
(1987) 05 PAT CK 0037

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 497 of 1980 (R)

Devendra Nath Ghosh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 13-05-1987

Acts Referred:

Minimum Wages Act, 1948 — Section 20

Citation : (1987) PLJR 1114

Hon'ble Judges : S.B. Sinha, J

Bench : Single Bench

Advocate : V.P. Singh, for the Appellant;

Final Decision : Allowed

Judgement

S.B. Sinha, J.—In this writ application, the petitioner challenges a notice dated 22.8.1979, as contained in Annexure-1 to the writ application and the order dated 10th July, 1980, as contained in Annexure-3 to the writ application passed by the Respondent no. 2. By reason of the aforementioned order, the respondent no. 2, who is an authority within the meaning of the provision of the Minimum Wages Act directed the petitioner to pay a sum of Rs. 1000 (one thousand) to the respondent no. 4. as also a sum of Rs. 200 (two hundred) by way of damages. The period in question for which, the aforementioned order was passed is said to be from 14th April, 1978 to 10th August, 1979. Under the proviso to sub-section (2) of section 20 of the Minimum Wages Act, 1948, an application for payment of minimum wages has to be filed within a period of 6 months.

2. In the instant case, the respondent no. 2 has taken cognizance of the matter suo-motu and no application for condonation of time whatsoever, had been filed before him. The petitioner received the notice from the court of the respondent no. 2 on 25.11.1979. As indicated hereinbefore, the respondent concerned did not file any application in terms of the proviso to section 20 of the Minimum Wages Act, any question of passing the order for condonation of delay did not

arise before the court below. The concerned workman was examined. He also swore affidavit to the effect that after filing this application he had been paid the entire arrears of the wages. According to respondent no. 2, the petitioner was merely giving Nasta to the workman and during the aforementioned period paid a sum of Rs. 700 (seven hundred). From the notice as contained in Annexure-1 to this writ petition, it appears that the petitioner was directed to deposit a sum of Rs. 1,300 (one thousand three hundred) only.

3. However, while passing the order as contained in Annexure-3 the respondent no. 2 took into consideration the fact that the petitioner has not paid the minimum wages for a period of 500 (five hundred) days. He further observed that the respondent no. 4 received Rs. 1,600 (one thousand six hundred) in all i. e. he received a sum of Rs. 900 (nine hundred) more, after the aforementioned proceeding was instituted.

4. He further held that taking into consideration, the period of 500 (five hundred) days, the petitioner is liable to deposit a sum of Rs. 1,000 (one thousand) more in favour of respondent no. 4.

5. Mr. V.P. Singh, Learned Counsel appearing on behalf of the petitioner submitted that the order as contained in Annexure-3 to the writ petition does not conform to the notice as contained in Annexure-1, thereto. By the notice, the petitioner was directed to deposit a sum of Rs. 1,300 (one thousand three hundred) only and although, admittedly the petitioner paid a sum of Rs. 900 (nine hundred) to the respondent no. 4, he has further been directed to pay another sum of Rs. 1000 (one thousand) which is Rs. 600 (six hundred) in excess, than the amount mentioned in the notice. Accordingly the contention of Mr. Singh, appears to be correct. The respondent no. 2 has no authority to enlarge the period, for which, no notice was given to the petitioner. Further it appears that the cognizance of the case was taken suo-motu by the respondent no. 2 on 25.11.1979, and as such, he could entertain the claim for non-payment of minimum wages only for a period commencing from 26.5.1979 till that date.

6. As noticed, hereinbefore, there was no application for condonation of delay nor any evidence in that regard was adduced before the court below, and as such, the court had no jurisdiction even to condone the delay. In the result, this writ petition is allow wed and the order as contained in Annexure-3 to the writ petition is quashed.