

**(2011) 04 AHC CK 0468**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 54501 of 2000

Natraj Picture Palace

APPELLANT

Vs

Prescribed Authority, Minimum Wages Act, Asstt.  
Commissioner and Others

RESPONDENT

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**Date of Decision :** 11-04-2011

**Acts Referred:**

Industrial Disputes Act, 1947 — Section 17B

**Citation :** (2012) 1 AWC 466 : (2011) 130 FLR 203 : (2012) 1 LLJ 52 : (2011) LLR 921 : (2012) 3 SLJ 350

**Hon'ble Judges :** S.U. Khan, J

**Bench :** Single Bench

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**Judgement**

S.U. Khan, J.—Heard Sri A.K. Gupta, learned Counsel for the Petitioner. No one has appeared on behalf of the workman-Respondent No. 2 Raj Mani Singh even though the case has been taken in the revised list.

2. Respondent No. 2 was an employee (gate keeper) of the petitioned picture house (a trade name). His services were terminated on 27.9.1993 on the ground that he had permitted certain persons to watch the show without ticket which was detected at the time when Commissioner of Entertainment Department made a surprise inspection. Respondent No. 2 raised an industrial dispute, which was registered as Adjudication Case No. 66 of 1994 and was decided by the Presiding Officer, Labour Court, Allahabad in favour of the Respondent No. 2 through award dated 31.10.1995. Against the said award Petitioner filed writ petition No. 33633 of 1997 in this Court which is stated to be pending. In para 14 of this writ petition, interim order dated 1.10.1997 passed in writ petition No. 33633 of 1997 has been quoted which is reproduced below:

Admit

Issue notice.

List thereafter.

Meanwhile it is provided that in case the Petitioner deposits the back wages with the Registrar of the Court within one month and pays the Respondent No. 2 his wages @ wage last drawn and continue to pay the same during the pendency of the writ petition the award shall remain stayed.

However, it will be open for the Petitioner to take work or not from Respondent No. 2.

3. After the above interim order Petitioner started taking work from the Respondent No. 2 but paid him the wages at the rate of wages last drawn only.

4. The workman filed an application before the Prescribed Authority under the Minimum Wages Act claiming difference between the minimum wages legally payable and the wages actually paid to him. The matter was registered as Case No. MW-1 of 1999 on the file of Prescribed Authority under the Minimum Wages Act, 1948/ Assistant Labour Commissioner, U.P. Mirzapur. The case was decided in favour of the Respondent No. 2 on 20.11.2000 directing payment of Rs. 3899.94/- as the difference between minimum wages and wages actually paid. Five times of the said amount was also directed to be paid as compensation. The total amount payable was to Rs. 23,399.64/-.

5. The first argument of the learned Counsel for the Petitioner is that on 20.5.2000, the matter was (heard by Km. Jabeen Ayesha, who was the Prescribed Authority and 20.6.2000 was date fixed for orders which was postponed to 27.6.2000. However, meanwhile Km. Jabeen Ayesha was transferred and Sri Rakesh Dwivedi took charge at her place who fixed several dates, but the matter was not heard by Sri Rakesh Dwivedi. It has further been stated that on 23.10.2000 Sri Rakesh Dwivedi holding charge of the Prescribed Authority fixed 20.11.2000 as the date for orders and delivered the order on the said date which has been challenged through this writ petition.

6. As far as this argument is concerned it is too technical to be accepted in exercise of writ jurisdiction. As is apparent from paragraph 24 of the writ petition as well as Annexure-8 to the writ petition, which is copy of order sheet of the case, several dates were fixed before Sri Rakesh Dwivedi also and almost on every date it was mentioned that due to paucity of time order could not be passed. The Petitioner never raised any objection that order could not be passed as matter had not been heard by Sri Rakesh Dwivedi. In the impugned order the entire material brought on record by both the parties has been considered.

7. The second point argued is that under interim order dated 1.10.1997 (supra) Petitioner was entitled to take work from the Respondent No. 2 on the wages which were payable at the time of his termination. I am unable to agree with this argument also. The interim order dated 1.10.1997 passed in Writ Petition No. 33633 of 1997 was in terms of Section 17-B of the Industrial Disputes Act. Either an employer in terms of the said Section may opt to pay wages at the rate of wages last drawn during pendency of writ petition in the High Court and not take any work from the workman or if the employer takes work from the workman

then he is to pay the normal wages which must not be less than minimum wages in any case. The interim order dated 1.10.1997 cannot be read in such manner that it may authorize the employer to take work from the workman on the wages which were being paid to him at the time of termination i.e. in September, 1993, 18 years before. It would be enormous exploitation of the worker to ask him to work on the wages which were being paid 10, 15, 20 or more years before.

8. However, as proprietor of Petitioner was only misinterpreting the interim order of this Court dated 1.10.1997 hence no compensation could be directed to be paid.

9. Accordingly, impugned order is set aside in respect of five times compensation and is maintained in respect of direction of payment of balance of minimum wages amounting to Rs. 3899.94/- for the period from 1.9.1998 to 31.1.1999. It is further directed that in future also normal wages which in any case must not be less than minimum wages shall be paid to the workman " Respondent No. 2. It is also directed that for the period from 1.2.1999 till date the balance between minimum wages and wages actually paid shall also be paid to the workman Respondent No. 2 unless the same has already been paid under subsequent orders passed by the authority under Minimum Wages Act. However, no compensation shall be payable.

Writ petition is accordingly disposed of.