

I/191355/2022

Government of West Bengal
Labour Department, I.R. Branch

N.S.Buildings, 12th Floor, 1, K.S. Roy Road, Kolkata - 700001
No. Labr./467/(LC-IR)/22015(16)/12/2022 Date: 05.05.2022

ORDER

WHEREAS an industrial dispute existed between Smt. Tamali Dutta, Director, Durgapur City Hospital & Clinic Pvt. Ltd., Central Park, City Centre, Durgapur - 713216 and its workman Smt. Monisha Sarkar, W/o Arup Sarkar, D-7, Maxmullar Road, City Centre, Durgapur - 713216 regarding the issues being a matter specified in the second schedule of the Industrial Dispute act, 1947 (14of 1947);

AND WHEREAS the workman has filed an application directly under sub-section 2 of Section 2A of the Industrial Dispute act, 1947 (14of 1947) to the Ninth Industrial Tribunal Specified for this purpose under this Department Notification No. 101-IR dated 2.2.12;

AND WHEREAS the said Ninth Industrial Tribunal has submitted to the State Government its Award dated 27.09.2021 on the said Dispute vide Memo No. 1168 - L.T. dated 29.09.2021.

NOW, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Disputes 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

Date: 05.05.2022

No. Labr/467/1(2) - IR

Copy forwarded for information to :

1. The Judge, Ninth Industrial Tribunal with reference to his Memo No. 24 - I.T. dated 31.03.2022.
2. The Joint Labour Commissioner (Statistics), W.B., 6, Church Lane, Kolkata-700001.

No. Labr/467/2(6) - IR

Copy with a copy of the Award is forwarded for information & necessary action to:

1. Smt. Tamali Dutta, Director, Durgapur City Hospital & Clinic Pvt. Ltd., Central Park, City Centre, Durgapur - 713216.
2. Smt. Monisha Sarkar, W/o Arup Sarkar, D-7, Maxmullar Road, City Centre, Durgapur - 713216.
3. The Assistant Labour Commissioner, W.B., In-Charge of Labour Gazette.
4. The O.S.D. & E.O. 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.
6. Office Copy.

Joint Secretary

In the matter of an application under Section 2A(2) of the Industrial Disputes Act, 1947 filed by Smt. Monisha Sarkar, W/O Arup Sarkar, D-7, Maxmullar Road, City Centre, Durgapur-713216, Dist. Paschim Burdwan against Smt. Tamali Dutta, Represented as Director of Durgapur City Hospital & Clinic Pvt. Ltd., Central Park City Centre, Durgapur, Deputy Labour Commissioner, Ist Floor, 1st Administrative Building, City Centre, Durgapur, and Regional P.F. Commissioner, Red Cross Road, City Centre, Durgapur,

Case No. 16/2021 U/S. 2A (2) of the I.D. Act, 1947)

**BEFORE THE 9TH INDUSTRIAL TRIBUNAL, WEST BENGAL,
KOLKATA.**

**PRESENT : SHRI SUJIT KUMAR MEHROTRA,
JUDGE, 9th INDUSTRIAL TRIBUNAL,
DURGAPUR.**

A W A R D

The Ld. Lawyer for the workman/applicant is present.

The Case Record is taken up for admission hearing.

Ld. Lawyer for the workman submits that the petitioner was an employee of M/s. Durgapur City Hospital and Clinic Pvt. Ltd., Durgapur i.e O.P.No.1 and she was working there as receptionist on and from 01.08.2004 but all of a sudden on 31.12.2017 her service was verbally terminated without assigning any reason or following the procedure laid down by the law. He further submits that on 29.07.2019 the O.P.No.1 sent a cheque by Rs.22,815.00 (Rupees twenty two thousand eight hundred fifteen only) in favour of the workman/applicant through Assistant Labour Commissioner, Durgapur.

Ld. Lawyer further submits that on 30.11.2019 applicant sent a letter to the Deputy Labour Commissioner, City Centre, Durgapur



praying for non-payment of gratuity and statutory dues but the same yielded no result and accordingly the workman /applicant filed the instant case u/s 2A(2) of the Industrial Dispute Act, 1947 praying for passing orders for payment of gratuity benefits and other benefits for illegal retrenchment from service, etc.

But being asked by the Tribunal, whether the workman/applicant made any application to the Conciliation Officer of the Govt. of West Bengal for conciliation of disputes, the Ld. Lawyer candidly submits that no such application was ever preferred by the workman/applicant. Besides that, it is also the admitted fact of this case that the workman / applicant while filing the instant case u/s 2A(2) of the Industrial Dispute Act, 1947 did not file the requisite prescribed form 'S' under the West Bengal Industrial Disputes Rule, 1958.

From the averments of the impugned petition of the workman / applicant, it is crystal clear that she filed the instant case u/s 2A(2) of the Industrial Dispute Act, 1947 directly to this Tribunal without approaching the Conciliation Officer of the appropriate Government u/s 2A(1) of the Industrial Dispute Act, 1947.

It is the settled proposition of law that the Industrial Tribunal constituted under the Industrial Dispute Act, 1947 cannot directly entertain any petition from any workman for determination of any industrial disputes unless the same is referred to it by the appropriate

Government u/s 10(1)(B) of the Industrial Dispute Act, 1947 or the workman filed the case u/s 2A(2) of the Industrial Dispute Act after compliance of requirements of the said provisions of the Industrial Dispute Act and not otherwise.

So far as the case in hand is concerned, it is the admitted fact that the workman / applicant did not file any application to the Conciliation Officer for conciliation of the alleged disputes, so it cannot be said that she had comply with the mandatory requirements of law for invoking jurisdiction of this Tribunal under the Industrial Dispute Act, 1947.

Having regard to my above discussion, I am of the view that the workman / applicant's petition u/s 2A (2) Industrial Dispute Act, 1947 is not maintainable in its present form.

Hence, it is

ORDERED

that the instant case is dismissed being not maintainable under the Industrial Dispute Act, 1947.

D/C by me

Sd/-
Judge

29.3.22.

JUDGE

**NINTH INDUSTRIAL TRIBUNAL DURGAPUR
GOVT. OF WEST BENGAL**

Sd/-

(Sujit Kumar Mehrotra)

29.3.22.

Judge, 9th Industrial Tribunal,

Durgapur

JUDGE

**NINTH INDUSTRIAL TRIBUNAL DURGAPUR
GOVT. OF WEST BENGAL**