

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46374 of 2015

Arising Out of PS. Case No.-6 Year-1995 Thana- GOVERNMENT OFFICIAL COMP.
District- East Champaran

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Raju Paschal Son of Late F. Paschal, Resident of J/10, P.C. Colony,
Kankarbagh, P.S.- Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

1. The Union Of India Through The Regional Labour Commissioner central,
Patna and Ors.
2. The Labour Enforcement Officer Central Motihari.
3. The Inspector under Minimum Wages Act, Motihari.
4. The Executive Engineer, Patna Central Division-II, Central Public Works
Department, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ravi Verma, Advocate
For the Opposite Party/s	:	Mr. Mr. Satyadarshi Sanjay, Advocate
For the UOI	:	Mr. Tuhin Shankar, Advocate, CGC

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 16-03-2023 Heard the parties.

The petitioner has moved for quashing of the order taking cognizance under Section 22(A) of the Minimum Wages Act, 1948 passed by learned Chief Judicial Magistrate, Motihari in Complaint Case No.6 of 1995.

Learned counsel for the petitioner submits that the inspection date is 27.09.1994 when following irregularities were found:

*1. The following notices were not
displayed at the main entrance of the*



establishment and its offices Rule-22:-

(a) Notice containing minimum rates of wages fixed in English and in Hindi.

(b) Notice containing abstracts from the acts and rules made there under in English and in Hindi.

(c) Name and address of the Inspector in English and in Hindi.

2. Master Roll in Form-V is not kept at the work spot, Rule-26(5).

3. Register of wages in Form-X is not kept at the work spot, Rule-26(1).

4. Register of overtime in Form-IV is not kept at the work spot, Rule-25(2).

5. Register of deductions for damage or loss in Form-II is not kept at the work spot Rule-21(4).

6. Register of Fines in Form-I is not kept at the work spot, Rule-21(4).

7. Wage slips are not issued at all, Rule-26(2).

However, as per the certificate given by the Central



Public Works Department, Government of India dated 10.10.1995 (Annexure-1) the date of start of the work was 14.07.1993 and the actual completion took place on 17.05.1994 and as such when the entire work stand finished on 17.05.1994 itself the visit of the abandoned site and looking into the irregularities does not arise. It has been submitted that taking into account the aforesaid fact the Ministry of Labour, Government of India vide an order dated 12-08-1997 held as follows:

This is an application filed by the Labour Enforcement Officer (Central), Motihari, here-in-after, called the applicant against Sh. Raju Pascal, Contractor, J-10 P.C. Colony, Kankerbagh, Patna, here-in-after called the Opponent under sub-sec(3) of section 20 of the Minimum wages Act, 1948.

This is an appeal of the opponent dated 07.05.97 against the ex- parte judgment of the Authority under Minimum Wages Act, 1948 and the Regional Labour Commissioner (Central), Patna dated 9.4.97.

The case of the applicant is that the establishment of opponent was inspected by him on



2.6.95 when it was found that five workmen were paid less than the minimum rates of wages as fixed by the Govt. amounting to Rs. 1150.00 (Rs one thousand one hundred fifty) only. The applicant, therefore, prays for direction and realization of said amount.

The case of the opponent is that the applicant inspected his establishment on 22.3.95 and as his above said work has already been completed on 17.5.94 i.e. after a lapse of about eleven months and in support of his contention he has submitted a copy of completion certificate issued by the Executive Engineer, Patna central division no. 11 CPWD Patna on 12.12.95 certified to the effect that the work has already been completed on 7.5.94.

It is seen from the case record that the establishment of opponent was inspected by the applicant on 22.3.95. On the other hand the opponent during the course of hearing challenged the inspection of his establishment by the applicant dated 22.3. 95 stating therein that the work of his



establishment had already been completed on 17.5.94 and in support of his contention he produced a copy of completion certificate i.e. Executive Engineer, Patna Central Division no. II, Patna on 12.12.95 certified to the effect that the work of Sh Raju Pascal opponent has already been completed on 17.5.94. He further requested the authority to drop the instant claim application as the inspection of his establishment was conducted by the applicant long after the completion of his work.

In counter the applicant stated that the establishment of opponent was inspected by Sh MA Nizami, the then Labour Enforcement Officer (Central) Motihari, therefore, he is not in a position to say anything more which are available record. The applicant could not produce a single copy of documentary evidence in his favour during the course of hearing.

On the foregoing discussions it is beyond doubt to say that the application could not prove the establishment of opponent and therefore, claim



application filed by the application fails and the appeal filed by the opponent sustains and I hold accordingly.

This is my order.”

Learned counsel for the petitioner submits that the aforesaid order clearly shows that the Labour Enforcement Officer (Central), Motihari failed to satisfy the office of the Regional Labour Commissioner (Central), Mourya Lok Complex, ‘A’ Block, 2nd Floor, Patna and the same was decided against the office and in favour of the petitioner herein. As such the continued prosecution for almost three decades is nothing but an abuse of process of law and needs intervention.

Mr. Tuhin Shankar, learned counsel appearing for the other side has tried to impress upon this Court on the conduct of the petitioner of having jumping bail time and again forcing the learned Sessions Judge to declare him an absconder. He as such opposes the prayer although he concedes that the work was finished long before the inspection and taking into account the aforesaid fact the office of the Regional Labour Commissioner passed the order dated 12.08.1997 after observing that the establishment had already been completed on 17.05.1994 and a certificate issued by the Executive Engineer, Patna Central



Division-2, Patna dated 12.12.1995 is/was already on record.

At this stage, learned counsel for the petitioner submits that it was only due to unawareness that he defaulted bail and it stood cancelled for which he submits his unconditional apology and further intends to pay Rs.3000/- to Patna High Court Legal Services Committee as an atonement.

Taking into account all the aforesaid facts certainly the petitioner has a case when there is document on record to show that the work started on 14.07.1993 and came to end on 17.05.1994, the alleged inspection on 27-09-1994 has no meaning, the said fact what has also been taken note of by the office of Regional Labour Commissioner in his order dated 12.08.1997 in case no. MW Claim (66)/1996.

Although the action of the petitioner in jumping the bail repeatedly, as finds incorporated in the order of the learned Sessions Judge is deprecable, as the petitioner on his own is paying Rs.3000/- to the Patna High Court Legal Service Committee and a receipt of the same will be filed in the office within a period of two weeks from today, this Court is inclined to extend him the relief.

In the aforesaid circumstance, the order dated 22.03.1995 by which cognizance under Section 22A of the



Minimum Wages Act, 1948 was taken by the court of learned
Chief Judicial Magistrate, East Champaran, Motihari in
Complaint Case No.06 of 1995 stands quashed.

The application preferred by the petitioner under
Section 482 of the Cr.P.C. is allowed.

(Rajiv Roy, J)

Prakash Narayan /-

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