central Warehouse Corporation (for short 'CWC') at different
depots with arrears of the minimum wages since 01.09.2010 and
other facilities as ensured under the Labour laws.

4. The petitioner claims that he is representing the loading
and unloading workers of the CWC depots located in the State of
Bihar through the letters of authorization. His contention is that the
CWC is an instrumentality of the Union of India and as such it



should act as model employer. It has established its godown at eight different places in the State of Bihar for the purposes of storage and distribution of the food grains on demand for the Food Corporation of India. Every depot in the State of Bihar has minimum 30 workers and maximum 73 workers who are working since last 30 years. Generally, workers are engaged in loading, unloading, staking, braking of staking and preparing the bags to 50 kg. They are engaged in loading after weighing and sewing the food grains bags to the concerned vehicles. The State of Bihar time to time fixed the minimum wages of the workers. The minimum wages for the workers is statutory in nature and no employer can pay the wages less than the minimum rates of wages. However, the workers of CWC depots of the State are not being paid as per minimum rates of wages fixed by the State of Bihar by different resolutions. Since 01.09.2010 they are being paid much less than the rates of the minimum wages.

5. On the other hand, learned counsel for the State raised a preliminary issue regarding the maintainability of the writ petition. He submitted that the writ petition is not maintainable in view of the fact that the petitioner has got an equally efficacious statutory remedy under Section 21 of the Minimum Wages Act, 1948 (for short 'the Act').

6. In reply to the preliminary objection, learned counsel



for the petitioner submitted that availability of a statutory remedy cannot be a ground for not entertaining the writ petition under Article 226 of the Constitution of India. He contended that in view of the fact that the case concerns to poor workman working in different depots and the matter be heard and decided by this Court.

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

8. I find force in the submission made by the learned counsel for the State.

9. In case of payment of less than minimum rates of wages or in respect of payment of remuneration for days of rest or for work done on such days under clause (b) or clause (c) of subsection (1) of Section 13 of the Act or of wages at the overtime rate under Section 14 of the Act to the employees employed in any establishment, a claim can be made by the aggrieved persons under Section 21 of the Act before the authority notified in the official gazette appointed by the appropriate government. Since the claim of the petitioner is confined to payment of less than minimum rates of wages to the workers of the CWC, an equally efficacious remedy is available to him for the redressal of his grievance.

10. It is true that availability of an alternative remedy alone cannot be a ground for not entertaining the writ petition under Article 226. However, in several cases the Supreme Court has held



that when there is specific statutory remedy available, the High Court should not entertain the writ jurisdiction.

11. **In Titaghur Paper Mills Co. Ltd. v. State of Orissa**

[AIR 1983 SC 603] the Supreme Court held as under :-

“11. Under the scheme of the Act, there is a hierarchy of authorities before which the petitioners can get adequate redress against the wrongful acts complained of. The petitioners have the right to prefer an appeal before the prescribed authority under sub-s. (1) of S. 23 of the Act. If the petitioners are dissatisfied with the decision in the appeal, they can prefer a further appeal to the Tribunal under sub-S. (3) of s. 23 of the Act, and then ask for a case to be stated upon a question of law for the opinion of the High Court under S. 24 of the Act. The Act provides for a complete machinery to challenge an order of assessment, and the impugned orders of assessment can only be challenged by the mode prescribed by the Act and not by a petition under Art. 226 of the Constitution. It is now well recognised that where a right or liability is created by a statute which gives a special remedy for enforcing it, the remedy provided by that statute only must be availed of....”

12. **In Whirpool Corporation v. Registrar of Trade**

Marks [1998 (8) SCC 1] the Supreme Court held as under :-



“15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged...”

13. In the instant case, the issue of fundamental right or that of violation of principle of natural justice is not involved. The payment of wages on any particular rate is also not without jurisdiction. The only claim of the petitioner is that the workmen are being paid wages less than minimum rate of wages fixed by the Government. For such violation of law, an effective efficacious remedy is available under the statutory provision of the Act.

14. In that view of the matter, I am not inclined to entertain the instant writ petition under writ jurisdiction.

15. Accordingly, it is dismissed with liberty to the



petitioner to approach the authority concerned under the Act for redressal of his grievances.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.09.2018
Transmission Date	NA

