

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15866 of 2022

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Dalmia Cement (Bharat) Limited through Rajesh Ranjan, Male, aged about 50 years, Deputy General Manager (Legal) having its registered office at Dalmiapuram, District- Tiruchirappalli, Tamil Nadu- 621651 ... Petitioner

Versus

1. The Union of India through Ministry of Labour and Employment, office at the Dy. Chief Labour Commissioner (Central) Room No.- 6/16, 2nd Floor, A Block, Mauraya Lok Complex, Patna- 800001.
2. Regional Labour Commissioner (Central), Patna.
3. Labour Enforcement Officer (Central), Gaya. ... Respondents

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Appearance :

For the Petitioner : Mr. Vaibhava Veer Shanker, Adv.
For the UOI : M/s Parul Prasad, Aditya Anand & Shailesh Anand, Advs.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

9 02-08-2024 Heard the parties.

2. The present writ petition has been filed for the following relief(s) :

“i) To issue a Rule NISI in the nature of writ of Certiorari; to quash and cancel the order dated 22/27.06.2029 by which the Regional Labour Commissioner (C), Patna had imposed a compensation of Rs. 12,74,001/- on the basis of a complaint filed under section 20(2) of the Minimum Wages Act, 1948 (hereinafter referred to as the Act) but not for the benefits of the workmen.

ii) To issue a writ commanding the respondents to refrain from taking any action in regard to an 'Establishment' having its place of business in the State of Bihar; because the 'Establishment' is situated in State of Bihar and as such the Government of



Bihar which is the 'Appropriate Government having authority of law to act through its competent officer to take any action in respect of such establishment in accordance with the provisions of the State Amendment and the Bihar Minimum Wages Rules 1951 framed by the State Government under section 30 of the Act and not the authority of the 'Central Government';

iii) To hold and declare that complaint filed by the respondent no. 2 was not maintainable when the immediate 'employer' had already complied with the direction / demand of the Labour Enforcement Officer (Central), Gaya, that to after 6(six) months after the date of inspection made by him; as also the employer was not a party to the proceeding;

iv) To issue other appropriate writ / writs, direction / directions, order / orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.”

3. Learned counsel for the petitioner has stated that the Regional Labour Commissioner (C), Patna, has imposed the compensation amount of Rs.12,74,001/- to the workmen on 22.06.2022 on the basis of a complaint filed under Section 20(2) of the Minimum Wages Act, 1948. That the said order has been passed on the complaint made by the Labour Enforcement Officer (Central), Gaya, and on the basis of an inspection report, dated 22.01.2019. That the petitioner is not the employer of the



employees and the contractor of the petitioner-company, i.e., the actual employer of the employees has already paid the difference of wages in the year 2019 itself. That the complaint application under Section 20(2) of the Minimum Wages Act, 1948, was registered after a lapse of more than 19 months at the instance of the Labour Enforcement Officer (Central), Gaya. That though cause of action for the authority to pass the said order, but, the impugned order has been passed in a mechanical manner without adverting to the facts of the case or the provisions of the Act more particularly the period of limitation for entertaining the complaint. That the proceedings initiated against the petitioner-company without making the contractor as a party-respondent who has engaged the workmen is not only contrary to the principles of law, but, also the principles of natural justice and equity. That the contractor who is the original employer has already paid the difference of the wages to the concerned workers in the year 2019 itself and the impugned order is passed without considering the said fact. Learned counsel has, therefore, prayed this Hon'ble Court to allow the present Writ Petition and set aside the impugned order, dated 22.06.2022, passed by the Regional Labour Commissioner (C), Patna.

4. In order to resolve issue in the present Writ



Petition, it is necessary to extract the relevant portion of the Minimum Wages Act, 1948, more specifically Section 20 which reads as under :

“(1) The appropriate Government may, by notification in the Official Gazette, appoint any Commissioner for Workmen's Compensation or any officer of the Central Government exercising functions as a Labour Commissioner for any region, or any officer of the State Government not below the rank of Labour Commissioner or any other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the Authority to hear and decide for any specified area all claims arising out of payment of less than the minimum rates of wages or in respect of the payment of remuneration for days of rest or for work done on such days under clause (b) or clause (c) of sub-section (1) of section 13 or of wages at the overtime rate under section 14, to employees employed or paid in that area.

(2) Where an employee has any claim of the nature referred to in sub-section (1), the employee himself, or any legal practitioner or any official of a registered trade union authorized in writing to act on his behalf, or any Inspector, or any person acting with the permission of the Authority appointed under sub-section (1), may apply to such Authority for a direction under sub-section (3):

Provided that every such application shall be



presented within six months from the date on which the minimum wages, or other amount became payable:

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the Authority that he had sufficient cause for not making the application within such period.”

5. A perusal of the above provision reveals that any person who is aggrieved may file a complaint before the concerned authority within a period of six months from the date of the alleged violation. In this particular case the concerned contractor had already paid the difference of the wages in the year 2019 itself, but, the authority for the reasons best known has taken-up the complaint in the year 2021 and passed the order on 22.06.2022. A reading of the order reveals that the Labour Enforcement Officer (Central), Gaya, had filed a report to the effect that the difference of the wage amount was already paid and the statement of 13 workers who were present was also recorded and they have stated that the payment has already been credited to their bank accounts. However, the authority without taking the said statement into consideration has passed the impugned order directing the petitioner to deposit a one time



time compensation amount of Rs.12,74,001/- in favour of the Ministry of Labour & Employment. It is pertinent to note that the petitioner is not the employer of the workers who were engaged for the work, but, they were the workers of the contractor, i.e., M/s Tribhuvan Carrier Pvt. Ltd., but, the said person was not made a party to the proceeding. The impugned order is liable to be set aside on the ground that the same is against the provisions of Section 20(2) of the Minimum Wages Act, 1948, wherein a time limit of six months have been fixed and also for not making the actual employer, i.e., M/s Tribhuvan Carrier Pvt. Ltd. a party respondent to the above said proceeding. Once it is established that the difference of wages were already paid way-back in the year 2019 there was no cause of action for the authority to take-up the matter after lapse of more than 19 months and pass the impugned order.

6. Having regard to the above the impugned order, dated 22.06.2022, is set aside. The Writ Petition is allowed to the extent indicated above.

(A. Abhishek Reddy , J)

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