

(1999) 12 PAT CK 0068
In the Patna High Court
Case No : C.W.J.C. No. 10803 of 1997

Jagdish Yadav and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 14-12-1999

Acts Referred:

Minimum Wages Act, 1948 — Section 20

Citation : (2000) 1 LLJ 1130

Hon'ble Judges : Aftab Alam, J

Bench : Single Bench

Advocate : S.C. Surya and Ved Prakash, for the Appellant; Kumar Brajendra Nath, for the Respondent

Final Decision : Partly Allowed

Judgement

Aftab Alam, J.—23 employees have jointly filed this writ petition seeking to challenge the order, dated August 23, 1977 passed by the appellate authority u/s 20(6) of the Minimum Wages Act as amended in this State. By the impugned order the appellate authority set aside the order dated December 24, 1996 passed by the competent authority and rejected the claims raised on behalf of the petitioners.

2. The 23 petitioners filed claims u/s 20 of the Act alleging that the respondent Bihar State Food and Civil Supplies Corporation had paid them wages at rates lower than the minimum wages fixed under the Act and seeking a direction for payment of their differential wages together with compensation.

3. According to the petitioners they were engaged for loading and unloading bags of food grains; that they worked during the period April, 1993 to March, 1995 and handled 1421 bags of food grains. According to their case the minimum wages fixed under the Act was Rs. 30/- per day and on that basis the total wages of each of the claimants should have been Rs. 18,720/-. The Corporation had, however, paid to each of the claimants only a sum of Rs. 1452/- They accordingly

sought a direction from the competent authority under the Minimum Wages Act asking the Corporation to pay to each of the claimants their due wages alongwith compensation ten times of the unpaid wages.

4. The competent authority by its order dated December 24, 1996 held and found that the claimant/petitioners were unable to prove on the basis of the evidence led by them that they had worked on each day during the period April, 1993 to March, 1995 and, therefore, their claim for wages on the basis of the daily rates fixed under the Minimum Wages Act cannot be allowed. He then proceeded on the basis of the piece rate of wages though such a case was not pleaded by the claimants-petitioners. The competent authority held and, found that the piece rates of wages during the material time was Rs. 1.05 paise for loading a bag and the same amount for unloading it and 0.70 paise for stacking the bags. Thus proceeding on the assumption that each of the claimants, while handling the 1421 bags had done the work of loading, unloading and stacking came to hold that each of the claimants was entitled to payment @ Rs. 2.80 paise whereas each of them was paid wages only @ Rs. 1.05 paise for only one part of the entire process of loading, unloading and stacking. According to his calculation, therefore, each of the 23 employees was entitled to receive a further sum of Rs. 2,486.75 as their unpaid wages and a further sum of Rs. 12,433.75 paise as compensation @ five times of the unpaid wages. He thus held that each workman was entitled to receive payment of Rs. 14,920.50 paise and directed the Corporation to make payment of the total sum of Rs. 3,43,171.50 paise.

5. In appeal against that order the appellate authority has set aside the order passed by the competent authority on the ground that there was no evidence on record to suggest that while handling the 1421 bags, each of the 23 claimants had done the work of loading, unloading, stacking and sewing in respect of each of those bags.

6. The appellate authority was quite justified insofar as it set aside the order passed by the competent authority for the reasons assigned by him and I see no infirmity in that part of the order but in all fairness the appellate authority should have sent the matter back before the competent authority to allow the parties to lead further evidence on that issue and not having done so makes its order vulnerable to interference by this Court.

7. In the facts and circumstances of the case I am satisfied that after setting aside the order passed by the competent authority the matter should have been sent back to him for passing a fresh order after allowing the parties to lead evidence on the issue in question. I accordingly remit the matter to the Assistant Labour Commissioner, Manager-cum-competent authority under the Minimum Wages Act to allow the parties to lead further evidence on the issue of loading, unloading, stacking and sewing 1421 bags and to pass a fresh order in the light of the evidence led before him.

8. In the result, this writ petition is allowed to the extent indicated above.