

(2001) 07 PAT CK 0125
In the Patna High Court
Case No : C.W.J.C. No. 7804 of 1990

Sheikh Amir Ali

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 16-07-2001

Acts Referred:

Minimum Wages Act, 1948 — Section 20

Citation : (2001) 4 PLJR 414

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Radha Mohan Prasad, J.—As all the petitions are of similar nature relating minimum wages and disposed of by common impugned orders; one covering eight cases and the other cover-two cases, with consent of parties they have been heard together for final disposal by this common judgment/order.

2. In all these ten writ petitions, the Petitioners are aggrieved by the orders passed by the original authority as well as appellate authority on complaint filed by the concerned Respondents u/s 20 of the Minimum Wages Act (hereinafter referred to as "the Act") on account of payment of less than the minimum rate of wages to the concerned Respondents.

3. The Petitioners are the land owners whereas the concerned Respondents are the labourers who claimed to have worked for them but paid the amount less than the minimum rates of wages prescribed under the Act.

4. In short, the relevant facts are that B petition was filed on behalf of the Respondent-labourer by the Labour Inspector, Kharagpur, Munger before Anchal Adhikari, Kharagpur, Munger stating therein that the concerned Respondent had worked in the agricultural establishment of respective Petitioner for the past few years and had been paid wages at the rate of 2.50 kgs. of paddy every day whereas, according to the Government notification issued under the Act, he

were entitled to get wages at the rate of 5 kgs. of paddy and 250 Grams "Sattu" for "Nasta". The alleged period for which the Petitioners was said to have been paid less wages was from 15.3.1985 to 4.7.1985 and, accordingly, prayer was that the Petitioners be asked to pay work amount of shortfall in payment of wages along with compensation. The Circle Officer, Kharagapur who was the authority under the Act for disposal of the claim u/s 20, disposed of the claim in favour of the labourer. The Petitioners preferred appeal against the said order, which has been rejected by the appellate authority, namely, A.D.M., Munger. vide the impugned orders.

5. learned Counsel for the Petitioners has submitted that the impugned orders of the appellate authority besides suffering from various infirmities are also fit to be set aside on the sole ground that the appellate authority has not at all considered the points raised before him, though have been noticed by him in the impugned orders. It is submitted that the claim itself was barred by limitation as it was filed beyond the stipulated period of six months. Besides this, original order as well as the appellate order suffers from the vice of non-consideration of evidence and also that the Petitioners were not given opportunity to cross-examine the witnesses.

6. None has appeared on behalf of the concerned labourer.

7. However, Mr. Rajeshwar Prasad, learned Government Pleader No. VI, on the other hand, has submitted that there is no force in any of the submissions advanced on behalf of the Petitioners. According to him neither the claim was barred nor that the Petitioners were denied of any reasonable opportunity of cross-examining the witnesses. According to him, in fact, the Petitioners on the date of examination of witnesses appeared but did not cross-examine them and as such the Petitioners are not entitled to raise the said question later. He also submitted that from the original record it would appear that in the forwarding letter of the Labour Inspector, the number and date are mentioned, which demonstrate that the claim was filed well within the stipulated time. It may be true that the Circle Officer registered the said claim after the expiry of the limitation, but, according to him, the claim on such grounds cannot become barred. According to him, there is no infirmity in the impugned orders.

8. Having heard learned Counsel for the parties and after going through the order of the appellate authority, this Court finds that though the Counsel for the Petitioners raised various questions before the appellate authority, which have also been noticed by the said authority in the impugned orders but while disposing of the appeal, has not considered them at all. He has disposed of the appeal without applying his independent mind to the points raised and rejected the appeal by simply saying that he was fully satisfied with the order passed by the Anchal Adhikari and that he did not find any reason to make any changes in the order.

9. It is by now well settled that the appellate authority must consider and

dispose of the appeal independently dealing with each and every point raised before him, which has not been done by the appellate authority in the present cases. Accordingly, this Court finds that the order of the appellate authority is fit to be set aside on this ground alone and the matters require to be remitted back to him for fresh consideration and disposal, in accordance with law.

10. In the result, all the writ applications are allowed, the impugned orders of the appellate authority are quashed and the matters are remitted back to the appellate authority for fresh consideration, in accordance with law. The parties are at liberty to raise all the questions available to them before the appellate authority, who shall dispose of the appeal afresh expeditiously. However, in the facts and circumstances, there shall be no order as to costs.