

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6073 of 2016

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Md. Jafar Ali Son of Late Sefayat Ali, Resident of Village- Dinara, P.S.- Dinara,
District- Rohtas at Sasaram.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary Labour department Govt. of Bihar, Patna.
2. Presiding Officer Labour Court Dalmia Nagar, Dist- Rohtas, Sasaram.
3. Labour Superintendent, Dalmian Nagar, Rohtas at Sasaram.
4. Sri Bechan Idris, Son of Md. Jalaludin, Resident of Village Dinara, P.S.- Dinara, District- Rohtas at Sasaram.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Naresh Chandra Verma, Advocate.
	:	Mr. Arun Kumar Lal, Advocate.
For the State	:	Mr. Kumar Ravish, Advocate.
For the Respondent no. 4	:	Mr. Harsh Singh, Advocate
	:	Mr. Ravi Shankar Chaudhary, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 27-08-2018

Heard learned counsel for the petitioner, learned counsel
for the State and learned counsel for the respondent no. 4.

2. The instant writ petition has been filed by the petitioner for quashing the order dated 22.12.2015 passed by the learned Presiding Officer, Labour Court, Dalmia Nagar in Minimum Wages Case No. 07 of 2010, as contained in Annexure- 7 to the writ petition, whereby and whereunder the petitioner has been directed to pay an amount of Rs. 76,320/- to the respondent no. 4 Bechan Idrisi (workman) within a period of two months from the date of the order.



3. Learned counsel appearing for the petitioner submitted that the Labour Superintendent (respondent no. 3) filed a claim petition under Section 20(2) of the Minimum Wages Act, 1948 (for short 'the Act') before the Presiding Officer, Labour Court, Dalmia Nagar on 30.10.2010 stating therein that the petitioner Md. Jafar Ali, who is the owner of a tailoring shop, had paid lesser wages to respondent no. 4 to the tune of Rs 5,264/- and, therefore, respondent no. 4 is entitled to get the same along with compensation of Rs. 1,52,640/-. He submitted that the said case was numbered as M.W. 07 of 2010 and notice was issued to the petitioner, who was the opposite party before the Labour Court. The petitioner appeared in the aforesaid case and filed his show cause reply on 30.07.2011 stating therein that respondent no. 4 was not his labour nor he is proprietor of tailoring shop and, therefore, there is no relationship of employer and employee between the parties and further the claim is time barred and neither the condonation petition has been filed nor the delay has been condoned. He pleaded that unfortunately the counsel for the petitioner left pairvi of the case without informing the petitioner and, therefore, the case was heard ex-parte. Four witnesses were examined on behalf of the applicant and thereafter the impugned order was passed by the Labour Court. He contended that the order impugned is illegal, arbitrary and not sustainable in the eyes of law.



4. Per contra, learned counsel appearing for the State submitted that the said claim petition was properly filed in the prescribed format under Section 20(2) of the Act. On the basis of the claim petition, notices were issued to the opposite party, who appeared and participated in the proceeding and filed his show cause reply denying therein that the respondent no. 4 was neither his labour nor he is the proprietor of M/s. Famous Tailor, Dinara and, therefore, there is no relationship of employer and employee between the parties. However, on his behalf, neither any oral nor any documentary evidence was produced before the Labour Court. The workman was himself examined as a witness and on his behalf three other witnesses, namely, Poonam Kumari, Labour Superintendent, Imamuddin @ Munna, Dinanath Sao @ Kesari were examined. Apart from oral testimonies, several documents were also produced by the workman before the Labour Court. After considering each and every aspect of the case as well as considering the show cause filed by the petitioner, the Labour Court passed the impugned order dated 22.12.2015, which is neither illegal nor unsustainable. He contended that no ground for interference with the impugned order is made out.

5. Learned counsel for the respondent no. 4 (workman) has raised a preliminary objection regarding maintainability of the writ petition. He contended that the writ petition is not maintainable as the



petitioner had an alternative remedy by way of statutory appeal, which he failed to avail.

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

7. Sub-clause (6) of Section 20 of the Act reads as under :

“(6) Every direction of the Authority under this section shall be final.”

8. Vide Bihar Act 5 of 1983, sub-section (6) of Section 20 of the Act has been substituted with effect from 30.01.1983, which reads as under :-

“(6) Any employer or 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, within 30 days from the date of the direction, prefer an appeal in such manner and to such Authority as the State Government may by notification specify in this behalf, and that Authority may, after hearing the appeal, confirm, modify or reverse the direction appealed against and no further appeal shall lie against the order made by such Authority in any Court of law”

9. After aforesaid sub-section (6), so substituted, following new sub-section, namely, (6A) has been inserted :—

“(6A) The Authority referred to in sub-section (6)



may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period specified in sub-section (6), allow the appeal to be preferred within a further period of 30 days but not thereafter.””

10. In view of the substituted sub-clause (6) of Section 20 of the Act, an appeal against an order passed by the authority could be preferred by an employee within 30 days of the order passed by the authority and only after showing sufficient cause for the delay with a maximum period of further 30 days but not thereafter.

11. In the present case, the impugned order was passed by the Labour Court on 22.12.2015. The petitioner did not file statutory appeal against the order impugned within the statutory period of 30 days. He also failed to file appeal after showing sufficient cause for delay within a further period of 30 days after expiry of the statutory period. He has filed the instant writ petition against the impugned order dated. 22.12.2015 only on 01.04.2016 i.e. beyond the maximum period of 60 days prescribed under the Act.

12. In that view of the matter, this court would not entertain this application in extraordinary writ jurisdiction after statutory period or even extended period without disclosing as to when the petitioner came to know about the impugned order and what occasioned the



delay in approaching this Court.

Resultantly, the writ petition is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/Sneha

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	30-08-2018
Transmission Date	

