
(2013) 01 JH CK 0078
In the Jharkhand High Court
Case No : WP (C) No. 1630 of 2008

Ashwini Kumar Srihan @ A.K. Srihan	APPELLANT
Vs	
The State of Jharkhand	RESPONDENT

Date of Decision : 24-01-2013

Acts Referred:

Citation : (2013) 138 FLR 189 : (2013) 2 JLJR 436 : (2013) 3 LLN 238

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : S.N. Das, for the Appellant;

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties. Petitioner has filed this writ petition challenging the entire proceedings initiated against the petitioner under the Minimum Wages Act, 1948, the order dated 17.6.2005 passed in Misc. Appeal No. 3/1995-96 and also the entire orders of Certificate Case No. 1/1995-96 as being illegal on the grounds that the minimum wages case instituted by the private respondents claiming themselves to be the employees were not covered under any schedule contained under the Minimum Wages Act. The private respondents have made a complaint and on the complaint, proceeding was initiated under the Minimum Wages Act at the instance of Labour Enforcement Officer on 31st May, 1994 against the petitioner for recovery of the amount of minimum wages alongwith the penalty. The said proceeding concluded ex-parte upon treating valid service upon the petitioner as he had refused to accept notice by order dated 21st September, 1995.

2. The petitioner had earlier came before this Court seeking waiver of pre-deposit of 50% amount when this Court in CWJC No. 4165/1996(R) directed the appellate authority to hear and decide the dispute in accordance with law without compelling the appellant to deposit 50% of amount before admission of the appeal in view of the judgment rendered in other cases. However, it appears that the appellate authority proceeded to hear the appeal and the same (sic) was dismissed for default by order dated 17.6.2005.

3. From perusal of the aforesaid order it appears that the petitioner has not taken interest before the appellate authority and has remained absent for consecutive dates whereas the State counsel was present. In that view of the matter, the appeal was dismissed for default. The petitioner once again came before this Court for a direction to the appellate authority to hear the application for restoration of the Misc. Appeal preferred by him. This Court in W.P.(L) No. 4927/2005 vide order dated 22nd November, 2005 directed the Additional Collector, Ranchi i.e. the appellate authority to dispose of the restoration application, if not already disposed of by passing a reasonable order within a period of two months. Thereafter, the appellate authority has passed the order on 20th December, 2005, whereby he has come to a finding that there was no restoration application on record for restoration of Misc. Appeal No. 3/1995-96 as claimed by the petitioner and, accordingly, there was no application to recall the dismissal order passed earlier. In the meantime, as it appears from the submission of learned counsel for the parties the certificate proceeding continued and amount awarded by the competent authority has been recovered from the petitioner. It further appears that though the appellate authority passed an order on 20th December, 2005 itself holding that there was no restoration application on record filed on behalf the appellant seeking restoration of the appeal earlier dismissed for default, the writ petitioner has approached this Court only in the year 2008 once again challenging the entire proceedings under the Minimum Wages Act as well as the proceeding in the appeal as also the certificate case. From the aforesaid facts and from perusal of the impugned orders, it appears that the entire minimum wages has been concluded and the appellate order has also attained finality. There was no restoration application on behalf of the petitioner for seeking restoration of the appeal and even the writ petition has been preferred with considerable delay of more than two years challenging the entire proceeding which has been initiated since 1994 itself. In that view of the matter, I am not inclined to exercise discretionary jurisdiction of this Court by granting any relief to the petitioner.