

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 15011 of 2013

Arising Out of Complaint Case No.-1241(C-2) Year-2010 Thana- PATNA COMPLAINT
CASE District- Patna

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1. Whirlpool of India Ltd., A Company Incorporated Under the Companies Act, 1956, having its Registered Office at Plot No. A-4, MIDC, Ranjangaon, Taluka-Shirur, Pune-412220 and Branch Office at Shalimar Cold Storage Compound, New Bypass Road, Anishabad, Patna, Bihar represented through Pawan Kumar Singh, Branch Commercial Manager, Patna, Bihar.
 2. Mr. Arvind Uppal, Managing Director, Whirlpool of India Ltd. having his Office at Plot No.-40, Sector-44, Gurgaon (Haryana).
 3. Mr. Himanshu Kumar, Branch Commercial Manager, Whirlpool of India Ltd. A-204, Kailash Industrial Complex, Veer Savarkar Marg, Vikroli (W) Mumbai-72, Maharashtra.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Labour Enforcement Officer (Central), Mourya Lok Complex, 2nd Floor, A Block, Room No. 6 and 16, Patna, Bihar.
3. The Union of India, Ministry of Labour and Employment, Shram Shakti Bhawan, Rafi Marg, New Delhi- 110001.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Raju Giri and Mr. Avinash Kumar Singh, Advocates
For the Opposite Party/s	:	Mr. Ansuman Singh, C.G.C.
For the State	:	Mr. Jharkhandi Upadhyay, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH
ORAL JUDGMENT

Date : 25-01-2019



Heard learned counsel for the petitioners; learned A.P.P.
for the State and learned counsel for the Union of India.

2. The petitioners have moved the Court under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') for the following relief:

“That by this Petition filed under Section 482 of the Code of Criminal Procedure, 1973, the Petitioners are seeking quashing of the order taking Cognizance dated 29.09.2010, passed by the learned Chief Judicial Magistrate, Patna, in Complaint Case No. 1241(C-2) of 2010, whereby and whereunder, the learned Chief Judicial Magistrate, Patna, took cognizance of the offences alleged under Section 11 of the Payment of Gratuity Act, 1972 (hereinafter referred to as “the Act”) alleging nonpayment of interest due under the Act to three employees and nonpayment of gratuity due under the Act to one employee, and issued summons. The petitioners seek consequential and further reliefs, final as well as interim, in the petition.”

3. The allegation against the petitioners, which is the Company and its officials is of non compliance of the deficiency pointed out in the inspection report relating to non payment of interest due to delay in payment of gratuity to three persons and further non payment of gratuity to another person, under the Payment of Gratuity Act, 1972 (hereinafter referred to as the 'Act').

4. At the very outset, learned counsel for the petitioners filed supplementary affidavit on behalf of them and took a



categorical stand that as of now, they have not only complied with the deficiency pointed out in the report relating to payment of gratuity but in fact have also paid up-to-date interest on delayed payment of interest to all the concerned four employees. In support of such contention, learned counsel referred to copies of various documents which have been brought on record in the supplementary affidavit filed today on behalf of the petitioners which gives details of calculation and the amount paid to the said four employees. It was submitted that there being no *mala fide* or deliberate intent to defy the law and now they having complied with the deficiency and having paid the entire dues to the employees under the Act, the Court may interfere by exercising its inherent power for securing ends of justice.

5. Learned A.P.P. and learned counsel for the Union of India submitted that the petitioners deserves to face trial for admitted non removal of the deficiencies pointed out and the complaint was maintainable in law and action against the petitioners is justified. Learned counsel for the Union of India further submitted that the Act being a beneficial legislation, law requires that it is to be read in distinction to penal statutes as it is for the welfare of the labour and has to be broadly and liberally construed having due regard to the directive principles of State



policy. For such proposition, learned counsel relied on the decision of the Hon'ble Supreme Court in the case of **Allahabad Bank v. All India Allahabad Bank Retired Employees Assn.** reported as **(2010) 2 SCC 44**, the relevant being at paragraph no. 16.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is persuaded to exercise its inherent jurisdiction under Section 482 of the Code. There cannot be any issue with regard to the stand taken by learned counsel for the Union of India that a beneficial legislation, which the Act is, has to be given a liberal interpretation and strictly enforced. Thus, to that extent, it was the liability created on the petitioner Company to discharge and make good the deficiencies reported in the inspection of the authorities under the Act. However, the intention of the legislation, in the considered opinion of the Court, is to benefit the employee. If a person is put behind bars, no benefit would accrue to the employee. On the other hand, the payment which the petitioners have made to the employees concerned of not only gratuity and interest, but also interest for the delayed payment of interest, the actual relief which the employee gets is the benefit under the Act. This having been done in the present case, the Court finds that the



intent and object sought to be achieved by the Act, being a welfare oriented legislation has been achieved and benefit accrued to the targeted section, i.e., the employees, as they have received their due and have also been duly compensated by interest on such dues. In that view of the matter, the Court finds that it would not be in the interest of justice to allow the complaint case to continue.

7. For reasons aforesaid, the application is allowed. The entire proceeding arising out of Complaint Case No. 1241(C-2) of 2010, including the order taking cognizance dated 29.09.2010 stand quashed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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