

(2011) 08 PAT CK 0008
In the Patna High Court
Case No : CWJC No. 4178 of 2010

Md. Abdulla Ansari and Another		APPELLANT
	Vs	
The State of Bihar and Others		RESPONDENT

Date of Decision : 26-08-2011

Acts Referred:

Minimum Wages Act, 1948 — Section 20, 20(2), 20(3)(i), 20(3)(ii)

Citation : (2012) 134 FLR 1079 : (2012) 2 PLJR 502

Hon'ble Judges : Jyoti Saran, J

Bench : Single Bench

Advocate : Najmul Hoda, for the Appellant; Shashi Bhushan Kumar for the State and Mr. M.P. Gupta for the Respondent Nos. 5 to 9, for the Respondent

Final Decision : Dismissed

Judgement

Jyoti Saran, J.—Heard learned counsel appearing on behalf of the parties. The petitioners are aggrieved by the order dated 6.4.2002/4.7.2002 passed by the Sub-Divisional Officer, Buxar in Minimum Wage Case No. 31/2001 as contained in Annexure-2 and the order dated 4.10.2005, passed by the Additional Collector in Appeal No. 1/2003-04 dismissing the Appeal filed by the petitioner and placed at Annexure-3.

2. The facts of the case, in brief, is that the private respondents herein filed their respective claims with regard to differential of wages for the period mentioned in the claim dated 8.7.2000 before the Labour Enforcement Officer, Buxar. The claim put forth by the private respondent nos. 5 to 9 contains all the details of their working under the petitioners together with the details of the schemes for which they had been engaged. On receipt of the aforesaid claim application from the private respondent nos. 5 to 9, the Labour Enforcement Officer, Buxar, vide memo no. 172 dated 18.7.2000, issued notice to the petitioners herein requiring them to respond to the claim set out by the private respondent nos. 5 to 9.

3. The petitioners responded to the notice by letter dated 21.7.2001 and again

on 28.7.2001 disputing the claims and prayed for dropping the proceedings. The petitioners were thus directed to produce evidence disputing the claim. It appears that no such step was taken by the petitioners.

4. Upon failure of the petitioners to cooperate in the proceeding, an application in prescribed form no. 7 was filed by the Labour Enforcement Officer, Buxar in the Court of the Sub-Divisional Officer, Buxar, the prescribed authority under the Minimum Wages Act, with a prayer of issuance of a direction to the petitioners to make payment of the differential amount of wages to the tune of Rs. 40,227/- to each of the private respondents and with a further prayer of issuance of orders of compensation as deemed appropriate by the learned Court of Sub-Divisional Officer, Buxar.

5. A proceeding under the provisions of the Minimum Wages Act, 1948 (hereinafter referred as the Act") was thus initiated on the basis of a report of the Labour Enforcement Officer filed before the Sub-Divisional Officer, Buxar.

6. It is a matter of record that although the petitioners, initially, filed their respective appearances before the Sub-Divisional Officer, Buxar, but thereafter absented from the same and thus in absence of any contest, the Sub-Divisional officer, Buxar, vide order passed on 6.4.2002/4.7.2002, allowed the claim of the private respondents with further direction to the petitioners to make payment of Rs. 9,889/, Rs.8,262/-, 6,651/-, Rs. 6645 and Rs. 9,236/- respectively to the private respondent nos. 5 to 9 together with the compensation at the rate twice of the wages amount.

7. The petitioners challenged the order passed by the Sub-Divisional Officer, Buxar in Minimum Wages Case No. 31 of 2001 by filing an appeal before the Additional Collector, Buxar giving rise to Minimum Wages Case No. 1 of 2003-04 and which was dismissed vide order dated 4.10.2005 as contained in Annexure-3 to the writ petition and the order of the Sub-Divisional Officer, Buxar was upheld, hence, the writ petition.

8. Mr. Najmul Hoda, learned counsel appearing on behalf of the petitioners, with reference to the provisions of Section 20(2) of the Act, submits that the legislative intent of the provision, inter alia, is that an inspector or any other person can only file an application after he has obtained permission of the appropriate authority under the Act. He submits that the word "or" in between the words "Inspector" and "any person", appearing in sub-section (2) of Section 20 of the Act has to be read in conjunction and thus even an Inspector is required to obtain due permission from the authority concerned. He submits that the records do not show whether any such permission was obtained.

9. Learned counsel further contends that in absence of such permission, it is only the private respondents alone, who could file the application in question before the Sub-Divisional Officer, Buxar and not the Inspector. Learned counsel further with reference to the first proviso to Section 20(2) of the Act, submits that an application could only have been filed within six months of the claims becoming

due and a perusal of the application in form-7 present at Annexure-1 of the writ petition, nowhere indicates as to the date on which the claims in question became due for payment. Learned counsel further submits that the claim application as present at Annexure-1, further does not indicate as to the nature of the claim and whether it is a claim falling under sub-section (3)(i) or sub-section 3(ii) of section 20 of the Act. He submits that the said factor is relevant for consideration of the issue of compensation inasmuch whereas under the provisions of Section 20(3)(i) of the Act, a compensation is payable up to a maximum of ten times of the differential amount of wages but the compensation payable u/s 20(3)(ii) is limited to Rs. 10/ only. Learned counsel, concluding his argument, submits that the entire claim has been decided in absence of any evidence and merely on the application filed by the Labour Enforcement Officer, Buxar.

10. Learned counsel appearing on behalf of the private respondents contested the position and submits that the court constituted under the Act, passed the order impugned after considering the claim set out in the application form and after recording the evidence given by the private respondent nos. 5 to 9 and consideration of the materials on record.

11. I have heard learned counsel for the parties and have perused the materials available on the records of the proceedings. During the course of the proceedings, the records pertaining to the Minimum Wages Case No. 31 of 2001-02 which was the subject matter of the proceedings before the learned Sub-Divisional Officer, Buxar, was produced before this court by the learned counsel appearing for the State and photo copies whereof have been taken on the records of the proceedings.

12. The first of the objection raised by the learned counsel for the petitioners is as regarding the authority of the Labour Enforcement Officer, Buxar to file the application in absence of any authorisation by the petitioners to file the same or by the superior authority. The objection is completely misconceived for the reason that the Act confers absolute jurisdiction on the Inspector to file an application before the prescribed authority under the Act. The records of the proceedings which was produced before this court during the hearing, demonstrates that the Labour Enforcement Officer being in the rank of Inspector did not proceed in the present matter on his own motion rather he acted pursuant to the claims filed by each of the private respondents vide application dated 8.7.2000.

13. Pursuant to the application filed by the private respondents, notice had also been issued to the petitioners and who even responded to the notice issued by the Labour Enforcement Officer, Buxar and also filed their objection. That being the position, the objection raised by the petitioners that the proceeding was initiated in absence of any authority is completely misplaced and beyond the statutory provisions.

14. In so far as the 2nd objection raised by learned counsel regarding the date on which the amounts became due and the nature of claims is concerned, the objection again in view of evidence available on records, appears misplaced inasmuch as the application in Form-7 placed at Annexure-1 to the writ petition itself mentions that the claim is towards the differential of the wages and the claims had been raised by the private respondents before the Labour Enforcement Officer, Buxar within the prescribed period.

15. That being the position, the objection raised by the learned counsel for the petitioners, is not tenable either against the statutory provision or against the records of the proceedings.

16. The writ petition raising no legal issues, is devoid of merits is accordingly dismissed.

17. The interim order of stay dated 12.4.2010 stands vacated. Let the photocopy of the records produced by the learned counsel for the State, be kept on the records of the proceedings.