

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8832 of 2017

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Mukesh Kumar S/o Late R.P. Ghosh M/s R.G. Software and Systems, Near Narayan Palace, Fraser Road, Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Commissioner of Labour-cum-Appellate Authority under M.W. Act, Department of Human Resource, Niyojan Bhawan, Bailey Road, Patna – 800001
2. Assistant Commissioner of Labour an authority order MW Act. Dalmia Nagar, Rohtas.
3. The Superintendent of Labour, Gaya.
4. The Superintendent, A.N.M.M.C.H., Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satyendra Krishna Prasad, Advocate
For the Respondent/s : Mr. Satya Prakash, AC to SC 22

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 19-04-2019

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

In the present case, the petitioner is challenging the order dated 05.06.2012 passed in Case No. 4-7 of 2012 by which the Assistant Labour Commissioner-cum-Authority under the Minimum Wages Act has assessed the difference of amount along with compensation to be paid to 40 persons working as Computer Operator.

It appears from the record that after receipt of the complaint filed by the Superintendent of Labour, Gaya, notices were issued to the Superintendent of Anugrah Narayan Magadh



Medical College Hospital, Gaya along with Mukesh Kumar, Director of M/s. R. G. Software and Systems, Narayan Palace, Patna. The Superintendent of Anugrah Narayan Magadh Medical College Hospital, Gaya appeared and gave his evidence stating therein that for one system, the hospital had giving Rs. 8,500/- and, accordingly, the Authority has taken the minimum wages fixed for the University and cultural educational institutions and on that basis, the calculation has been made. The appeal has been filed before the Commissioner of Labour-cum- Appellate Authority under Minimum Wages Act vide Appeal No. 18 of 2012, which has been rejected vide order dated 09.03.2017.

Learned counsel for the petitioner submits that he could not participate in the proceeding as he could not file any show cause having stated that he does not fall under the category of University/ Cultural educational institutions and wrongly difference of wages has been calculated in the term though he has already paid only Rs. 2500/-per month, whereas minimum wages for the same is Rs.4758/-.

As the petitioner could not participate in the proceeding and an ex-parte order has been passed, in such view of the matter, order dated 05.06.2012 passed by the Assistant Labour Commissioner-cum-Authority and order dated 09.03.2017 passed



by the Commissioner of Labour-cum-Appellate Authority are set aside.

It does not appear from the record that any minimum wages has been fixed by the State Government for the Computer Operator and the Authority can enforce the wages fixed under the Minimum Wages Act not the wages as has been agreed between the parties and nowhere the order does reflect that any minimum rates of wages have been fixed for Computer Operator by the State Government.

Accordingly, this writ application is allowed.

The petitioner is directed to appear before the Authority on 10.06.2019 and the Authority will not be obliged to give any notice to the petitioner. If the petitioner fails to appear on the said date, the Authority will be at liberty to decide the case on its own merit in accordance with law.

(Shivaji Pandey, J)

V.K.Pandey/
S. Katyayan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.04.2019
Transmission Date	NA

