
(2009) 01 JH CK 0087
In the Jharkhand High Court

Nand Kishore Bhagat

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 07-01-2009

Acts Referred:

Minimum Wages Act, 1948 — Section 20(3)

Citation : (2009) 57 BLJR 914 : (2009) 121 FLR 91 : (2009) 3 LLJ 685

Hon'ble Judges : Ajit Kumar Sinha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ajit Kumar Sinha, J.—The present writ petition has been preferred for issuance of an appropriate writ, order or direction in the nature of certiorari for quashing the order dated 26.8.99 passed by the Sub Divisional Officer-cum-Appropriate Authority under the Minimum Wages Act (Respondent No. 3) in M.W. Case No. 1/99, whereby an ex-parte order has been passed directing the petitioner to pay Rs. 1,91,915/- to Respondent No. 6 as due towards wages of the labourers while working as unskilled labourers in Godda Pirpaithi Road widening without any service of notice on the petitioner and without giving him an opportunity of hearing.

2. The further prayer is for quashing the order dated 11.6.2001 passed by the Addl. Collector-cum-Appellate Authority, Godda under the said Act in M.W. Appeal No. MW-1/99-2000 whereby disposing of the appeal in a cryptic manner in absence of the petitioner and that too without fixing date of hearing of the appeal to the knowledge of the petitioner and without giving any opportunity of hearing and whereby upholding the said ex-parte order of the S.D.O., Godda (Annexure-6) and for quashing the illegal and arbitrary order and notice issued by the Certificate Officer, Godda, numbered as 9,10, 11 and 12/02-03 (Annexure-7/series).

3. The counsel for the petitioner submits that it was an ex-parte order against

which an appeal was preferred which was barred by limitation and in absence of any condonation application the same should not have been entertained. He has also referred to and relied upon a decision reported in 1987 PLJR 1112 to support his contention.

4. This matter is with regard to a claim under Bihar Minimum Wages Act, Notification No. S.O. 22, dated 18.1.1980 which clearly provides that the competent authority, Additional Collector, State of Bihar as Appellate Authority to hear and decide appeals against any direction made under Sub-section (3) of Section 20 of the said Act by any Sub-divisional magistrate. It is also provided that if notice by Registered post has been issued and the same has not been returned, then also they can proceed after waiting for 30 days. Even under Rule 29 of the Jharkhand Minimum Wages Rules, 2001 they can determine the application ex-parte if the employer or his representative fails to appear.

5. The respondents, in their counter affidavit and also in their argument have submitted that several adjournments were taken and only thereafter final order was passed on 26.8.1999 and even the appeal was filed much after the expiry of the limitation period still then it was admitted and considered on its own merit by the Appellate Authority i.e. Additional Collector, Godda who was pleased to decide the matter on perusal of materials available on record. The further contention of the petitioner that they were not workers is also falsified since they have issued several certificates in this regard.

6. Considering the aforesaid facts and circumstance of the case and in view of the concurrent findings, I find no merit in this writ petition and the same is accordingly dismissed.