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(2010) 2 AWC 1284 : (2010) 124 FLR 610 : (2010) 2 LLJ 7807

Allahabad High Court

Case No: None

Naasir Husain	APPELLANT
Vs	
Assistant Labour Commissioner and Another	RESPONDENT

Date of Decision: Nov. 25, 2009

Acts Referred:
Payment of Wages Act, 1936 â€" Section 23

Citation: (2010) 2 AWC 1284 : (2010) 124 FLR 610 : (2010) 2 LLJ 7807

Hon'ble Judges: Sibghat Ullah Khan, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Sibghat Ullah Khan, J.
Sri Virendra Kumar Gupta, learned Counsel has filed vakalatnama on behalf of respondent No. 2, Iftekhar

Hussain.

2. Respondent No. 2 claiming to be an employee of the petitioner filed a case before the authority under Payment of Wages Act, claiming Rs.

59,000. The case (P.W.A. No. 1 of 2009, Iftekhar Hussain v. Naasir Hussain) was decided ex parte on 20.3.2009. In pursuance thereof

recovery notice was issued and some movable items of the petitioner were attached. Thereafter, petitioner filed restoration application. In the

restoration application compromise was entered into between the parties and respondent No. 2 accepted Rs. 35,000 in full and final settlement of

his claim. Thereafter, an application was filed stating that restoration application might be dismissed and original order awarding the claim of Rs.

59,000 be also set aside/modified. The authority under Payment of Wages Act, 1936, Assistant Labour Commissioner, Moradabad, wrongly

passed a very strange order dated 23.9.2009 which is contained in Annexure-8 and has been challenged through this writ petition. The authority

held that as the compromise had taken place for lesser amount than the amount claimed by respondent No. 2 and awarded through ex parte order

hence it was not acceptable. Reliance was placed upon Section 23 of Payment of Wages Act. Under the said section relinquishment of right

conferred by the Act is declared to be null and void. When the workman even before the Payment of Wages Authority accepted the settlement,

Section 23 could not be taken as bar for accepting the same. Section 3 is quoted below :

23. Contracting out.--Any contract or agreement, whether made before or after the commencement of this Act, whereby an employed person

relinquishes any right conferred by this Act shall be null and void in so far as it purports to deprive him of such right.

3. The said section does not apply to compromise for settlement of dues particularly if such a compromise is entered into during the proceedings

for payment of wages and filed therein. The Act no where prohibits settlement of dispute or accord and satisfaction.

4. Before the authority below respondent No. 2 accepted that his entire claim stood adjusted and satisfied as he had received Rs. 35,000.

Learned Counsel for respondent No. 2 has repeated the same thing before me. Accordingly, writ petition is allowed impugned orders are set

aside. Attachment of movable properties of the petitioner stands released. The dispute in between petitioner and respondent No. 2 is declared to

have come to an end through compromise under which respondent No. 2 received Rs. 35,000 as against his claim of Rs. 59,000 which he made

before the authority below.