

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6691 of 2017

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Pankaj Singh @ Pankaj Kumar Singh Son of late Ramloulin Singh Resident of Village- Bendaulya, P.S. Jandaha, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through Deputy Commissioner of Labour cum Workmen's Compensation Commissioner, Muzaffarpur.
2. Manti Devi Wife of late Shiv Kumar Rajak Resident of Village- Bendaulya, P.S. Jandaha, District- Vaishali.
3. Parmila Devi Wife of late Ram Loulin Singh
4. Manoj Kumar Singh Son of late Ram Loulin Singh
5. Saroj Kumar Son of late Ram Loulin Singh

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jay Ram Prasad
For the Respondent/s : Mr. Smt. Anuradha Singh-Sc21

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 22-11-2018 The petitioner has made two prayers in the present writ petition. They are,

- (i) for directing the respondent 1st set to provide proper opportunity to the petitioner for hearing in W.C. Case No. 6 of 2012 in which petitioner is opposite party; and
- (ii) for setting aside an order dated 15.06.2016 passed by Deputy Labour Commissioner-cum-Commissioner Workman's Compensation, Muzafarpur in Case No. W.C.-16 of 2012 by which prayer of the petitioner to re-hear the matter against the order dated 15.10.2015 has been



rejected.

A preliminary objection has been raised by the respondent no.2 regarding maintainability of the writ petition. As a matter of fact, final order has already been passed by the Deputy Labour Commissioner-cum-Commissioner Employees Compensation, Muzaffarpur in W.C. Case No. 16 of 2012 on 15.10.2015. Against a final order passed by the Deputy Labour Commissioner-cum-Commissioner Employees Compensation, Muzaffarpur, appropriate remedy is appeal under Section 30 of the Employees Compensation Act, 1923 before the High Court.

It would be evident from para 9 of the writ petition that the petitioner had preferred a Miscellaneous Appeal vide M.A. No. 848 of 2016 against the order dated 15.10.2015, but the same stood dismissed for default on 22.02.2016. The appeal was never restored. Thus, the order dated 15.10.2015 attained finality.

After dismissal of the Miscellaneous Appeal, the petitioner preferred an application before the Deputy Labour Commissioner-cum-Commissioner Employees Compensation, Muzaffarpur for re-hearing of the matter and the same was rejected by the Deputy Labour Commissioner vide order dated 15.06.2016. The said order dated 15.06.2016 has been



challenged in the instant writ petition.

In the opinion of this Court, when the statutory remedy of appeal has already been availed of by the petitioner against the order dated 15.10.2015, there could not have been any re-hearing by the Deputy Labour Commissioner and, thus, he has rightly dismissed the petition filed by the petitioner for re-hearing of the matter vide order dated 15.06.2016. I am also of the opinion that in the given facts and circumstances the petitioner cannot invoke the writ jurisdiction of this Court to challenge the order dated 15.06.2016.

The writ petition is not only misconceived but is an abuse of the process of the Court. Accordingly, it is dismissed.

(Ashwani Kumar Singh, J)

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