

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

No. Labr/¹⁸⁷³...../ (LC-IR) /11L-91/13

Date : ^{05/10/}2021

ORDER

WHEREAS an industrial dispute existed between M/s. Calcutta Pinjrapole Society, 34 Armenian Street, Kolkata – 700001 and Sri Palash Boral, S/o. Late Rabindra Nath Boral, 13: M.M. Ghosh Road, P.O. – Motijheel, Dum Dum, Kolkata - 700074 regarding the issue, being a matter specified in the second schedule to the Industrial Dispute Act, 1947 (14 of 1947);

AND WHEREAS the workman has filled an application under section 10(1B)(d) of the Industrial Dispute Act, 1947 (14of 1947) to the Second Labour Court, Kolkata specified for this purpose under this Deptt.'s Notification No. 1085-IR/12L-9/95 dated 25.07.1997.

AND WHEREAS, Second Labour Court, Kolkata heard the parties under section 10(1B)(d) of the I.D. Act, 1947 (14of 1947).

AND WHEREAS Second Labour Court, Kolkata has submitted to the State Government its Award dated 17/09/2021 under section 10(1B)(d) of the I.D. Act, 1947 (14of 1947) on the said Industrial Dispute vide memo no.1150 L.T. dated – 28/09/2021.

Now, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Dispute Act, 1947 (14of 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,

Sd/-

Joint Secretary
to the Government of West Bengal


: 2 :

No. Labr/ ^{1873/1(5)}.../(LC-IR)

Date : 05/10/ 2021

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

1. M/s. Calcutta Pinjrapole Society, 34, Armenian Street, Kolkata – 700001
2. Sri Palash Boral, S/o. Late Rabindra Nath Boral, 131, M.M. Ghosh Road, P.O. – Motijheel, Dum Dum, Kolkata – 700074.
3. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The O.S.D. & E.O. Labour Commissioner, W.B., New Secretariat Buildings, (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.


Joint Secretary

No. Labr//(LC-IR)

Date : 2021

Copy forwarded for information to :-

1. The Judge, Second Labour Court, West Bengal, with respect to his Memo No. 1150 -L.T. dated 28/09/2021.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata – 700001.

Join Secretary

In the matter of an application under section 10 (1B)(d) of the Industrial Disputes Act, 1947 filed by Shri Palash Boral, S/o. Late Rabindra Nath Boral, 131, M.M. Ghosh Road, P.O. – Motijheel, Dum Dum, Kolkata – 700 074 against Calcutta Pinjrapole Society, 34, Armenian Street, Kolkata – 1.

Case No. 48 of 2007 u/s 10(1B)(d)

Before the Second Labour Court, West Bengal, Kolkata

Present: Smt. Dipa Shyam Ray, Judge
Second Labour Court
Kolkata

Dated: 17.09.2021

A W A R D

This is a case under section 10 (1B)(d) of Industrial Disputes Act, 1947 filed by the applicant for his reinstatement in service along with full back wages /salaries for the period of forced unemployment. The case of the applicant as elucidated in the application under section 10 (1B)(d) of the Industrial Disputes Act, 1947 is narrated below in a nutshell: –

The employer, Calcutta Pinjrapole Society is an institution duly registered under Societies Registration Act and having its registered office at 34, Armenian Street, Kolkata – 700 001 and branches at (1) Liluah (2) Sodepur (3) Kanchrapara (4) Ranigunj in West Bengal and (5) Hazaribagh and (6) Chakulia in Bihar now under the state of Jharkhand. According to applicant, Society has landed properties exceeding approx. 8000 (Eight Thousand) Acres of land for cultivating crops, agricultural production, a large number of fruit trees and earns a huge profit by selling mangoes and other fruits, food grain and leasing out / renting parts of its landed properties to big factories and industries as well as by producing huge quantity of Vermi Compost, Gobar Gas, Medicine, Pesticide, Cow dung, Cow Urine, Fertilizers etc. According to applicant, Society also earns a huge amount of money as membership fees from big Industrialists as donation from public and from advertisements in the Souvenirs. Applicant has claimed that he was a Typist cum Office Assistant to maintain records, maintain Electricity, Telephone Register and paid bills of Head Office, Liluah, Sodepur, Kanchrapara, Milk Depot and correspondences on and from 13.03.1990 and rendered his services continuously without any blemish record. The applicant has further claimed that his monthly salary was Rs. 2,610/- including all allowances as on 15th September, 2006. The applicant has alleged that over a typing dispute the General Manager of Calcutta Pinjrapole Society Sri Santi Lal Jain served a show-cause notice on the applicant on 16.09.2006 after office hours and after that terminated his service without listening to the pleas and request of the applicant. The applicant has reiterated that without considering the bonafide of the applicant, management arbitrarily terminated his service on 27.10.2006. The aforesaid action of the Society was illegal, unlawful and unjustified. Mr. N. K. Kotal, Assistant Labour Commissioner, Calcutta, West Bengal called several joint conferences to settle the matter amicably but due to adamant attitude of the opposite party, all efforts turned futile. The Hon'ble Directorate of Labour Department was



pleased to fix conciliation proceeding on 20.03.2007, 10.04.2007 and 25.04.2007. Since management did not attend any conciliation meetings, Mr. N. K. Kotal issued a failure certificate bearing Ref. No. 2040/299/06/LOC dated 20.08.2007. Now, finding no other alternative the petitioner has filed his application u/s 10 (1B)(d) of Industrial Disputes Act, 1947 for directing the opposite party to continue his service along with his full back wages / salaries during the period of forced unemployment as well as for other benefits to which he is legally entitled.

The opposite party entered into appearance by filing written statement contending that opposite party is a charitable and non-profit earning institution established for the cause of the old and infirm cows and its' progeny which are often deserted. The opposite party, fostering the cause of rural economy cannot be termed as commercial or business organization or 'Industry'. It financially depends on donations of the business institutions, affluent and religious minded people of Hindu society. So the activities carried out by the institution of opposite party do not come under the purview of Section 2(j) of the Industrial Disputes Act, 1947. Consequently, Ld. Conciliation Officer has no jurisdiction either to initiate any conciliation proceeding nor to issue any certificate of pendency of the said conciliation proceeding. Opposite party has further stated that applicant was a habitual absentee and the quality of his work was never up to the satisfaction of his superiors, still he was kept in the employment of this charitable society on compassionate grounds. Time and again he was warned by the officials to improve his performance. According to opposite party when the dispute over the typing arose management issued a show-cause letter asking the applicant to explain his conduct in writing within 48 hours of the receipt of the said notice dated 15.09.06. The applicant in his reply dated 18.09.06 admitted the incident of not typing the clause 6B of the draft memorandum of settlement given to him on 06.09.06 for typing. Thereafter, the disciplinary authority in view of admission of guilt by the concerned applicant dispensed with the domestic enquiry and issued a second show-cause letter to the applicant proposing punishment of dismissal vide letter dated, 23rd September, 2006. Being dissatisfied with the reply of the applicant Disciplinary Authority imposed the punishment of dismissal upon the applicant in order to instil confidence amongst the officers of the opposite party and to deter others from committing similar types of misconducts and the order of dismissal was communicated to the applicant vide the letter dated, 27th October, 2006. The opposite party firmly denies the allegations of the applicant and disputes the date of appointment of the applicant and also prayed for rejection of the false and frivolous prayer of the applicant.



After framing of issues the case was taken up for hearing on merit. Applicant Shri Palash Borral adduced his evidence and was cross-examined at length. On the date fixed for evidence of opposite party, applicant did not turn up in spite of several opportunities given to him. Workman even did not file any show-cause. To date neither applicant nor opposite party is present which indicates that parties have lost their interest to do the hearing on merit. As an obvious consequence, I am of the opinion that the alleged instant industrial dispute is no longer in existence.

Accordingly, the case is dismissed for non-prosecution.

Hence, it is

ORDERED

The application under Section 10 (1B)(d) of the Industrial Disputes Act, 1947 be and the same is dismissed for non prosecution. On the above footing the present industrial dispute is no longer in existence.

This is my award.

Let the copies of this award be sent to the concerned authority of the Government of West Bengal.

Dictated & Corrected by me

Sd/ —
Judge

Second Labour Court

Sd/ —
(Dipa Shyam Ray)
Judge

Second Labour Court
17.09.2021.

