

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25626 of 2019

=====

Rambali Prasad Son of Late Nanhu Prasad Resident of Village- Ganglobigha,
P.S.- Makhdumpur, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar Through the District Magistrate, Jehanabad.
2. The District Magistrate-cum- Collector Jehanabad.
3. The Minimum Wages Act 1948 Appellate Tribunal Jehanabad Through the Additional Collector, Jehanabad.
4. The Additional Collector, Jehanabad.
5. The Sub- Divisional Officer Jehanabad.
6. The Labour Enforcement Officer Makhdumpur, Jehanabad.
7. The Block Development Officer Makhdumpur, Jehanabad.
8. The Labour Enforcement Inspector Makhdumpur, Jehanabad.
9. The Panchayat Secretary Gram Rajya Panchayat Jagpura Makhdumpur, Jehanabad.
10. The Mukhiya Gram Rajya Panchayat Jagpura, Makhdumpur, Jehanabad.
11. Sri Suresh Chandra Tripathi Son of Chakrapani Pandya Resident of Village- Saidabad, P.S.- Pali, District- Jehanabad the then Panchayat Secretary, Gram Panchayat Jagpura, P.S.- Makhdumpur, District- Jehanabad.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Binod Kumar, Adv.
For Respondent No. 11	:	Mr. Jai Prakash Verma, Adv.
For the Respondent/s	:	Mr. Archana Meenakshee (Gp6)

=====

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

8 06-02-2024 Heard the learned counsel for the parties.

The present writ petition has been filed for the
following reliefs:-

*“That this is an application for
issuance of an appropriate writ(s), order(s),
direction(s) for quashing the order dated
14.07.2019 passed in minimum wages
Appeal No 01/2018-19 by the learned
minimum wages Appellate Tribunal,*



Jehanabad whereby and where under the learned Appellate Tribunal, Jehanabad was pleased to allow the abovesaid Appeal No 01/2018-19 and was also pleased to quashed the order dated 01.09.2017 passed in Minimum Wages Case No 23/2013-14 by staying the execution of order dated 01.09.2017 and after quashing the abovesaid order dated 14.07.2019 respondents be directed to pay Rs. 227960/- to the petitioner as per direction given in the order dated 01.09.2017 along with statutory interest and to grant any consequential relief for which petitioner may found entitled in accordance with law.”

3. Learned counsel appearing on behalf of the petitioner has stated that the impugned order passed by the authority is illegal, arbitrary bad and beyond the jurisdiction of the Appellate Authority. That the respondent No. 11 has preferred an appeal beyond the period of limitation prescribed under the Minimum Wages Act, 1948 and the Appellate Authority has not only entertained the same but also allowed the appeal filed by the respondent No. 11. Learned counsel has drawn the attention of this Court to Section 20 Sub-Clause 6 of the Minimum Wages Act, 1948 to buttress his contention. Learned counsel has stated that the period of limitation under the Minimum Wages Act, 1948 for filing an appeal is thirty days and thereafter, as per the amended provisions a further period of thirty days can be condoned by the Appellate Authority if sufficient cause is shown. Learned counsel has stated that the



order was passed by the authority under the Minimum Wages Act, 1948 on 01.09.2017 whereas the respondent No. 11 has preferred an appeal after a period of more than one and a half years. Learned counsel for the petitioner has stated that the very entertainment of the appeal filed by the respondent No. 11 after the period of limitation is over is bad in law and the same is liable to be set aside.

4. *Per contra*, learned counsel appearing on behalf of the respondent has vehemently supported the order of respondent No. 3. Learned counsel has stated that the respondent No. 11 has preferred the writ petition being CWJC No. 15377 of 2017 and after the dismissal of the said writ petition, the petitioner has approached the Appellate Authority. That the Appellate Authority has got ample power to condone the delay, if any, in filing the appeal. Learned counsel has stated that the order passed by the Appellate Tribunal is in consonance with well settled proposition of law and also the provisions of the Minimum Wages Act, 1948. Therefore, learned counsel has prayed that the present writ petition may be dismissed.

5. In order to decide the issue in the present writ petition, it is pertinent to extract the relevant portion of the Minimum Wages Act, 1948 for filing an appeal i.e. Section 20



Sub-Clause 6 which reads as under;

“(6) Any employer or worker aggrieved by any direction made under sub-section (3) by an authority appointed under sub-section (1), on an application made under sub-section (2), may, within 30 days from the date of the direction, prefer an appeal in such manner and to such Authority as the State Government may, by notification, specify in this behalf, and that Authority may, after hearing the appeal, confirm, modify or reverse the direction appealed against and no further appeal shall lie against the order made by such Authority in any Court of law.”; and

“(6-A) The Authority referred to in sub-section (6) may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period specified in sub-section (6), allow the appeal to be preferred within a further period of 30 days but not thereafter.”

6. Further, it is pertinent to note that in the earlier CWJC No. 15377 of 2017 filed by the respondent No. 11, this Hon’ble Court vide order dated 16.04.2018 has observed as under;

“In its application to the State Bihar vide Bihar Act 5 of 1983 certain amendments have been made in Section 20 of the Act. Sub-section (6) of Section 20 of the Act stipulates that every direction of the authority shall be final. However, amended sub-section (6) in respect of Bihar provides for the employer and the worker aggrieved by any direction made under sub-section (3) by an authority appointed under sub-section (1), on an application made under sub-section (2), may prefer an appeal within 30 days from the date of the direction before the authority. By the aforestated amendment, after sub-section (6) (6-A) has been inserted wherein the appellate authority has also been vested with power to condone delay on being satisfied that the appellant was prevented by sufficient cause from preferring appeal within a further period of 30 days.”



7. Admittedly in the present case, the order under the Minimum Wages Act, 1948, was passed by the authority concerned on 01.09.2017 and the petitioner has preferred an appeal after one and a half years i.e. much beyond the period of limitation fixed under the Minimum Wages Act, 1948 for filing the appeal. Any person who is aggrieved by an order passed by a competent authority under the statute has to approach the Appellate Tribunal well within period of limitation filed under the said statute. In this particular case, the period of limitation for filing an appeal is thirty days and the Appellate Authority has the power to condone the delay of thirty days. However, in this case, the petitioner has preferred an appeal after lapse of almost one and a half years, irrespective of the reasons for preferring an appeal after a period of one and a half years, the fact remains that the Appellate Authority did not have the jurisdiction to condone the delay more than thirty days after the initial period of thirty days has expired. Moreover, the order passed in CWJC No. 15377 of 2017 filed by the respondent No. 11 which are extracted above have become final as the respondent has not preferred any appeal against the said observation.

8. Having regard to the above mentioned facts and



circumstances, the present writ petition is allowed consequently, the impugned order passed by the Appellate Tribunal dated 14.07.2019 is set aside. The order of the Appellate Tribunal in entertaining the appeal filed by the respondent No. 11 beyond the period of limitation is without jurisdiction contrary to the provisions of the Minimum Wages Act, 1948 more specifically Section 20 Sub-Clause 6 and has to be necessarily set aside.

9. The present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

Ayush/-

U			
---	--	--	--

