
(2010) 04 JH CK 0091
In the Jharkhand High Court

State of Jharkhand

APPELLANT

Vs

The Commissioner, The Additional Collector and Sheo
Narayan Ram

RESPONDENT

Date of Decision : 16-04-2010

Acts Referred:

Minimum Wages Act, 1948 — Section 3

Citation : (2010) 04 JH CK 0091

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—Heard the learned Counsel for the parties.

2. The petitioner, in this writ application, has prayed for quashing the order dated-28.09.2002 (Annexures-5 & 6 series), passed by the Divisional Commissioner, Palamau (Respondent No. 1) in Minimum Wages Appeal No. 21 of 2001, whereby and whereunder the Divisional Commissioner has confirmed the order dated-16.11.2000, passed by the Additional Collector, Palamau-the appellate authority (Respondent No. 2) in Minimum Wages Appeal No. 5 of 1999-2000, who set aside the order of the Sub-Divisional Magistrate, Sadar, Daltonganj and directed to pay ten time compensation of the minimum wages amount assessed at Rs. 11,053/-to the Respondent No. 3 under the provisions of Section 3(1) of the Minimum Wages Act, 1948 within one month from the date of the order.

3. From the rival submissions, the admitted facts are that the services of the Respondent No. 3 was engaged by the Divisional Forest Officer as a casual Labourer. Such services, according to the workman, continued to be availed for more than 12 years. The grievance of the workman, advanced before the concerned authorities of the Respondents, was that he was not paid the minimum wages under the Minimum Wages Act for the period during which his services were taken.

4. The petitioner being the employer had contested the workman's claim by taking a stand that he had not worked for the period claimed by him and as a matter of fact, since after November, 1995, no work was taken from him and as such, his claim for wages on and after November, 1995 is misconceived.

5. On the other hand, the specific claim of the workman was that his services were continued to be taken without break till 19.08.1996.

6. The aforesaid disputed question of facts was considered by the concerned authority under the Minimum Wages Act, namely, the Sub-Divisional Magistrate, who, dismissed the claim of the workman by upholding the stand taken by the petitioner/employer. However, in the appeal preferred by the workman against the impugned order of the Sub-Divisional Magistrate, the Appellate Authority, namely, the Additional Collector, Palamau, after setting aside the order of the Sub-Divisional Magistrate, had assessed the amount of Rs. 11,053/- as the difference of the minimum wages, to which the workman was entitled and had directed the petitioner/employer to pay ten times of the assessed amount of the minimum wages.

7. Against the impugned order of the Additional Collector, the petitioner/employer preferred a second Appeal before the Divisional Commissioner, Palamau, who by his impugned order dated-28.09.2002 had affirmed the order of the Additional Collector. The petitioner's application filed for review of the order passed by the Divisional Commissioner, was dismissed. Thereafter, the petitioner/employer preferred the present writ application.

8. Assailing the impugned orders, learned Counsel for the petitioner submits that the impugned orders have been passed without considering the fact that the claim of the workman is misconceived, since the petitioner did not prefer any appeal within the period of six months limitation period stipulated under the Act and furthermore, the Additional Collector as also the Divisional commissioner have erred in failing to consider that the workman did not in fact render any service since after November, 1995.

9. It appears from the grounds advanced by the petitioner that the grievance relates to the disputed question of facts as to whether workman had in fact rendered services beyond November, 1995 and till August, 1996.

From perusal of the impugned orders both of the Additional Collector as also of the Divisional Commissioner, it appears that on these disputed question of facts, current findings have been recorded and as such, the petitioner cannot possibly re-agitate any discussion on the concurrent findings of fact.

10. As regards the imposition of the compensation amount, at the rate of 10 times of the assessed amount of the difference of minimum wages, it appears that such assessment has been made on the basis of the provisions of Section 3(1) of the Minimum Wages Act, which allows the compensation upto ten times the assessed amount of minimum wages.

11. It further appears from the order dated-17.12.2007, as passed by this Court, that in course of preliminary hearing, counsel for the Respondent-State had informed this Court that the minimum wages as was assessed by the concerned authorities, have since been paid to the workman, pursuant to the earlier order of this Court dated-06.09.2006. This fact was acknowledged by the Respondent No. 3 before this Court. However, as regards the amount of compensation, the matter was allowed to be mutually settled between the parties.

12. Learned Counsel for the Respondent No. 3, by adverting to certain Annexures, including Annexure R3/f and R3/g submits that the conciliation proceeding was held against the awarded amount of Rs. 1,11,000/- and the workman had agreed to accept a sum of Rs. 1,00,000/-. The concerned authorities of the Respondents had obtained orders for sanctioning funds from the appropriate authorities, namely, the Conservator of Forests.

13. Considering the entire facts and circumstances, I do not find any such ground on the basis of which, the petitioner can reserve any further grievance against the impugned orders of the Divisional Commissioner or in respect of their liability finally fixed pursuant to the conciliation and the concession made by the workman in respect of the amount of compensation to which he had agreed.

14. This writ application is accordingly, disposed of with a direction to the petitioner to pay the settled amount of Rs. 1,00,000/- to the workman within six weeks from the date of this order. In the event, the amount is not paid, then the same shall carry interest @ 12 per cent per annum calculated from the date of settlement i.e. 11.01.2008 till the date of final payment.