

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.66 of 2019

In

Civil Writ Jurisdiction Case No.7440 of 2010

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Rameakbal Pathak @ Ramekbal Pathak, Son of Late Kedar Nath Pathak,
resident of Village Niyajipur, P.S.- Simari, District- Buxar.

... .. Appellant/s

Versus

1. The State of Bihar Bihar.
2. The District Magistrate-cum-Collector, Buxar.
3. The Additional Collector, Buxar, District- Buxar.
4. The Sub-Divisional Officer, Dumraon, Buxar.
5. Labour Enforcement Officer-cum-Inspector, Minimum Wages, Simri, Buxar.
6. Shahabad Dugdh Utpadan Sahkari Sangh Ltd. through its Managing
Director Village- Katira, P.O. Katira, P.S.- Nawada (Ara), District- Bhojpur
(Ara).

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Prabhat Kumar Singh, Adv.

For the Respondent/s : Mr.Ajay Kumar Rastogi, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-02-2021

Heard the parties.

Being aggrieved by judgement and order dated
06.12.2018 passed in C.W.J.C. No. 7440 of 2010 passed by
learned Single Judge of this Hon'ble Court dismissing the writ
petition, appellant/petitioner has preferred this L.P.A.



Briefly stated, the facts of the case is that petitioner was appointed by the Shahabad Dugdh Utapadan Sahkari Sangh Ltd. to count the cattle heads and accordingly, petitioner performed his job, but wages on prescribed rate for the period from December 2001 to June 2002 amounting to Rs. 17,368.00/- was not paid.

Petitioner thereafter filed an application before the Labour Enforcement Officer, Simri for payment of the amount of Rs. 17,368/-. An inquiry was conducted and Labour Enforcement Officer found that wages of Rs. 17,368.00/- was not paid, as such directed Samiti for payment of said amount but no action was taken then Labour Enforcement Officer filed a case under section 20(2) of Minimum Wages Act, 1948 before the S.D.O., Dumraon, Buxar being Minimum Wages Case No. 21/06-07 and claim in form-7 was submitted on 20.03.2007.

Notice was issued to a Co-operative Samiti and representative of Samiti appeared before the S.D.O., Dumraon on 29.03.2007, however, they absented themselves in said proceeding and again a notice was issued on 22.06.2007 but they did not appear to contest the claim of respondent/appellant and thereafter S.D.O., Dumraon on the basis of materials available on record passed order dated 17.07.2007 in Minimum



Wages Case No. 21/06-07 and directed the Samiti to pay a sum of Rs. 1,73,680/- to the Claimant.

Against the order passed by the S.D.O., Dumraon, the respondent-Samiti filed appeal in the court of District Magistrate, Buxar on 22.08.2007 being Appeal Case No. 92/07 and notices were issued to the Claimant and Collector on 01.02.2008 stayed the order dated 17.07.2007 passed by Sub-Divisional Officer, Dumraon and thereafter by order dated 19.05.2009 transferred the appeal to the court of Additional Collector, Buxar who passed the impugned order.

It was submitted on behalf of respondent-Samiti that no notices were ever served upon them and proceeding was conducted *ex parte*. It was further submitted that there is no relation of employer and employee between claimant and Samiti. Samiti had entrusted work to village Co-operative Secretary, who had engaged the claimant, as such no case under Minimum Wages Act, is maintainable.

Appellate authority, after hearing the parties, allowed the appeal on the ground that there is neither any relation of employer and employee nor there is any contract between the parties and Samiti had not engaged the claimant for counting the cattle heads rather he was engaged by Supervisor of Village Co-



operative Samiti. Appellate Court further held that Co-operative Samiti was not granted any opportunity to present its case before the S.D.O, the original authority, as such order suffers from violation of principles of natural justice and allowed the appeal filed by the Co-operative Samiti, against which claimant filed writ petition which was dismissed by the writ court. The learned Single Judge, while dismissing the writ petition has held as follows:-

“16. From the reading of the said order, it does not appear what ground was taken by the applicant for not making the application within the prescribed period or what weighed in the mind of the authorized officer on the basis of which he thought it proper to condone the delay.

17. In that view of the matter, I set aside the order dated 07.03.2007 passed by the Sub-Divisional Officer, Dumraon, Buxar, in Minimum Wages Case No. 21 of 06-07. I am also of the opinion that the claim of the petitioner would be heard afresh by the Sub Divisional Officer on merit only if the Sub Divisional Officer is satisfied that the applicant had sufficient cause for not making the application within the prescribed period.”

After hearing both the parties and considering the materials available on record, this Court does not find any infirmity or error in the order passed by learned Single Judge, requiring any interference by this Court.

The LPA is, accordingly, dismissed. However,



S.D.O. Court shall decide the matter expeditiously, preferably within six months from the date of production/receipt of a copy of the order passed by this Court.

(Sanjay Karol, CJ)

(S. Kumar, J)

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

