

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.282 of 2013

Against the order dated 13.09.2000 passed by the Deputy Labour Commissioner, Patna in Workmen Compensation Case No. 10 of 2000.

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Bihar State Power Holding Company (Formerly Known as Bihar State Electricity Board) through its General Manager-cum-Chief Engineer, Central Electric Supply Area Central, Patna

... .. Appellant

Versus

1. Ram Sundri Devi, W/o Sone Lal @ Sonilal, Resident of Village Kajipur (Dumri), P.S. Simri, District Buxar
.....Claimant-Appellant.....Respondent
2. The Deputy Labour Commissioner-cum-Commissioner Workmen's Compensation, Baily Road Patna – 1
..... Respondent

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Appearance :

For the Appellant	:	Mr. Vijoy Nandan Sahay, Advocate
For the Respondent	:	Mr. Ajoy Kumar Chakrabarty, Advocate
For the State	:	Mr. Arun Kumar Sinha, A.C. to G.P. 24

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 21-01-2019

Heard learned counsel for the parties.

2. This appeal has been preferred against order passed by the Deputy Labour Commissioner, Patna in Workmen Compensation Case No. 10 of 2000 on 13.09.2000 whereby the appellant was directed to deposit the compensation amount along with interest of 12 per cent for delay in payment and 50 per cent of the claimed amount as compensation.

3. The impugned order has been challenged on the ground that the Deputy Labour Commissioner has no jurisdiction to



decide contested cases. The impugned order would reveal that the matter was contested by the appellant, hence, this should have been decided by the Labour Court under the Workmen's Compensation Act.

4. This appeal is barred by limitation of two years and odd. The delay is explained in I.A. No. 2707 of 2013 by submitting that initially C.W.J.C. No. 4174 of 2001 was filed by the appellant against the impugned order and the writ petition was allowed and the matter was remitted back for fresh adjudication by the competent court. The order of the writ court was challenged by the respondent-Ram Sundari Devi in whose favour compensation was allowed in L.P.A. No. 280 of 2008. A Division Bench of this Court allowed the L.P.A. with liberty to the present appellant to move in appeal under Section 30 of the Workmen's Compensation Act in accordance with law. The L.P.A. Court, further, directed that if there is any statutory limitation for the same, the appellant may file an adequate application for condonation of delay in which it may take various grounds including the fact that the case was pending before this Court for a long time.

5. Considering the aforesaid finding of the L.P.A. Court, the delay in filing of this appeal is condoned.

6. Learned counsel for the appellant submits that the law has been settled by a Division Bench of this Court in L.P.A. No. 322 of 2016 that the Deputy Labour Commissioner cannot decide



contested cases, rather contested cases are to be decided by the Labour Court of the respective jurisdiction. Accordingly, the Division Bench remitted back the matter with a direction that the record of the case be transmitted to the Labour Court, Patna and the Labour Court, Patna was directed to dispose of the same preferably within a period of two months from the date of receipt/production of a copy of the order.

7. The present case is also squarely covered by the judgment of the Division Bench in L.P.A. No. 322 of 2016, hence, this Court holds that the impugned order is not sustainable in law because it has not been passed by an incompetent authority. Accordingly, the same is set aside and the matter is remitted back to the Deputy Labour Commissioner to immediately transmit the record of the case to the Presiding Officer, Labour Court, Patna. On receipt of the record, the labour court shall decide the matter without allowing any adjournment to any of the parties preferably within a period of two months.

8. With the aforesaid observation, this appeal stands allowed with no cost.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
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