

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2388 of 2017

=====

M A C M E T India Limited, having its Corporate Office at: 10-B, O.C. Ganguly Sarani, Kolkata-700020, West Bengal, represented through its authorized signatory, namely, Mr. Arijit Roy, Son of Shri Samarendra Roy, Presently residing at 11, Jashor Road, Dumdum, P.O. Mall Road, P.S. Dumdum Cantonment, Kolkata-700080, District North 24 Parganas, W.B.

... .. Petitioner

Versus

1. The Union of India, represented through the Secretary, Ministry of Labour and Employment, Rafi Marg, New Delhi.
2. The Regional Labour Commissioner (Central), Maurya Lok Complex, 'A' Block, 2nd Floor, Room No. 6/16/17, Patna-900001, Bihar.
3. The Labour Enforcement Officer, Central, Imamganj, Behind Naka No.4, Purani Naka Chowk, Muzaffarpur, Bihar.
4. M/s Larsen and Toubro Limited, L & T Railway Business Unit, 12/4, Delhi Mathura Road, National Capitals Regions, Faridabad-121003, Haryana.
5. Md. Asif Iqbal, Son of Abdul Jabbar, resident of Village- Lokhnowara, P.O. Kishunpura, P.S. Basantpur, District-Siwan- 841416, Bihar.

... .. Respondents

=====

Appearance :

For the Petitioner/s	:	Mr. Kumar Ravish, Advocate
For Union of India	:	Mr. A.K. Pandey, Advocate
For Respondent No.5	:	Mr. Mr. Amish Kumar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 14-05-2019

Heard learned counsel for the petitioner, learned counsel for the Union of India and learned counsel for private respondent no.4, who has been appointed by the Patna High Court Legal Services Committee.

2. In this case, the petitioner is challenging the order dated 18.08.2016 passed by the authority under the Minimum Wages Act-cum-Regional Labour Commissioner (Central),



Patna, whereby and whereunder he calculated the amount of Rs.1,82,580/- as overtime arrears and Rs.10/- as compensation.

3. From the record, it appears that the petitioner, at the initial stage, was working on temporary basis at the project site at Chapra. His basic work was installing conveyor belt under a contract with Larson and Tourbo Limited, which was raising a RLBU- Rolling Stock, Cast Wheel Plant Project at village- Bela, Dariyarpur, District- Saran at Chapra. The petitioner was made permanent on 1st August, 2011 as Store Assistant, was transferred to Ghato Site (Jharkhand) but he never joined there. Whereafter, he was given the show-cause, but ultimately, he was re-transferred to Suli Site (Dalraghat), Himachal Pradesh, where he joined, but ultimately, left the job on 01.07.2014 without informing the competent authority as he remained absent from the site and lastly, he tendered his resignation citing his personal reason. Whereafter, the petitioner filed an application under the Minimum Wages Act for relief under different heads of statutory provision, but the present case is confined to the overtime wages from November, 2009 to July, 2011. The application under the Minimum Wages Act was filed on 30.09.2015, so all the claims are barred by limitation on account of fact that under Section 20 of the Minimum Wages Act, the authority can adjudicate the



matter of entitlement under the Minimum Wages Act preceding six months from the date of filing of the application and the entire period of claim is beyond six months, completely barred by limitation as none of the period of overtime wages is within six months as provided under Section 20 of the Minimum Wages Act, 1948. Section 20(2) provides the authority on showing sufficient ground of preventing to file the application, will condone the delay and would enter into adjudication of entitlement of claim made by the applicant.

4. Learned counsel for the private respondent has drawn the attention of this Court to Rules 24 and 25 of the Minimum Wages (Central) Rules, 1950, which prescribe the number of hour and the period for the work to be done by the employee employed with the establishment of the Central Government. Any period more than the time prescribed will be treated as overtime and for that the employee can make a prayer for payment of the overtime, for that the private respondent has filed an application, on receipt of notice, the petitioner filed written statement, wherein plea has been taken that all the certificates which have been attached or mentioned in the application are forged and bogus documents as the letter-head has been stolen, misused the same as forged certificate has been



created with fabricated and tampered signature, for that the management has lodged a criminal case before the Bhawanipur Police Station, pending before the Metropolitan Magistrate, Kolkatta.

5. This case has nothing to do with the criminal case with regard to genuineness on the signature of the certificate, but the present case is only limited as to whether the authority could have exercised the power under Section 20 of the Minimum Wages Act without condoning the delay in the event that no application for condonation of delay has been filed, in case, the claim is barred by limitation. The authority would adjudicate the dispute on merit only when proper application is filed satisfying that he was prevented on proper ground, failed to file application within time, explaining the cause of delay in filing the application. On condonation of delay, the authority will have jurisdiction to deal with the merit of the case. In the present case, the authority has committed an error as without condoning the delay the authority has directly decided the case on merit without examining the fact that claim of the petitioner is suffered from great delay and proper application for condonation of delay has not been filed.

6. In such view of the matter, the order dated



18.08.2016 passed by the Regional Labour Commissioner (Central), Patna, is quashed. The matter is remanded back to the Regional Labour Commissioner (Central), Patna. Both the parties will have liberty to raise all the points as well as led their evidences in support of their respective cases before the authority. Let both the parties remain present before the Regional Labour Commissioner (Central), Patna on 20.06.2019. It will be treated to be proper and sufficient notice for their presence at the office of the Regional Labour Commissioner (Central), Patna, who will not be required to inform next date of hearing to both the parties and conclude the entire proceeding within six months from the date of first appearance of the parties. This Court is not giving any opinion of the merit of the case.

7. With the aforesaid observations and directions, this writ petition is allowed to the above extent.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	16.05.2019
Transmission Date	

