

(1999) 02 RAJ CK 0025
In the Rajasthan High Court
Case No : C.W.P. No. 5381 of 1991

Surat Ram Gagrani

APPELLANT

Vs

Authority under Payment of Wages Act and Others

RESPONDENT

Date of Decision : 16-02-1999

Acts Referred:

Citation : (2000) 85 FLR 406 : (1999) 2 LLJ 1020 : (1999) 2 RLW 782 : (2000) 1 WLC 422

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Advocate : K.C. Samdariya, for the Appellant; Mridul Jain, for the Respondent

Final Decision : Dismissed

Judgement

B.J. Shethna, J.—Petitioner-Master has challenged in this petition the impugned order dated August 1, 1989 passed by the Authority under the Payment of Wages Act, Bhilwara-respondent No. 1 allowing the claim of respondent No. 2, Piru-workman awarding a sum of Rs. 24,000/- on the ground that it was an ex parte order. An application Annex-2 was made on November 20, 1990 by the petitioner for setting aside the ex parte award (Annex.-1). It was objected by the respondent No. 2, workman by his reply. The application for setting aside the ex parte award passed by the Authority was dismissed on September 20, 1991 (Annex-4.). The petitioner has challenged both the orders at Annex.-1 and Annex.- 4 respectively in this petition.

2. The only submission made by the learned Counsel for the petitioner was that the petitioner was never served with a notice from the respondent No. 1, Authority under the Payment of Wages Act, therefore, no award could have been passed by the authority without due service of notice. Mr. Samdariya submitted that even assuming for the sake of argument that the petitioner refused to accept the registered letter then also it cannot be said to be a good service because the hearing of the petitioner was kept on July 18, 1988, whereas, endorsement showing that the petitioner refused to accept it was made on July

19, 1988, a day after. This submission of Mr. Samdariya cannot be accepted for the simple reason that there was due service of notice. In ordinary circumstances, the notice perhaps may not have been considered proper notice because the endorsement was dated July 19, 1988, whereas, the matter was to be heard on July 18, 1988. However, considering the conduct of the petitioner it must be held that there was a refusal on the part of the petitioner. It clearly appears from the material on record that the petitioner always evaded the service. It is clear from the reply Annex. -3 filed by the respondent No. 2 to the application submitted by the petitioner that before refusing to accept notice on July 19, 1988, the petitioner also refused to accept the registered notice on previous occasions. Even registered notice sent by the respondent No. 2 through his advocate was also refused by the petitioner.

3. Under the circumstances, it must be held that there was due service and petitioner was only evading the service of notice. Such person is not entitled for any discretionary relief from this Court.

4. The respondent No. 2 is a poor workman and has been awarded a sum of Rs. 24,000/- by the Authority under the Payment of Wages Act which has not been paid by the petitioner so far.

5. Under the circumstances, I do not see any reason to interfere with the impugned order at Annexes.-I and 4 passed by the Authority under the Payment of Wages Act. Hence, this writ petition fails and is hereby dismissed.