

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1499 of 2019

=====

Vinay Kumar Gupta @ Binay Gupta Late Rajesh Gupta resident of Jageshwar
Nagar colony Amlatola, P.S- Town, Katihar, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Labour Resources Department, Government of Bihar Patna
2. The Deputy Labour Commissioner, Bhagalpur
3. The Assistant Labour Commissioner, Purnea, Katihar
4. Labour Enforcement Officer Katihar
5. The Certificate Officer, Katihar
6. Labour Superintendent, Katihar
7. Rahul Kumar @ Chotu Kumar Shri Ramchandra Prasad Sah resident of durapur, P.O and P.S Katihar, District- Katihar

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : M/s Sanjeev Kumar,
Preeti,
Ravi Kumar Pandey, Advocates
For the Respondent/s : Mr. Rohitabh Das, AC to EX. AAG 10

=====

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 28-11-2025

1. The petitioner has filed the instant application for the following relief(s):

“i. Issuance of writ in the nature of certiorari for quashing the order dated 28.11.2018 passed in M.W Appeal Case No. 03/2018 passed by the Deputy Labour Commissioner cum Appellate Tribunal, Bhagalpur whereby and where under the Respondent No. 3 has been pleased to dismiss the said



case ex-parte without hearing the petitioner on the grounds of limitation without going into the merits of the case.

ii. Issuance of writ in the nature of certiorari for quashing the order dated 06.04.2018 passed by the Respondent No. 4 in favour of Respondent No. 7 in Case No. MW (1)-30/2017 and ordered the Petitioner to pay Rs. 24000/- as the difference amount and 6 times compensation i.e. Rs. 1,44,000/-, making it a total sum of Rs. 1,68,000/- (One Lac, Sixty Eight Thousand only) to the respondent No.5 ex-parte without hearing the petitioner.

iii. To pass such other orders as may deem fit and proper.”

2. The case of the petitioner, in brief, is that on the basis of a written complaint submitted by respondent No. 4 to the Labour Superintendent, Katihar, respondent No. 5 instituted a claim under the Minimum Wages Act, 1948 on behalf of respondent No. 7, one Rahul Kumar @ Chotu, before the Assistant Labour Commissioner, Purnea on 04.09.2017. The said complaint, registered as



Case No. M.W. (1)-30/2017, alleged that respondent No. 7 had been working under the petitioner from January 2010 to August 2017, i.e., for a period of eight years, seven months and twenty-five days, and that an amount of Rs. 8,24,000/- remained unpaid towards minimum wages.

3. It is the further case of the petitioner that his statement was recorded by respondent No. 5 on 20.09.2017, wherein he stated that respondent No. 7 was working in his jewellery shop from April 2008 to January 2010 and called him only, whenever customised jewellery orders were received. According to the petitioner, respondent No. 7 was merely a casual worker and was paid Rs. 200/- on daily daily wages whenever he worked. The petitioner also alleged that on 28.08.2017, respondent No. 7 unnecessarily got into argument, abused the petitioner, and demanded Rs. 5,00,000/- as extortion money, leading the neighbouring shopkeepers to intervene, although respondent No. 7 managed to escape from there.



4. The petitioner asserts that statements of respondent No. 7 are self-contradictory. While in the complaint petition he claimed to have worked from 2009 to August 2017, but in his subsequent statement dated 03.04.2018 he claimed to work in the shop from January 2010 to August 2017, which clearly mala fide intention to harass and extort money from him.

5. The petitioner contends that the Assistant Labour Commissioner passed an order dated 06.04.2018 in haste and without affording him the opportunity of hearing, violating the principles of natural justice. It is further contended that the complaint itself was time-barred. According to the petitioner, the Minimum Wages Act mandates that claim should be filed within six months from the date on which the wage becomes due. In the present case, the claim was filed after a delay of more than eight years and seven months, without any application for condonation of delay.

6. The petitioner further submits that even the order-sheet reflects that respondent No. 7



did not appear on three consecutive dates, whereas the petitioner appeared on the dates and even an ex parte order was passed against him. He alleges that due to transfer of the Authority, he could not get the next date fixed and hence, could not appear on the date.

7. It is the stand of the petitioner that the Authority passed the ex parte order without considering the merits of the case.

8. Upon learning of the order dated 06.04.2018, the petitioner preferred an appeal before the Deputy Labour Commissioner-cum-Appellate Tribunal, Bhagalpur. However, the appellate authority dismissed the appeal merely on the ground of limitation, violating the principles of natural justice. Meanwhile, certificate proceedings bearing Certificate Case No. 04/2017 was initiated for recovery of the award amount, and distress warrant was issued.

9. Aggrieved by the aforesaid orders, the petitioner approached this Court contending that the impugned orders were arbitrary,



unsustainable in law, and violates the principles of natural justice.

10. The Learned counsel for the petitioner placed reliance on the judgment of the Hon'ble Supreme Court in ***Manganese Ore (India) Ltd. v. Chandi Lal Saha & ors., AIR 1991 SC 520.*** Learned counsel contended that the jurisdiction of the Authority under Section 20 of the Minimum Wages Act is confined to disputes relating to *rates* of minimum wages, rates applicable for rest days, or overtime wages. The Supreme Court, following its earlier decision in ***Town Municipal Council, Athani v. Presiding Officer, Labour Court, (1970) 1 SCR 51,*** held that Section 20 is not intended for enforcing payment of wages where the rate of wages itself is not in dispute. According to the petitioner, since the minimum wage rates were undisputed, the authority had no jurisdiction to adjudicate the alleged arrears and ought to have directed the complainant to avail the remedy under Section 15 of the Payment of Wages Act or Section 33-C(2) of



the Industrial Disputes Act.

11. For better appreciation of the issue involved, paragraph No. 16 of the judgment ***Managanese Ore (India) Ltd (supra)*** is reproduced below:

*“16. The third argument of Mr Sanghi based on the interpretation of Section 20 of the Act is again devoid of any force. This precise argument was considered by this Court in **Town Municipal Council, Athani v. Presiding Officer, Labour Courts, Hubli (1970) 1 SCR 51: (AIR1969) SC 1335** and decided in the following terms :*

“The Minimum Wages Act is concerned with the fixing of rates — rates of minimum wages, overtime rates, rates for payment of work on a day of rest — and is not intended for enforcement of payment of wages. Under Section 20(1) of the Minimum Wages Act, in which provision is made for seeking remedy in respect of claims arising out of payment of less than minimum rates, or in respect of remuneration for days of rest, or for work on such days, or of wages at the



overtime rates, the Authority is to exercise jurisdiction for deciding claims which relate to rates of wages, rates for payment of work done on days of rest and overtime rates. The power under Section 20(3) of the Minimum Wages Act given to the Authority dealing with an application under Section 20(1) to direct payment of the actual amount found due, is only an incidental power for working out effectively the directions under Section 20(1) fixing various rates under the Act. That is, if there is no dispute as to rates between the employer and the employee and the only question is whether a particular payment at the agreed rate is due or not, then Section 20(1) of the Minimum Wages Act would not be attracted at all, and the appropriate remedy would only be either under Section 15(1) of the Payment of Wages Act, 1936, or under Section 33-C(2) of the Industrial Disputes Act.”

12. The Learned counsel further relied upon **Binod Kumar v. Union of India, 2000 (2) PLJR 147** wherein this Court held that if the rate



of wages is not in dispute, the Authority under the Minimum Wages Act lacks jurisdiction to pass any order relating to arrears of wages merely on the allegation that workers were paid less than the minimum rates. It is submitted that in the present case the complainant himself admitted the applicable minimum wage rates, and thus the Authority acted without jurisdiction in entertaining the complaint.

13. For better appreciation of the issue involved, paragraph No. 7 of the judgment **Binod Kumar (supra)** is reproduced below:

“7. In the instant case there was no dispute regarding the rates of wages because complaint petition itself indicates that minimum rates of wages were fixed by the Government under the Act. It appears that this aspect of the matter has not been considered by respondent No. 1 while passing the impugned order dated February 1, 1988 as contained in Annexure 5. Respondent No. 1, also noticed the gist of the complaint that about 21 workers were paid less than minimum wages



and to this effect respondent No. 2 has recorded the statement of the workers. This, in my view, cannot be jurisdiction of respondent No. 1 to pass the impugned order exercising his power under the Minimum Wages Act. 1948. If there would have been any dispute regarding the rate of wages, the Authority could have considered the matter but in the present case that is not the allegation.

14. A counter affidavit was filed by the respondent Nos. 1 to 4 and 6. The Learned counsel appearing for respondents has opposed the writ petition and submitted that respondent No. 7, Rahul Kumar, filed a claim in Form-VI under Section 20(2) of the Minimum Wages Act, 1948 before the Assistant Labour Commissioner-cum-Competent Authority, Purnea, Katihar (respondent No. 3), alleging that he continuously worked as a workman in the petitioner's jewellery shop for a period of eight years and seven months from 2008 onwards, but was not paid full wage. On demand of his lawful dues, the same were allegedly refused by



the petitioner. The workman accordingly sought payment of wage arrears along with compensation. The claim was registered as M.W. Case No. 30 of 2017.

15. It is contended that upon issuance of notices, the petitioner appeared on 13.02.2018 and 27.02.2018 but failed to file any show-cause or written reply. In contrast, the claimant (respondent No. 7) as well as the Labour Enforcement Officer adduced evidence in support of the claim that employer-employee relationship was duly established. Considering the pleadings, evidence and materials available on record, the Competent Authority allowed the claim and directed the petitioner to pay Rs. 24,000/- as arrears of wages and Rs. 1,44,000/- as compensation, totalling to Rs. 1,68,000/-, vide order dated 06.04.2018, which was duly communicated to the petitioner. The authority further directed that in the event of non-payment, recovery would be effected through certificate proceedings.

16. It is submitted that the petitioner



thereafter filed an appeal before the Deputy Labour Commissioner-cum-Appellate Authority, Bhagalpur, on 05.11.2018, which was registered as M.W. Appeal No. 03 of 2018. Upon notice, both parties appeared and filed their pleadings. Under Section 20(6) of the Minimum Wages Act, an appeal must be filed within 30 days from the date of the order, and the Appellate Authority may condone delay only up to 30 days. In the present case, the appeal was filed far beyond the statutory period and even the accompanying application for condonation of delay was itself grossly time-barred. Upon hearing the parties and examining the records, the Appellate Authority dismissed the appeal vide order dated 28.11.2018.

17. It is stated that, as the petitioner failed to comply with the order of the Authority, a requisition was sent by respondent No. 3 to the Certificate Officer, Katihar, for recovery of the award amount. Accordingly, Certificate Case No. 04/2017 was registered and a distress warrant was issued. Instead of complying with the lawful orders



passed by the competent authorities, the petitioner has filed the present writ petition.

18. The Learned counsel for the respondents submits that the orders dated 06.04.2018 and 28.11.2018 were quasi-judicial orders which was passed after due consideration of facts, evidence, and statutory provisions, by authorities having jurisdiction under the Minimum Wages Act, 1948.

19. It is lastly submitted that the writ petition is devoid of merit and not maintainable in view of the findings of the statutory authorities, and is fit to be dismissed.

20. The Learned counsel for the petitioner in his rejoinder submitted that the claim filed by respondent No. 7 under Section 20(2) of the Minimum Wages Act, 1948 was misconceived. It was urged that the complaint itself discloses that the grievance was regarding payment of wages below the statutory minimum, instead it was regarding alleged payment of wages lower than the *agreed* amount between the parties. Such



dispute, falls within the domain of the Payment of Wages Act and not under the Minimum Wages Act.

21. The Learned Counsel for the respondents further submits that Section 20(2) mandates that an application must be filed within six months of the wages becoming payable, and can be entertained thereafter only upon sufficient cause being shown. In the present case, the claim was filed after more than eight years & seven months without any prayer for condonation of delay.

22. It is urged that the impugned order dated 06.04.2018 does not record any finding that the petitioner had paid wages below the minimum rates notified by the Government. On the contrary, the materials on record indicate that the petitioner had been paying the workman more than the prescribed minimum wages, thereby taking the dispute outside the purview of Section 20. Hence, the Authority lacked jurisdiction to entertain the claim, which was related only to alleged short-payment of contractual wages.



23. In view of the foregoing, it is submitted that the complaint was fundamentally not maintainable under the Minimum Wages Act, the entire proceedings are vitiated by a jurisdictional error, and the impugned order is liable to be set aside.

24. Heard the Learned counsel for the petitioner as well as the Learned counsel for the respondents. None appeared on behalf of the respondent No. 7, though notices were validly served upon him.

25. Upon hearing the parties and examining the records, this Court finds that the complaint did not allege that the petitioner paid wages *below the notified minimum rates*. The workman's grievance was with respect to alleged non-payment of the *agreed* wages. The Authority did not record any finding that the statutory minimum wage rates had been violated.

26. The law on the point is well settled. In ***Manganese Ore (India) Ltd. (supra)*** and ***Town Municipal Council, Athani (supra)***, the Supreme



Court has held that Section 20 of the Minimum Wages Act is confined to disputes *relating to rates of minimum wages*, overtime wages or rest-day wages. The jurisdiction under Section 20 cannot be invoked for enforcing payment of contractual wage arrears when the statutory rate itself is undisputed. This Court in ***Binod Kumar (supra)*** has also applied the same principle.

27. In the present case, the rate of minimum wages was never disputed by either party, and the Authority did not investigate or determine any such rate. Therefore, the impugned proceedings were wholly without jurisdiction.

28. Further, the claim was filed after a delay of more than eight years, whereas Section 20(2) prescribes a limitation of six months, to be extended only upon sufficient cause being shown. No application for condonation was filed, nor did the Authority record satisfaction regarding such cause. Entertaining such a belated claim amounts to a serious jurisdictional error. Furthermore, there is no material on record to prove the employer and



employee relationship between the petitioner and the respondent No. 7 about the monthly salary which was earlier paid and fell due to the respondent No. 7.

29. The impugned order dated 06.04.2018 was also passed in violation of natural justice, as the petitioner had appeared previously and the ex parte order was passed without ensuring proper notice, particularly in the backdrop of the transfer of the Presiding Officer.

30. The Appellate Tribunal, instead of examining the fundamental question of jurisdiction of the original authority, dismissed the appeal mechanically on limitation. When the very assumption of jurisdiction is illegal, the appellate authority ought not to have declined to consider the merits.

31. In view of the above, both the impugned orders suffer from patent illegality, jurisdictional infirmity and violation of natural justice and cannot be sustained.



32. For the reasons stated hereinabove, this Court holds that the order dated 28.11.2018 passed by the Deputy Labour Commissioner-cum-Appellate Tribunal, Bhagalpur in M.W. Appeal Case No. 03/2018 as well as the order dated 06.04.2018 passed by the Assistant Labour Commissioner, Purnea in M.W. Case No. (1)-30/2017 are quashed and set aside.

33. The writ petition is accordingly **allowed.**

34. Interlocutory Application, if any, shall stands disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.12.2025
Transmission Date	

