

(1982) 11 PAT CK 0025

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 1741 of 1977

Surendra Pandey

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 19-11-1982

Acts Referred:

Minimum Wages Act, 1948 — Section 20(3)(I)

Citation : (1983) PLJR 89

Hon'ble Judges : S.B. Sanyal, J;P.S. Sahay, J

Bench : Division Bench

Advocate : Nagendra Pd. Singh, for the Appellant;

Final Decision : Dismissed

Judgement

S.B. Sanyal, J.—This writ petition is for quashing Annexure-7, an order passed by the Deputy Collector, Incharge Land Reforms, Aurangabad (respondent No. 2) awarding the excess amount by which the minimum wages payable to respondent No. 4, a farm labourer, engaged in agricultural operation exceeds the amount actually paid, amounting to a sum of Rs. 243.50 paise. Respondent No. 4 has been awarded compensation of an equal amount by respondent No. 2 in exercise of the powers conferred u/s 20(3) (i) of the Minimum Wages Act (hereinafter to be referred to as the Act"), the total amount being Rs. 487.00. Mr. Nagendra Prasad Singh appearing on behalf of the petitioner, assailed the order on the grounds;--

(a) Respondent No. 4 is not an employee of the petitioner and even assuming it to be so, he is not an "attached worker" to entitle him to the benefit of the "minimum rates of wages" fixed by the State Government:

(b) finding of fact arrived at by the authority is unsupported by evidence;

(c) the award made is vitiated by malafide. The Labour Inspector, Daudnagar, asked for illegal gratification but the petitioner did not oblige him, hence the present proceeding under the Act;

(d) the compensation awarded is too harsh and severe.

2. I would like to take up the third contention first. Malafie is a serious charge, therefore, it must be properly and adequately pleaded giving all particulars upon which the charge is based. Further as laid down by the Supreme Court in the case reported in E.P. Royappa Vs. State of Tamil Nadu and Another, "the burden of establishing malafide is very heavy on the person who alleges it. The allegations of malafides are often more easily made than proved, and the very seriousness of such allegations demands proof of a high order of credibility." Bearing the said principle in mind, I find what has been pleaded in paragraph 20 of the writ petition is that the case has been instituted by respondent No. 3 with a malafide intention to harass. The only particular furnished in support of the said plea is that one more case was instituted on behalf of another farm labourer at the instance of respondent No. 3, which was decided in favour of the petitioner vide Annexure-5. A perusal of Annexure "5" shows that the said case failed because the labour court preferred one set of evidence against the other. There is not a whisper against the conduct of respondent No. 3 by the labour court. It is a part of the duty of the Inspector to inspect and initiate proceeding--some may fail and some may succeed--but that by itself cannot establish mala fide. I am not satisfied that the petitioner has placed before this Court sufficient materials to prove the allegations of mala fide. I have perused the evidence of the Inspector who has been cross-examined at length. It is surprising that in the whole of his evidence there is not even a suggestion that he demanded illegal gratification.

3. Coming to the first point that respondent No. 4 is not an employee and much less an "attached worker" and, therefore, is not entitled to the benefit of minimum rates of wages, I find from the evidence of the labourer that he used to be paid on yearly basis, which clearly belies that, he was a casual labourer. Further the evidence on record manifests that respondent No. 4 was not only an employee of the petitioner but also an "attached worker," The finding as to the existence of relationship of employer and employee is valid

4. Taking up- the second submission of the learned counsel that the findings of fact recorded by the authority are vitiated in law it is desirable to state the limits of writ jurisdiction with respect to findings of fact arrived at by lower tribunals.

If a tribunal renders a finding wholly unsupported by evidence, or has drawn an inference wholly unsupported by any primary facts, the said finding would be struck down, on the principle of "no evidence". Any finding of fact arrived at by giving of reasons which are bad in law or are inconsistent, unintelligible or substantially inadequate or is arrived at by ignoring relevant considerations and taking irrelevant considerations into account or misdirection as to burden of proof or wrongful admission or exclusion of evidence, the Said finding would be erroneous in point of law (See De Smith's Judicial Review of Administrative Action 4th Edition). The grounds listed above are however illustrative and not exhaustive of the powers of the High Court in writ jurisdiction with respect to

findings of fact rendered by the lower tribunals.

Bearing the above principle in mind, I find that the authority constituted under the Act to adjudicate the complaint has considered the evidence both oral and documentary adduced by the parties. The documents relied upon by the authority, have been duly exhibited through witnesses appearing before him and the contention that the order is based on extraneous consideration is Wholly misconceived. As the allegations Were serious, I preferred to go through the Certified copies of depositions produced by the learned counsel appearing for the petitioner at the time of hearing. I do not find the finding of fact in any way vitiated in law. The findings are fully supported by the evidence on record, as such there is no substance in the second submission.

5. The last contention that the compensation allowed to the respondent No. 4 is harsh and severe, less said is better. The labourer has been harassed since the year 1976 for this paltry sum and it must be in sheer disgust and frustration, he chose not to appear before this Court. The enactment of Minimum Wages Act was responsive to urgent social demand to protect the farm labourer from being paid below the subsistence level and it included to operate more directly to achieve social reform. To my mind, with the said end in view, the framer of the Act conferred power u/s 20 (3) (I) to grant compensation to the extent of ten times, the excess amount by which the minimum wages payable to the employee concerned exceeds the amount actually paid. The said provision is intended to act as deterrent against exploitation of agricultural labourer, who lives on wages far below the subsistence level.

It is true that the power conferred u/s 20 (3) (1) has to be exercised judicially and judiciously and not in arbitrary and capricious manner. In the instant case even though the Inspector at first requested the petitioner to pay the difference in wage, the petitioner willfully and deliberately neglected to do so, which resulted in the instant long drawn proceeding to the great harassment of the labourer. The compensation awarded in the facts and circumstances of the case is too inadequate but the respondent No. 4 having not come before this Court, I feel helpless. The contention of the learned counsel to reduce the compensation is, therefore, rejected.

6. In the result, the application fails and is dismissed, but in the circumstances of the case there will be no order as to costs as the respondent No. 4 did not appear before this Court. It is stated by learned counsel for the petitioner that the petitioner had deposited a sum of Rs. 100/- before respondent No. 2, as directed by order dated 30.9.1977 of this Court. If the said sum has been deposited, then the same should be adjusted as against the total sum of Rs. 487/- and the remaining balance must be paid to the labourer within three months.