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Ragini Sinha Vs. State of Bihar

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Court : Supreme Court of India

Decided On : Jan-07-2019

Judge : Hon'Ble Mr. Justice Abhay Manohar Sapre, Hon'Ble Mr. Justice R. Subhash Reddy

Appeal No. : 11587 / 2008

Appellant : Ragini Sinha

Respondent : State of Bihar

Advocate for Def. : Mr. Gopal Singh

Advocate for Pet/Ap. : Vivek Singh

Judgement :

REPORTABLE IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION CIVIL APPEAL Nos.72247225 OF2012 Ragini Sinha .Appellant(s) VERSUS State of Bihar & Ors. Respondent(s)

JUDGMENT

Abhay Manohar Sapre, J.

1) These appeals are directed against the final judgment and order dated 18.01.2008 passed by the High Court of Judicature at Patna in LPA No.530/1998

and order dated 18.01.2008 in LPA No.620/1998 whereby the High Court dismissed the appeals filed by the appellant herein and confirmed the orders of the Single Judge dated 31.03.1998 1 passed in CWJC No.12009/1996 and dated 22.04.1998 in CWJC No.12010/1996.

2) The controversy involved in these appeals lies in a narrow compass as would be clear from the few facts mentioned hereinbelow.

3) Two persons, namely, Santosh Kumar and Hira Singh filed their claim petitions before the competent authority under the Minimum Wages Act, 1948 (for short the Act) against the appellant herein being case Nos. MW (2) 19/93 and MW (2) 20/93.

4) In these claim petitions, the respondents claimed that they had worked with the appellant on her land for the period from 01.01.1991 to 30.10.1992 but she did not pay them their legitimate wages despite rendering their services for her.

5) This, in substance, was their grievance. The two applicants (workers/employees), therefore, 2 claimed that their legitimate wages for the period in question be determined in the light of the provisions of the Act and the claimants be accordingly paid their minimum wages for the period in question by the appellant.

6) The appellant contested the matter. An enquiry was accordingly held. Report from the concerned authority was also called for. By order dated 29.10.1995 the competent authority allowed the claim petitions of the two workers and accordingly directed the appellant (employer) to pay them wages as determined along with the penalty amount awarded by the authority.

7) The appellant felt aggrieved and filed appeal before the appellate authority under the Act. By order dated 08.10.1996, the appellate authority dismissed the appeal and affirmed the order of the competent authority. 3

8) The appellant felt aggrieved and filed writ petition in the High Court at Patna. By orders dated 31.03.1998 and 22.04.1998, the Single Judge of the High Court dismissed the writ petitions. The appellant felt aggrieved and filed LPAs before the

Division Bench in the High Court. By impugned orders, the Division Bench dismissed the appeals, which have given rise to filing of these appeals by way of special leave by the appellant(employer) in this Court.

9) The short question, which arises for consideration in these appeals, is whether the High Court was justified in upholding the orders passed by the two authorities under the Act.

10) We have heard Mr. Vivek Singh, learned counsel for the appellant and Mr. Gopal Singh, learned counsel for the respondents and have also perused the written submissions filed by the counsel for the appellant. 4

11) Having heard the learned counsel for the parties and on perusal of the record of the case and the written submissions of the learned counsel, we find no merit in these appeals.

12) In our considered opinion, no case has been made out to call for any interference in the impugned orders for more than one reason. Firstly, what is involved in this case is a pure question of fact which cannot be gone into in these appeals; Secondly, the question as to whether the two workers ever worked with the appellant and, if so, for how much period and how much wages were payable to them by their employer are the material questions, which were gone into by the competent authority and appellate authority and decided in favour of the two workers. A concurrent finding of fact recorded on these issues by the two authorities was binding on the High Court while deciding the writ petitions and the intra Court appeals; Thirdly, 5 the writ Court rightly dismissed the writ petitions inter alia on the ground that two workers in whose favour the orders had been passed by the authorities under the Act were necessary parties in the writ petitions and since they were not impleaded in the writ petitions, the writ petitions were liable to be dismissed on this ground alone; Fourthly, even in the intra Court appeals, the appellant though filed an application for their impleadment but it was done after a long lapse of time and, therefore, the Division Bench rightly dismissed the application on the ground of delay and laches. Moreover, in the meantime, both the workers also expired and their legal representatives were not made parties either in the intra Court appeals or in these appeals. This ground is,

therefore, enough for dismissal of the writ petitions, intra Court appeals and these appeals. 6

13) That apart, we find that the claim in question relates to the year 1991 and pertains to the payment of minimum wages payable to two workers, who are now dead and not represented before this Court.

14) Even then we examined the appellants case on merits. We, however, find that the appellant has not been able to make out any case on merits.

15) The only grievance of the appellant before the High Court was that she was not afforded an adequate opportunity in the proceedings and secondly penalty imposed by the authorities on her was excessive in quantum and hence either it should be set aside or reduced to some extent.

16) We find no merit in the aforementioned submissions. In our view, the appellant was afforded a sufficient opportunity to defend and which she also availed of. That apart, no material was produced by the appellant at any stage of the 7 proceedings to show that any prejudice was caused to her. We also find that having regard to the nature of breaches committed by the appellant and which were held proved, the authority was justified in imposing the penalty on the appellant.

17) It is not in dispute that the authority has the power under the Act to impose the penalty, once the breaches alleged against the employer are proved. Neither the appellate authority, nor the writ Court and nor the Division Bench in their respective jurisdiction considered it proper to interfere on any of these issues and, in our view, rightly.

18) In the light of the foregoing discussion, we find no merit in these appeals. The appeals thus fail and are accordingly dismissed.

19) The appellant is directed to calculate the entire amount payable to the two workers (since dead) in terms of the impugned orders and the same be paid to the legal representatives of the two workers 8 within three months from the date of this order. Let the compliance report be submitted by the appellant within three months

to this Court and also to the concerned competent authority.

20) A copy of this order be sent to the concerned competent authority and one copy of this order be sent on the addresses of the two deceased workers which are mentioned in the record of the case for the information of their legal representatives so that they are able to implement this order against the appellant for recovery of the awarded sum in their favour. .....J.

[ABHAY MANOHAR SAPRE]. .....J.

[INDU MALHOTRA]. New Delhi; January 07, 2019 9

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