

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.93 of 2024

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The Managing Director Bihar State Sugar Corporation Limited, Camp, Sugar
Cane Industries Department, Vikash Bhawan, New Secretariate, Patna Bihar.

... .. Petitioner/s

Versus

1. Ashgar Ali S/o Late Saudagar Ali R/o- VIII- Batraiya Bisa, P.O.-Balchari,
District-Gopalganj.
2. The Labour Superintendent, Bettiah, West Champaran, Bihar.
3. The General Manager, S.K.G. Consolidate Ltd., Distillery Department,
Lauriya, West Champaran.

... .. Opposite party/s

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Appearance :

For the Petitioner/s :	Mr. Gyan Shankar, Advocate
For the Opposite party/s :	Mr. Syed Firoz Raza, Advocate
	Mr. Hasnain Haider, Advocate

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CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
CAV ORDER

8 13-02-2025 This Civil Revision application has been filed against the impugned order dated 31.03.2023 passed by the learned Sub Judge-I, Bettiah, West Champaran in Execution Case No. 03 of 2022 wherein, the decree holder (opposite party 1st set) through Labour Superintendent, Bettiah filed an application for the execution of award passed on 15.05.2007 in favour of decree holder in Reference Case No. 03 of 2000, and the Execution Court allowed the execution petition and directed the judgment debtor to execute the award passed by the Labour Court within sixty days from the date of order.



2. The case of the opposite party 1st set (decree holder) is that he got employment in S.K.G. Consolidation Ltd, Distillery Division Lauriya, West Champaran in 1997 on the post of Electrician and thereafter, he was promoted to the post of Electrical Foreman in 1997. The services of decree holder was terminated on the ground of unauthorized absence *vide* letter no. 787 dated 28.08.1998. The information of which was never communicated to the decree holder. It is further contended that decree holder requested the Manager to allow him to join the duty but he was not allowed. Ultimately, the decree holder raised the dispute by his letter dated 07.02.1999 and its copy was forwarded to Assistant Labour Commissioner, Bettiah and conciliation with respect to the dispute was held. The conciliation failed as the Management refused to reinstate the decree holder. The Conciliation Officer submitted his report that the Government in exercise of powers conferred under Section 10(1)(C) of the Industrial Disputes Act, 1947 (in short ‘ the Act’) referred the dispute between management and workman to the Labour Court *vide* notification dated 29.05.2000 for adjudication on the following terms of reference:-

a. Whether the termination of services of Shri Ashgar Ali, Foreman (Electrical) M/S S.K.G. Distillery, Lauriya, West



Champaran is justified?

b. If not, what relief the workman is entitled to?

3. The learned Labour Court issued notices to the parties upon which the parties filed their respective written statement. The learned Labour Court vide its order dated 17.10.2003 made Bihar State Sugar Corporation Limited as respondent-party in the aforesaid reference case. In the said reference case, two witnesses were examined on behalf of the workman besides some documents were marked as exhibits.

4. On the other hand, on behalf of Management neither any witness has come to depose nor any document has been exhibited. The learned Labour Court after considering the pleadings of the parties and materials available on record passed an award in favour of the workman on 15.05.2007 which was published on 07.08.2007 wherein, it was held that the termination of the decree holder from services was not justified and it was also ordered to reinstate the decree holder and to pay 60% back wages with Rs. 10,000/- as a cost for the case. The learned Labour Court further directed the Management to pay the full salary of the decree holder with all consequential benefits from the date of award within sixty days.

5. It is further case of the decree holder that after



publication of award on 07.08.2007, an application along with copy of award was filed before the Magistrate In-charge cum Agriculture officer S.K.G. Consolidation Ltd, Distillery Division Unit Lauriya, West Champaran on 09.08.2007 i.e. after two days of publication of the award requesting him to allow the decree holder to join his office and also to pay his due as mentioned in the award. Pursuant to the application dated 09.08.2007, the District Officer, West Champaran sent a letter dated 19.07.2008 to the Sugarcane Commissioner, Patna, Bihar. In response to the aforesaid letter, Sugarcane Commissioner, Patna, Bihar sent a letter dated 10.11.2008 to the Accountant, Lauriya Distillery, West Champaran asking him to provide the details of the outstanding salary of the employees of the Lauriya Distillery. In response to the aforesaid letter, the Accountant, Lauriya Distillery sent letter dated 29.12.2008 informing him of the details of the outstanding salary of the employees of the Lauriya Distillery.

6. Further case of the decree holder is that despite the above actions and correspondences, the award passed in favour of the decree holder on 15.05.2007 and its publication on 07.08.2007 was not implemented. Thereafter, the decree holder submitted applications to the Hon'ble Governor, State of Bihar;



The Hon'ble Chief Minister, State of Bihar; Hon'ble Minister Labour Resource Department, Government of Bihar; Principal Secretary, Labour Resource Department, Patna; and Labour Commissioner, Labour Resource Department, Patna on 02.08.2010 for the implementation of the award passed on 15.05.2007 in Reference Case No. 03 of 2000.

7. A direction was sent by the Labour Commissioner, Bihar to the Assistant Labour Commissioner, Muzaffarpur on 30.11.2021 to ensure that action is taken as early as possible for execution of award and a copy of the letter was also sent to Labour Superintendent, Bettiah for necessary action. In view of the letter dated 30.11.2021, the Assistant Labour Commissioner, Muzaffarpur in coordination with Labour Superintendent, Bettiah filed an execution case bearing Execution Case No. 03 of 2022 in the court of Sub-Judge-Ist, Bettiah for the execution of award passed on 15.05.2007 in favour of decree holder in Reference Case No. 03 of 2000.

8. Learned counsel for the petitioner submitted that the instant execution case was hopelessly barred by limitation and the execution case is not maintainable as such. It is submitted that the award has been passed on 15.05.2007 and the instant execution case has been filed in the year 2022 i.e. after



more than 15 years of passing of the award. It is further referred that Section 11(9) and 11(10) of the Industrial Disputes Act (hereinafter referred to as the “Act”) provides procedure for execution of decree which reads as under:-

“11(9). Every award made, order issued or settlement arrived at by or before Labour Court or Tribunal or National Tribunal shall be executed in accordance with the procedure laid down for execution of orders and decree of a Civil Court under Order 21 of the Code of Civil Procedure, 1908 (5 of 1908).

11(10). The Labour Court or Tribunal or National Tribunal, as the case may be, shall transmit any award, order or settlement to a Civil Court having jurisdictional and such Civil Court shall execute the award, order or settlement as if it were a decree passed by it.”

9. It is further submitted that the award of Labour/Industrial Court would be executable like decree of Civil Court and the said award would be executable within prescribed period of 12 years as per the provision of Article 136 of Limitation Act, therefore, it is apparent that the said



execution application has been filed in the year 2022 for execution of award dated 15.05.2007 which is apparently barred by statutory period of limitation. Learned counsel for the petitioner further referred Section 17(A) and Section 19(3) of the Act which provides for the commencement of the award. A cumulative reading of both the provisions shows that an award can be maintained by the appropriate Government within one year from the date when it becomes enforceable under Section 17(A) which period can be extended by appropriate Government from only one year to the maximum of three years.

10. It is further submitted that application under Section 33C of the Act was filed in the year 2022. A reference has been made in the case of **Punjab National Bank Ltd. Vs. Kharbanda** KL 1962 (1) LLJ 234 SC wherein it was held that *“it is clear therefore that Section 33C is a provision in the nature of execution and where the amount to be executed is worked out or where it may be worked out without any dispute, Section 33C(1) will apply. But where the amount due to a workman is not stated in the award itself and there is a dispute as to its calculation, sub-section (2) will apply and the workman would be entitled to apply thereunder to have the amount computed provided he is entitled to a benefit, whether monetary*



or non-monetary, which is capable of being computed in terms of money.”

11. In the aforesaid circumstances, the present petition has to be treated under Section 33C(1) of the Act. The application has to be made before appropriate Government for recovery of money due to him provided that every such application shall be made within one year from the date on which the money become due to the workman from the employer. Admittedly, the present application was never filed before appropriate Government nor the application for condonation of delay was moved before the appropriate Government. It is also an admitted fact on record that this application has been filed beyond a period of one year and is thus beyond limitation. Moreover, the execution application is also barred under Article 136 of the Limitation Act in view of Section 11(9) and 11(10) of the Act. Therefore, the execution application is not maintainable.

12. On the other hand in reply to the provision of Section 11(9) which has been inserted by the Act 24 of 2010 with effect from 15.09.2010, learned counsel for the decree holder submitted that the said provision is not applicable to the present case.



13. Learned counsel for the petitioner further submits that for implementation of an award passed by a Labour Court/Tribunal, the adequate remedy is provided in Section 11(10) of the Act and further Section 33C(1) of the Act provides for some modalities for filing application. The provision contained in Section 33C(1) of the Act reads as under:-

“Where any money is due to a workman from an employer under a settlement or an award or under the provisions of [Chapter V-A or Chapter V-B], the workman himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of



land revenue.”

14. Learned counsel for the decree holder submits that from a conjoint reading of Sections 11(10) and 33-C(1) of the Act, it would manifest that the award holder has the option either to move before the Labour Court for transmitting the award to the Civil Court and file an execution petition before it for implementation of the award, or to prefer an application under Section 33-C (1) of the Act to the appropriate government for the recovery of money due to him and if the appropriate government is satisfied that any money is so due, it is mandatory for the government to issue certificate for that amount to the Collector, who shall proceed to recover the same in the manner as arrear of land revenue. Reference has been made in the case of **Safiullah Vs. The State of Bihar through the Secretary, Department of Labour Resources, Government of Bihar and Others** in CWJC No. 14456 of 2014 passed by this Court wherein, the Bench of this Court has held that:-

“From a conjoint reading of Sections 11(1) and 33-C(1) of the Act, it would be manifest that the award holder has the option either to move



before the Labour Court for transmitting the award to the Civil Court and file an execution petition before it for implementation of the award, or to prefer an application under Section 33-C (1) to the appropriate government for the recovery of money due to him and if the appropriate government is satisfied that any money is so due, it is mandatory for the government to issue certificate for that amount to the Collector, who shall proceed to recover the same in the manner as arrear of land revenue. Further, under Section 33-C(2) where any workman is entitled to receive from the employer any money, which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should



*be computed in terms of Section 33-C
(2) of the Act, such question may,
subject to any rules, be decided by the
Labour Court as may be specified in
this behalf by the appropriate
government.”*

15. In view of the aforesaid provision of law and the Act applicable to present case as well as decision of the above noted case and materials on record, It is admitted fact that Government in exercise of power conferred under Section 10 (1) (C) of the Act referred the dispute between the Management and workman to the Labour Court *vide* notification dated 29.05.2000 for adjudication of terms of reference which is stated above. Accordingly, Reference Case No. 03 of 2000 was instituted in the Labour Court, Motihari, East Champaran. During the pendency, Presiding Officer made Bihar State Sugar Corporation and others as party in the reference case.

16. After hearing the case and considering the materials on record, the learned Presiding Officer passed its award dated 15.05.2007 whereby it has been held to reinstate the workman with 60% back wages from the date of reference. He was also made entitled to full payment of salary with all



benefits from the date of award. The said award was published on 07.08.2007. Soon thereafter, opposite party 1st Set (decree holder) filed application along with copy of award before the Magistrate Incharge cum Agricultural Officer S.K.G. Consolidation Ltd, Distillery Division Lauriya, West Champaran after two days of publication of award i.e. on 09.08.2007 requesting the authority to allow the decree holder to join office and also to pay back wages as mentioned in the award. The District Officer, West Champaran sent a letter bearing No. 736 dated 19.07.2008 to the Sugarcane Commissioner, Patna. The Sugarcane Commissioner sent a letter dated 10.11.2008 to the Accountant, Lauriya Distillery, West Champaran asking him to provide the details of the outstanding salary of the employees of the Lauriya Distillery. In compliance of said letter, the Accountant, Lauriya Distillery sent letter dated 29.12.2008 informing him of the details of the outstanding salary of the employees of the Lauriya Distillery. Despite the aforesaid correspondence, the award passed in Reference Case No. 03 of 2000 could not be implemented. The decree holder was constrained to submit the application to the Hon'ble Governor, State of Bihar; The Hon'ble Chief Minister, State of Bihar; Hon'ble Minister Labour Resource Department, Government of



Bihar; Principal Secretary, Labour Resource Department, Patna and Labour Commissioner, Labour Resource Department, Patna on 02.08.2010 regarding the implementation of the award passed on 15.05.2007 in Reference Case No. 03 of 2000. The authorities concern had taken steps on the application of the decree holder but no intimation regarding implementation of award was given by the Managing Director, Bihar State Sugarcane Corporation, Patna. The Joint Labour Commissioner, Patna sent a letter dated 20.04.2011 to the Labour Superintendent, Motihari and also to Assistant Labour Commissioner, Bettiah asking them that in case of non implementation of award, prosecution proposal be sent immediately against the Managing Director, Bihar State Sugar Corporation, Patna. Vide letter dated 16.12.2011, the Joint Labour Commissioner, Patna wrote a letter to Managing Director, Bihar State Sugar Corporation, Patna requesting him to implement the award within one month from the date of letter. Despite several directions by the authority concerned for implementation of said award to the Managing Director, Bihar State Sugar Corporation, the said award was not implemented due to which the decree holder submitted an application for implementation of the award in Janta Darbar of the Hon'ble



Chief Minister of Bihar. In response, the Under Secretary of the Government sent a letter dated 22.10.2021 to the Labour Commissioner, Patna for action on the application of the decree holder. The Labour Commissioner, Patna sent a letter dated 01.11.2021 to the Presiding Officer, Labour Court, Motihari informing him that since the award dated 15.05.2007 has not been implemented till date, action be taken as per rules under Reference Case No. 03 of 2000. In response to the aforesaid letter, the Presiding Officer, Labour Court, Motihari vide letter dated 18.11.2021 enquired about the legal aspect in the context of implementation of the award dated 15.05.2007 that the responsibility for execution of award passed under the Reference case lies with the appropriate Government. In view of the aforesaid letter of the Presiding Officer, the Labour Commissioner, Patna sent a letter to the Assistant Labour Commissioner, Muzaffarpur on 30.11.2021 to ensure that action is taken as early as possible for execution of award and copy of the letter was also sent to Labour Superintendent, Bettiah for necessary action.

17. In compliance of letter dated 30.11.2021, Ashgar Ali through Labour Superintendent filed an execution case bearing Execution Case No. 03 of 2022 in the Court of Sub



Judge-I, Bettiah for the execution of award passed on 15.05.2007 in favour of decree holder in Reference Case No. 03 of 2000.

18. From the above facts, it is apparent that the decree holder filed application before appropriate Government for implementation of award dated 15.05.2007 within one year and after due exercise of power, the Labour Superintendent, Bettiah on direction of the appropriate Government filed execution case in accordance with law. The said Execution case is in continuation of application filed by the decree holder on 09.08.2007 before appropriate Government i.e. Magistrate In-charge cum Agricultural Officer, who was appointed by District Officer which is well within the prescribed period of limitation.

19. In the present case, the execution of award has been filed by the decree holder through the State when the Government failed to execute the same. The State itself filed application before the Civil Court for execution of award. There is no question of delay in filing of the execution case in the present case.

20. In the aforesaid background, this Court does not find that the learned Court below has committed jurisdictional error or illegality in passing the impugned order.



21. Accordingly, the instant Civil Revision application
is dismissed.

(Khatim Reza, J)

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