[2019] 1 S.C.R. 68

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RAGINI SINHA

v.

STATE OF BIHAR & ORS.

(Civil Appeal Nos. 7224-7225 of 2012)

B

JANUARY 07, 2019

[ABHAY MANOHAR SAPRE AND INDU MALHOTRA, JJ.]

Minimum Wages Act, 1948 – Claim petitions filed by two persons (applicants) against the appellant under the 1948 Act –

C *Grievance of applicants was that they worked with appellant on her land for about 2 years but she did not pay them their legitimate wages – Competent authority allowed the claim petitions and imposed penalty also on the appellant – Appellate authority upheld the order of competent authority – High Court dismissed the writ petitions – On appeal, held: No case for interference made out –*

D *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 were the material questions, which were gone into by the competent authority and appellate authority and decided in favour of the two workers – A concurrent*

E *finding of fact recorded on these issues was binding on the High Court while deciding the writ petitions and the intra Court appeals – Writ Court rightly dismissed the writ petitions inter alia on the ground of non-impleadment of the two workers in whose favour the orders were passed by the authorities under the Act as they were necessary parties in the writ petitions – Impleadment application*

F *filed by appellant in the intra Court appeals after a long lapse of time was rightly dismissed 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 was, therefore, enough*

G *for dismissal of the writ petitions, intra Court appeals and these appeals – Appellant was afforded a sufficient opportunity to defend and which she also availed of – That apart, no case of prejudice was made out by the appellant at any stage of the proceedings – Having regard to the nature of breaches committed by the appellant and which were held proved, the authority was justified in imposing*

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the penalty on her – Authority has the power under the Act to impose the penalty, once the breaches alleged against the employer are proved – The appellate authority, the writ Court and the Division Bench in their respective jurisdiction rightly did not interfere on any of these issues – Appellant is directed to calculate the amount payable to the two workers and pay to their legal representatives – Necessary party – Delay/laches – Labour laws.

Dismissing the appeals, the Court

HELD: What is involved in this case is a pure question of fact which cannot be gone into in these appeals. 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. 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. However, the appellant has not been able to make out any case on merits. 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. There is no merit in these submissions. 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 proceedings to show that any prejudice was caused to her. 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. The authority has the power under the Act to impose the penalty, once the breaches alleged against the employer are proved. 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 within three months from the date of this order. [Paras 12, 17 and 19][71-E, F; 72-B-E, G]

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 7224-7225 of 2012.

From the Judgment and Order dated 18.01.2008 of the High Court of Judicature at Patna in LPA Nos. 530 and 620 of 1998.

A Vivek Singh, Swastik Dalai, Santosh Kumar - I, Advs. for the Appellant.

Gopal Singh, Vivek Singh, Advs. for the Respondents.

The Judgment of the Court was delivered by

B **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 passed in CWJC No.12009/1996 and C 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 D 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 E 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, claimed that their legitimate wages for the period in question be determined in the light of the provisions of the F 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 G 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.

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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.

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, 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.

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 appellant's 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 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 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.

Devika Gujral Appeals dismissed.