
(2014) 02 PAT CK 0070
In the Patna High Court
Case No : LPA No. 686 of 2013

Hira Lal		APPELLANT
	Vs	
The State of Bihar		RESPONDENT

Date of Decision : 11-02-2014

Acts Referred:

Minimum Wages Act, 1948 — Section 20(2)

Citation : (2014) 2 PLJR 714

Hon'ble Judges : Vikash Jain, J;Navin Sinha, J

Bench : Division Bench

Advocate : Akhilesh Dutta Verma, Advocate for the Appellant; Devendra Kr. Sinha and Birju Prasad, Advocate for the Respondent

Final Decision : Allowed

Judgement

Navin Sinha, J.—The present appeal arises from order dated 18.4.2013 in C.W.J.C. No. 1570/03. The learned Single Judge dismissed the writ application holding that the limitation u/s 20(2) of the Minimum Wages Act, 1948 (hereinafter referred to as the Act) will be calculated from the last date that the minimum wages was due. Learned counsel for the appellant has made more than one submission before us all of which are not considered necessary to notice since we are satisfied that after hearing the parties the application can be disposed off on one question of law only.

2. The claim for minimum wages was lodged on 11.8.1999 claiming arrears from January, 1995 to January, 1999. Admittedly, no application for condonation of delay was filed.

3. Learned counselor the appellant has relied upon Gango Sharma Vs. The State of Bihar and Others, :--

3. Unnoticed by any authority the fact of the matter is that if the petitioner could lay a claim for making an application for non-payment of minimum wages his initial claim could only be considered provided an application was filed within 6

months to lay claims on payments not made during this period. Only thereafter for sufficient cause shown should the petitioner sustain an application for claims beyond this period and on this also there has to be a reasoned order why the extended claim has been permitted.

4. The issue, we find, applicable to the facts of the present case has been considered in *Awadh Lal Sah Vs. The State of Bihar and others*, . It was held that the claim had to be filed within six months from the date it became payable unless, if filed belatedly, it was accompanied by an application for condonation. The application was filed on 21.6.1978 and the claim period was from 10.2.1975 to 18.12.1977. Even though the claim was filed within six months from the latter date, it was held to be not maintainable the limitation to be applied from the former date. The learned Single Judge followed another order in C.W.J.C. No. 2628/79 (*Kapil Sao vs. State of Bihar*) in which also the claim was filed on 21.6.1978 in respect of the period 10.2.1975 to 3.12.1977. The argument that limitation u/s 20(2) of the Act was to be reckoned from the latter date was rejected holding that under the Statute it had to be reckoned from the former date.

5. In the present case, the application was required to be filed within six months from January, 1995 unless it was accompanied by an application for condonation.

6. The view taken by the learned Single Judge is apparently in teeth of the statutory provisions and we find it difficult to sustain the order under appeal on that ground alone.

7. In conclusion, we hold that the claim of the private respondent was itself barred by limitation unaccompanied by any application for condonation. The order dated 1.7.2002 by the Assistant Labour Commissioner was itself without jurisdiction. The order under appeal dated 18.4.2013 is also set aside. The appeal is allowed.