

File No. LABR-22015(16)/317/2019-IR SEC-Dept. of LABOUR
1/39168/2019

Government of West Bengal
Labour Department
I.R. Branch
N.S.Bldgs., 12th floor
1, K.S.Roy Road, Kol-1.

No. Labr/206/(LC-IR)

Dated, 20.02.19.

ORDER

WHEREAS under the Government of West Bengal, Labour Department, Order No.693-I.R. dated 27.05.2014 the Industrial Dispute between Messers Vivekananda Forging(India Pvt. Ltd., Plt No.63 & 64, Ulberia Industrial Growth Centre, P.O.-Birshibpur, P.S.-Ulberia, Dist.Howrah and their workman Shri Naba Kumar Ghorui, C/O-Lt. Arjun Chandra Ghorui Vill-Kishorpur, P.O.-Masisrekha, P.S.-Uluberia, Dist.Howrah, Pin-711303 regarding the issue mentioned in the said order, being a matter specified in the Second Schedule to the Industrial Disputes Act, 1947 (14 of 1947), was referred for adjudication to the Judge, Second Industrial Tribunal, West Bengal.

AND WHEREAS the Judge of the said 2nd Industrial Tribunal, West Bengal has submitted to the State Government its award on the said Industrial Dispute;

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



Deputy Secretary to the
Government of West Bengal.

No. Labr/206/1(5)(LC-IR)

Dated, 20.02.19.

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

1. M/s. Vivekananda Forging(India) Pvt. Ltd., Plt No.63 & 64, Ulberia Industrial Growth Centre, P.O.-Birshibpur, P.S.-Ulberia, Dist.-Howrah.
2. Shri Naba Kumar Ghorui, C/O-Lt. Arjun Chandra Ghorui, Vill-Kishorpur, P.O.-Masisrekha, P.S.-Uluberia, Dist-Howrah, Pin-711303.
3. The Assistant Labour Commissioner, West Bengal, In-Charge, Labour Gazette.
4. The Labour Commissioner, West Bengal, New Secretariat Buildings, 1, K.S. Roy Road, 11th floor, Kolkata-700 001,
- ✓ 5. The O.S.D., IT Cell, Labour Deptt., with the request to cast the Award in the Department's website.



Deputy Secretary

File No.LABR-22015(16)/317/2019-IR SEC-Dept. of LABOUR
1/39168/2019

No.Labr/206/2(2)(LC-IR)

Dated, 20.02.19.

Copy forwarded for information to :-

1. The Judge, Second Industrial Tribunal, West Bengal with reference to his Memo No.63-L.T. dated 08.01.19.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata-700 001.

Jnt/IR/order

Deputy Secretary

Contd.
1/3/19

In the matter of an industrial dispute between M/s. Vivekananda Forging (India) Pvt. Ltd., Plt No. 63 & 64, Uluberia Industrial Growth Centre, P.O. – Birshibpur, P.S. – Uluberia, Dist. Howrah, and their workman Sri Naba Kumar Ghorui, C/o. Lt. Arjun Chandra Ghorui, Vill. – Kishorpur, P.O. – Masisrekha, P.S. – Uluberia, Dist. Howrah, PIN-711303.

(Case No. VIII-34/2014 U/s. 10 read with Section 2A of the Industrial Disputes Act, 1947)

BEFORE THE SECOND INDUSTRIAL TRIBUNAL: WEST BENGAL

PRESENT: SHRI SRIBASHJ CHANDRA DAS, JUDGE,

SECOND INDUSTRIAL TRIBUNAL, KOLKATA

Date of passing award –30.11.2018

A W A R D

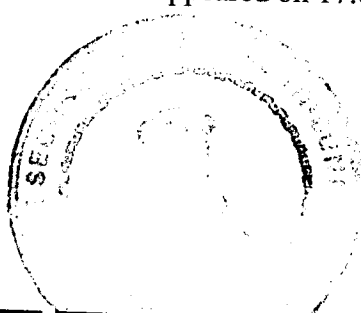
This case is fixed for ex-party hearing. The workman is absent without any step and it appears that the company M/s. Vivekananda Forging (India) Pvt. Ltd. is also absent without any step. None also appeared on behalf of any of the parties on calls.

This case arose out of an order of reference vide No. 693-I.R. / IR/11L-20/2013 dt. 27.05.2014 signed by Assistant Secretary to the Government of West Bengal on behalf of Governor mentioning that an industrial dispute exists between M/s. Vivekananda Forging (India) Pvt. Ltd., plot No. 63 & 64 Uluberia Industrial Growth Centre, P.O. Birshibpur within P.S. – Uluberia in Howrah and Sri Naba Kumar Ghorui, C/o. Late Arjun Ch. Ghorui, Vill. Kishorpur, P.O. – Mahisrekha within P.S. – Uluberia in Howrah relating to the issues as mentioned in this order of reference stated to be specified in the second schedule to the Industrial Disputes Act, 1947 and it became expedient that this dispute should be referred to an industrial Tribunal constituted U/s. 7A of the Industrial Disputes Act, 1947 and accordingly in exercise of power conferred by Section 10 read with Section 2A of the Industrial Disputes Act, 1947, the Governor became pleased to refer this dispute to this Tribunal stated to be constituted under notification No. 803/I.R./IR/3A-2/57 dt. 11.03.1957 for adjudication requiring this Tribunal to submit award to the State Government within a period of three months from the date of receipt of this order of reference by this Tribunal in terms of Section 10 of the Industrial Disputes Act, 1947 subject to other provisions of this act, issues as have been framed by the government in the order of reference are,

- 1) whether the dismissal of the workman Sri Naba Kumar Ghorui by the management of Vivekananda Forging (India) Pvt. Ltd. w.e.f. 27.05.2012 is justified or not, and
- 2) If not, what relief he is entitled to.

After receiving this order of reference summons were issued to both sides on 17.06.2014 and both sides also appeared on 17.07.2014 engaging lawyers and after

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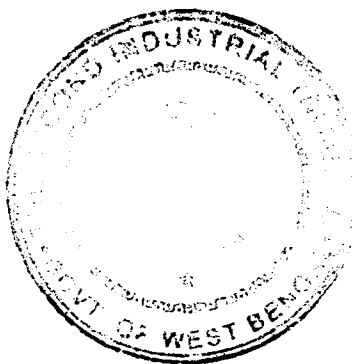
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that on 07.08.2014 the workman Naba Kumar Ghorui was directed to file written statement and workman complied with this order on 29.08.2014 and direction was issued to the management of the company to file written statement along with list of documents. It is found that subsequently Ld. Lawyer for the company started filing petition for time to file written statement on behalf of company and accordingly a few adjournments were given to the management of the company to enable it to file written statement. From the order dt. 25.11.2014 it is found that though workman appeared on that day, the company remained absent without any step and then this Tribunal issued show cause notice to the management of the company requiring the management of the company to show cause in writing mentioning as to why the case would not be fixed for ex-party hearing due to its long absence but the company did not appear after receiving this show cause notice and the case was fixed for ex-party hearing on 27.01.2015. The case record further shows that the Ld. Lawyer for the workman after that started praying for adjournment till 29.07.2015 on which this Tribunal received one corrigendum mentioning that the date of dismissal of the workman was amended and accordingly fresh issue was framed, and after receiving this corrigendum this Tribunal again issued summon to the company requiring its appearance and the company again appeared on 28.09.2015 and opportunity was given to the company to file written statement with list of documents but the company became absent without any step and the management of the company was directed to show cause mentioning as to why case would not be heard ex-party due to its absence without any step and from order dt. 11.07.2016 it is found that the management of the company received the show cause notice but did not appear and the case was further fixed for ex-party hearing by order dt. 11.05.2016 but the workman started becoming absent without any step repeatedly despite allowing time to him till today i.e. 30.11.2018. From the case record it is further found that on 16.07.2018 the workman was also directed to show cause further mentioning as to why necessary order as per law would not be passed due to his unauthorised absence but till today the workman has not turned up and it is the submission by the Ld. Lawyer for the workman that he does not have any instruction from the workman.

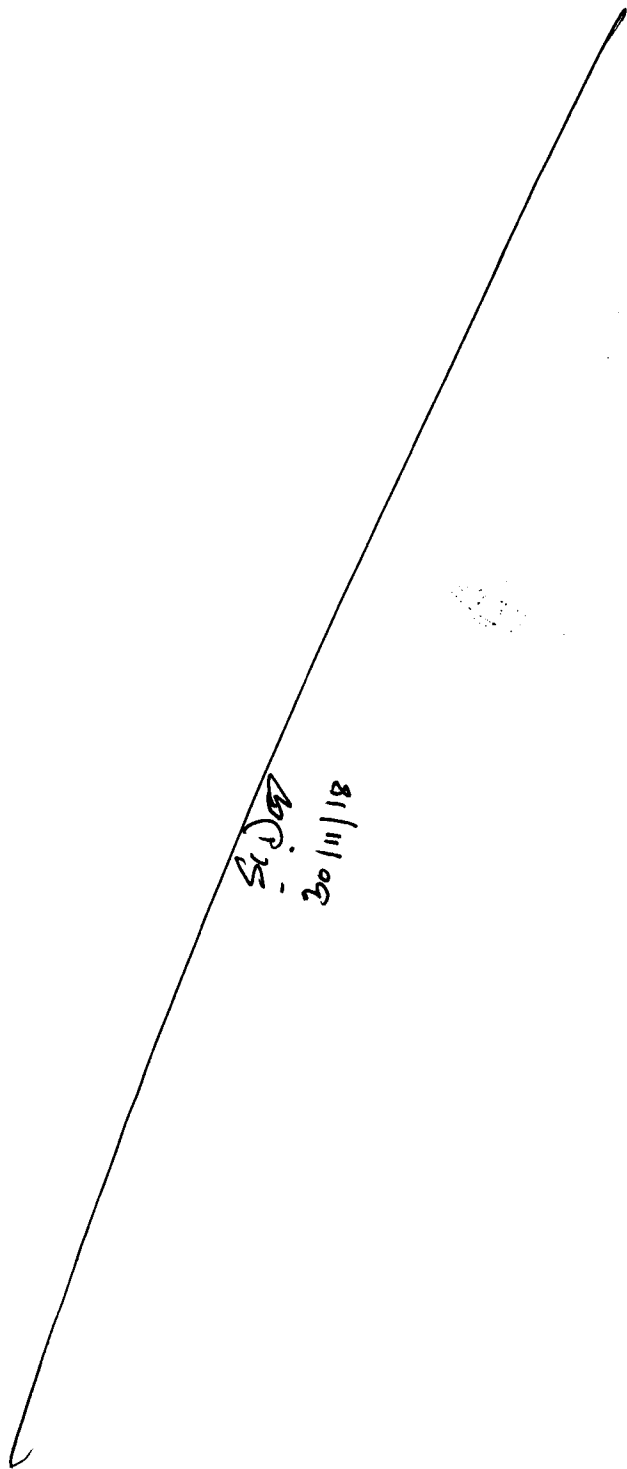
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Thus, it is coming out from the case record that both parties have failed to appear despite direction on both of them to show cause mentioning as to why necessary order would not be passed due to absence for long without any step and accordingly Rule 22 of the West Bengal Industrial Dispute Rules, 1958 has become inevitably applicable.

It is, therefore,



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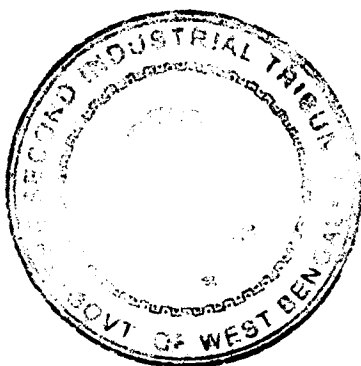
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ORDERED.

that the industrial dispute under reference vide No. 693-I.R./IR/11L-20/2013 dt. 27.05.2014 along with corrigendum thereto is no longer in existence and this is the award of this Tribunal under Rule-22 of the West Bengal Industrial Disputes Rules, 1958 as per order of reference as mentioned above. Necessary number of copies of this award be prepared and send to the appropriate government i.e. Principal Secretary to the Government of West Bengal, Labour Department, New Secretariat Buildings, 12th floor, 1, K.S. Roy Road, Kolkata – 700001.

Dictated & corrected by me.

S.D.
Judge



Sribash Chandra Das
(Sribash Ch. Das)
Judge
2nd Industrial Tribunal
30.11.2018