

I/583790/2024

Government of West Bengal
Labour Department, I. R. Branch
N. S. Building, 12th Floor, 1, K. S. Roy Road, Kolkata – 700001

No. Labr/ 1197 /(LC-IR)/22015(15)/13/2018

Date : 10/12/2024

ORDER

WHEREAS an industrial dispute existed between M/s. Titagarh Wagons Limited and their workman Sri Bhaskarendu Ghosh, regarding the issues, being a matter specified in the second schedule to the Industrial Dispute Act, 1947 (14 of 1947) ;

AND WHEREAS the workman have filed an application under section 10(1B)(d) of the Industrial Dispute Act, 1947 (14 of 1947) to the Second Labour Court, Kolkata specified for this purpose under this Deptt.'s Notification No. 1085-IR/12L-9/95 dated 21.07.1997 ;

AND WHEREAS the said Second Labour Court, Kolkata has submitted to the State Government its Award dated 27.11.2024 in case No. 18 of 2006 under section 10(1B)(d) of the I.D. Act, 1947 (14 of 1947) on the said Industrial Dispute vide e-mail dated 27.11.2024 ;

NOW, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Governor is pleased hereby to publish the said Award as shown in the Annexure hereto.

ANNEXURE

(Attached herewith)

By order of the Governor,



Assistant Secretary

to the Government of West Bengal

No. Labr/ 1197 /1(5)/(LC-IR)/ 22015(15)/13/2018

Date : 10/12/2024

Copy with a copy of the Award forwarded for information and necessary action to :-

1. M/s. Titagarh Wagons Limited.
2. Sri Bhaskarendu Ghosh.
3. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The OSD & EO Labour Commissioner, W.B., New Secretariat Building, 11th Floor, 1, Kiran Sankar Roy Road, Kolkata – 700001.
5. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.



Assistant Secretary

No. Labr/ 1197 /1(3)/(LC-IR)/ 22015(15)/13/2018

Date : 10/12/2024.

Copy forwarded for information to :-

1. The Judge, Second Labour Court , N. S. Building, 3rd Floor, 1, K.S. Roy Road, Kolkata - 700001 with respect to his e-mail dated 27.11.2024.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.
3. Office Copy.



Assistant Secretary

THE SECOND LABOUR COURT, KOLKATA

IN THE MATTER OF

An application No.18 of 2006 Under Section 10(1B)(d) Industrial Dispute Act,1947

SHRI BHASKARENDU GHOSH

VERSUS

M/S. TITAGARH WAGONS LIMITED

PRESENT: SREEJITA CHATTERJEE

JD CODE ; WB001252

Appearance

MR. / MRS. R. N. Paul, LD Advocate for the Applicant.

MR . / MRS.-Debashis Sengupta , LD Advocate for the Opposite Party.

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DATE OF AWARD: 27.11.2024

1)EXORDIUM

This is an application Under Section 10(1B)(d) Industrial Dispute Act,1947 .

The present case is set to motion by an application of the workman in the above captioned industrial dispute case, seeking reinstatement on alleged illegal termination in service.

Applicant by representation dated 27.02.2006. raised an industrial dispute relating to illegal termination, **in terms of Section 10(1B)(c), as amended, with respect to the State of West Bengal vide Act No.33 of 1989.** The said industrial dispute was referred to the conciliation officer, who initiated conciliation proceedings. However, the said proceedings did not see any chances of settlement within sixty days from raising of the dispute. In consequence thereof, **conciliation officer issued certificate about pendency of the conciliation proceedings and thus this case.**

2)JURISDICTION

The matter in issue relates to "**discharge or dismissal of a workman including reinstatement of, or grant of relief to workman wrongfully dismissed**" and covered in the **Second Schedule** to the Act and well within the cognizance of this Court

3) LIMITATION

The conciliation having failed, the certificate of the conciliation officer was issued on 12/07/2006 and the present cause was initiated on 25/07/2006 and well within limitation in terms of Section 10(1B)(c).

4) FACTUAL MATRIX

The facts leading to the case suggest that OP M/s. Titagarh Wagons Ltd. being registered under Indian Company's Act) is a Public Ltd Company , operating with 1000(One Thousand) workmen including Skilled, Semi-skilled, Un-skilled, Supervisory, Clerical and other categories.

The applicant was appointed as un-skilled workman in the Company on 01.02.1975. Thereafter he was promoted to the category of Semi-skilled worker in the year 1980. In the mean time , the OP Company's name was changed from M/s. Hisdusthan Motors Ltd. To M/s. Hyderabad Industries Ltd. and thereafter was taken over by M/s. Titagarh Wagons Ltd. on 08.07.2005.

It is their plea vide letter dated 08.07.2005, the petitioner was joined into Titagarh Wagons Ltd ,on 08.07.2005 , his service is being uninterrupted.

In a certain turn of fact, company is alleged to have issued an illegal charge sheet to the applicant on 26.10.2005, based on false allegations like leaving workplace without permission, not being engaged in the working wasting time, which are fabricated ,motivated and with malign intention. The Management prevented him from entering the factory premises against which lodged G/ D Was lodged. The enquiry was held under guidance Mr. H. B. Sen , Advocate leading to termination of service by way of refusal of employment.

This was followed by representation dated 27.02.2006, before the Deputy Labour Commissioner, West Bengal. The conciliation proceedings failed which led to the issuance of certificate on 12.07.2006.

It is the plea of the applicant that the present application based on the following allegation: -

'That the charge-sheet as framed against the delinquent workman is biased, motivated and not in free and fair minded:

That the preliminary enquiry report and complaints were not given to the delinquent workman

That the purported charge-sheet issued to the delinquent workman is ambiguous, full of contradictions and framed without application of mind;

That before holding the domestic enquiry the Enquiry Officer company terminated the service of the delinquent workman by way of refusal of employment.

That the principles of Natural Justice and fair play have been denied to the delinquent workman in the present case

That the purported termination by way of refusal of employment was activated by improper motive, grudge and malice with the motive to victimize the workman.

That the purported termination by way of refusal of employment is wanton, capricious, arbitrary and vindictive.'

In the premises stated above, the applicant prayed for the following relief;-

"

(a) Directing the company to reinstate your petitioner workman in the service of the Company at his substantive post with full back wages and other consequential benefits and facilities and

(b) Any other order or orders as your Honour may deem fit, proper and justified. "

Per contra ,the OP deprecates all the above contentions.

It is their specific contention that the applicant was transferred to Titagarh Wagons Ltd. on the date of acquisition by the Company, i.e. 08.07.2005. It is admitted that the company issued a charge sheet against him on 26.10.2005 against the allegation of complacence on 24 .07.2005 at 8.25 where he did not join his job and wasted time during office hours. It is submitted that the applicant vide letter dated 26.10.2005, admitted his allegations and informed that he would not attend the enquiry for which the enquiry was adjourned. Thereafter the concerned applicant started remaining away from the process of enquiry since 27.11.2005.

It is their plea that the Company vide letter dated 08.02.2006, directed the concerned applicant to explain his unauthorized absence. During the pendency of the domestic enquiry, the applicant sought intervention the Deputy Labour Commissioner vide letter dated 26.05.2006. In the mean time the enquiry proceeded ex parte holding the applicant guilty of the charges.

Hence the company did not terminate the service of the applicant and the submissions are vague.

5) It seems from the record that the case is pending since 2006. Initially, the applicant had made an application for interim relief which was rejected vide order No. 8 dated 25.10.2010.

Thereafter record was posted on consideration of validity of domestic enquiry and evidence thereon.

In the mean time, the applicants seems to be absent without any reasons for which this court was constrained to fix the record for show cause on behalf of the applicant since 27.4.2023, which still follow

It is strange to note that for the last 11 occasions even after the resumption of the court after vacancy for some time, the applicant has shown reluctance to proceed with the case which in essence, leads to inference that they are not at all interested to proceed with this case.

Hence this court fixed the case for final s/c id n/o that is "No dispute award" on the last occasion. The parties have not appeared even thereafter.

The conduct of the parties suggests that they have abandoned the matter in dispute and this invites the court to invoke Rule 22 of the West Bengal Industrial Dispute Rules, 1958.

IT IS ORDERED

That in terms of Rule 22 of the West Bengal Industrial Dispute Rules ,1958 , as amended till date , the dispute in this case is no longer in existence .

The application stands disposed off in terms of the settlement between the parties.

Let necessary compliances be made in terms of service of the copies to concerned Government authorities.

The case is hereby disposed off.

Note in the relevant register.

DICTATED & CORRECTED BY ME

**(SREEJITA CHATTERJEE)
JUDGE**

**(SREEJITA CHATTERJEE)
JUDGE
SECOND LABOUR COURT,
KOLKATA
27.11.2024**