

I/189105/2022

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

No. Labr/ 416 . / (LC-IR)/22015(16)/292/2018

Date: 22/04/2022.

ORDER

WHEREAS under the Government of West Bengal, Labour Department Order No. Labr/07/I.R./11L-115/15 dated 04/01/2016 the Industrial Dispute between M/s. Dipti Construction, Vill. – Basudeb P.O. Khanjanchak, P.S. Durgachak, Dist. – Purba Medinipur and its workman Sri Somnath Mondal, Vill – Anarpure, P.O. – Dekhuar, Sutahata, Purba Medinipure regarding the issue mentioned in the said order, being a matter specified in the Second Schedule to the Industrial Dispute Act, 1947 (14 of 1947), was referred for adjudication to the Judge, Second Industrial Tribunal, West Bengal.

AND WHEREAS the Second Industrial Tribunal, West Bengal, has submitted to the State Government its award dated 05/03/2021 on the said Industrial Dispute vide memo no. 855 – L. T. dated. 10/08/2021.

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,



Joint Secretary
to the Government of West Bengal

/189105/2022

No. Labr/. 418/109 (LC-IR)

Date: 22/04/2022.

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

1. M/s. Dipti Construction, Vill. - Basudeb P.O. Khanjanchak, P.S. Durgachak, Dist. - Purba Medinipur.
2. Sri Somnath Mondal, Vill - Anarpure, P.O. - Dekhuar, Sutahata, Purba Medinipur.
3. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The O.S.D. & E.O. Labour Commissioner, W.B. New Secretariate Buildings, 1, K. S. Roy Road, 11th Floor, Kolkata- 700001.
- ✓ 5. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.


Joint Secretary

No. Labr/. / (LC-IR)

Date: /2022.

Copy forwarded for information to:

1. The Judge, Second Industrial Tribunal, West Bengal with reference to his Memo No. 855 - L. T. dated. 10/08/2021.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata -700001.


Joint Secretary

Before the Ld. 2nd Industrial Tribunal, Kolkata

Case No. VIII-05 of 2016

Under Section 10(2A) of The Industrial Disputes Act, 1947

Sri Somnath Mondal

-Vs-

M/S. Dipti Construction

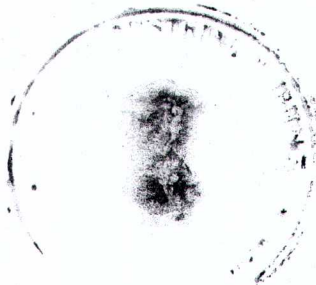
Dated, 05.03.2021

This is a case under Section 10(2A) of The Industrial Disputes Act, 1947 and the case has been referred to this Tribunal by the Govt. of West Bengal, Labour Department for adjudication and two issues have been framed by the Govt. of West Bengal, Labour Department and the issues framed are as follows:-

1. Whether refusal of employment of workman, Somnath Mondal, on and from 01.07.2013 was justified.
2. What relief is he entitled to as per law and equity?

After reference both parties appeared before this Tribunal for adjudication.

The workman has filed one written statement stating that he was the land looser and evicted person due to acquisition of land for establishment of industries in the Haldia Sub-Division.



P.T.O.

This workman further submits that he had been engaged as Carpenter with others in the said Priyongbada Housing Estate and he had been working there continuously for more than 15 years and due to shifting of the above Housing Estate, the management permitted him to continue his job at the new housing complex of HREL and from August, 2011 he started working there and the management permitted orally to continue their services from December, 2011 but after completion of shifting work in April, 2012, his salary had been stopped since July, 2013 without issuing any notice of retrenchment and then he along with others made representation for reinstatement of their services but the management refused to give employment to them and then inspite of repeated meetings no fruitful result was found and in this way he was retrenched from his service forcefully and his salary was stopped illegally. Hence, the petitioner has prayed for reinstatement and arrear of money from July, 2013.

The O.P. company has not contested this case for which this case has been heard exparte against the O.P. company.

During exparte hearing the petitioner has examined himself as the P.W.I and thereafter the case of the petitioner has been closed.

DECISION WITH REASONS

In order to prove his case before the Tribunal the petitioner has examined himself as the P.W.I and he has stated about the incidents as mentioned in his written statement and he has stated in his examination that he has filed his deposition by affidavit in chief and it was read over and explained to him and it was correctly written and then he signed on the affidavit and he has stated that he has filed some documents. But during examination he has not tendered any documents in this case and he has not proved any documents to support his case.

The petitioner has not proved any document to show that he had been working as the Carpenter under the O.P. company for more than 15 years continuously and he received salary from the O.P. company till June, 2013 and he was enrolled as the member of ESI Corporation, Employees' Insurance Corporation and member of Employees' Provident Fund Organisation issued by the competent authority since 01.07.2004 and he has also not proved any document or produced corroborative oral evidence to prove that the management promised to give him service in future.

So, considering the entire materials of record, I find that the oral evidence of the P.W.I has not been corroborated by any other oral or documentary evidences on record.

It is the settled principles of law that in case of exparte hearing also, the petitioner has to prove his case to the full extent as per law to get order in his favour but he has not proved any other oral or documentary corroborative evidences on record to support his evidence. Accordingly I hold that the petitioner has failed to prove his case and he is not entitled to get any relief in this case as prayed for.

In the result, the case fails.

Hence, it is

ORDERED

that the Case No. VIII-05 of 2016 under Section 10(2A) of The Industrial Disputes Act, 1947 is dismissed exparte against the Opposite Party company without cost.

Let this order be treated as an award.

According to Section 17AA of The Industrial Disputes Act, 1947, let a certified copy of this award be sent to the Principal Secretary to the Government of West Bengal, Labour Department, New Secretariat Buildings, 1, K.S. Roy Road, Kolkata 700 001 for information, and let a certified copy of this award be supplied to each of both the parties of this case free of cost forthwith for information.

The case is disposed of today.

Dictated & corrected by me.

P.S. Mukhopadhyay
Judge

2nd Industrial Tribunal
West Bengal

P.S. Mukhopadhyay
(P.S. Mukhopadhyay)
Judge

2nd Industrial Tribunal

2nd Industrial Tribunal
West Bengal

