

Government of West Bengal

Labour Department

I. R. Branch

N.S. Buildings, 12<sup>th</sup> Floor

1, K.S. Roy Road, Kolkata - 700001

1487  
No. Labr./ ...../(LC-IR)/22015(16)/292/2018-IR

Date : 24-08-2021

**ORDER**

WHEREAS an industrial dispute existed between M/S Dipti Construction Vill-Basudevpur, P.O. Khanjanchak, P.S. Durgachak, Dist. Purba Medinipur against Sri Satrugna Kandar, Vill- Alabala, P.O. Golapchak, Sutahata, Purba Medinipur 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 filed an application under section 10(2A) of the Industrial Dispute Act, 1947 (14 of 1947) to the Second Industrial Tribunal specified for this purpose under this Deptt.'s Notification No. 1085-IR/12L-9/95 dated 25.07.1997.

AND WHEREAS, the Judge of the said Second Industrial Tribunal heard the parties under section 10(2A) of the I.D. Act, 1947 (14 of 1947) and framed the following issue dismissal of the workman as the "issue" of the dispute.

AND WHEREAS the Second Industrial Tribunal has submitted to the State Government its Award dated 31.03.2021 under section 10(2A) of the I.D. Act, 1947 (14 of 1947) on the said Industrial Dispute vide memo no. 809-L.T. dated 27/07/2021.

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 heret

**ANNEXURE**

( Attached herewith )

By order of the Governor,

*sd/*

Deputy Secretary  
to the Government of West Bengal



1487/1(5)  
No. Labr./ ...../(LC-IR)

: 2 :  
Date 24-08-2021

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

1. M/s Dipti Construction Vill - Basudevpur, P.O. Khanjanchak, P.S. Durgachak, Dist. Purba Medinipur.
2. Sri Satrughna Kandar, Vill- Alabala, P.O. Golapchak, Sutahata, Purba Medinipur.
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, (11<sup>th</sup> 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.

  
Deputy Secretary

1487/2(5)  
No. Labr./ ...../(LC-IR)

24-08-2021  
Date .....

Copy forwarded for information to :-

1. The Judge, Second Industrial Tribunal, West Bengal, with respect to his Memo No.809 L.T. dated. 27/07/2021.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.

Deputy Secretary

**Before the 2<sup>nd</sup> Industrial Tribunal, Kolkata**

**Present : Shri Partha Sarathi Mukhopadhyay, Judge**  
**2<sup>nd</sup> Industrial Tribunal, Kolkata**

Case No. VIII-08 of 2016

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

**Sri Satrughna Kandar**

**-Vs-**

**M/S. Dipti Construction**

**Dated, 31.03.2021**

**J U D G E M E N T**

This case has been referred by the Labour Department, Govt. of West Bengal for adjudication of the industrial dispute under Section 10(2A) of The Industrial Disputes Act, 1947 and two issues have been framed by the Labour Department, Govt. of West Bengal for adjudication.

The issues framed are as follows:-

- 1] Whether refusal of employment of the workman Sri Satrughna Kandar on and from 01.07.2013 was justified.
- 2] What relief is he entitled to as per law and equity ?



After reference both parties have appeared in this case but the Opposite Party has not contested this case by filing any written statement though sufficient opportunities were given to it for submitting written statement and for these reasons the case has been heard exparte against the said Opposite Party.

The case of the petitioner according to his written statement, in short, is that he is the land looser and evicted person due to acquisition of land in the Haldia Sub-Division for establishment of the industries and he was engaged along with others as Electrician in the Priyongbada House Estate owned by the Haldia Development Authority and the Opposite Party was the last labour contractor under the said Haldia Development Authority and in this way the workman had been continuing his service for more than fifteen years at a stretch and thereafter the Haldia Petro Complex Limited decided to shift the said Priyongbada Housing Estate to their own housing complex at Rayanchak, Ramgopalchak and the concerned authority promised all the workmen that they will not be retrenched from their services and they will be allowed to continue their jobs and then after completion of the shifting work in April, 2012, fifteen workmen had been engaged in different posts, but the salary of the petitioner and others had been stopped since July, 2013 without issuing any notice of retrenchment or any other information and thereafter the petitioner and others made representations again and again before different authorities but finally the petitioner has been refused employment by the Opposite Party.

The petitioner further submits that he had been continuing his service for a long period for more than fifteen years at a stretch but without any fault he has been refused further employment and he has been retrenched from his service forcefully and arbitrarily without issuing any notice of retrenchment and his salary has been stopped suddenly by the Opposite Party. Hence, he has filed this case praying for reinstatement and entire back wages from July, 2013 and other consequential reliefs.

## DECISION WITH REASONS

In order to prove his case the petitioner has examined himself as the PW-I and proved some documents.

As the PW-I the petitioner has deposed in respect of the incidents as mentioned in his written statement. He has proved the complaint submitted by him and others before the authority as Exbt.1 and in his complaint he has mentioned that for the last 13-14 years he along with others had been working in 197-Housing Complex and thereafter the authority shifted the said housing complex to HREL and the management promised to continue their services but they employed some persons but the Opposite Party did not pay the salary to the petitioner and others since July, 2013.

The petitioner has proved one list of the staff as Exbt.2 and the Sl. No. 19 of this list shows the petitioner as the staff of HPL, HREL - 197.

The petitioner has proved one electrical permit in his name as Exbt.3.

The petitioner has proved one ESI Corporation certificate in his name as Exbt.4.

The petitioner has proved two certificates given by Abhishek Engineering and M/s. Gautam Trading as Exbt.5 and these certificates mention the petitioner as the Electrician of HPL-197 sites.

The petitioner has proved two pay slips as Exbt.6 series to show that Basudevpur Khanjanchak Haldia and Dipti Construction issued the said pay slips to him for his work.

The petitioner has proved attendance register as Exbt.7 to show that he was a worker of the Opposite Party.

So all the above documents prove that under 197-Housing Complex the petitioner used to work under the Opposite Party at the time of his termination.



On the other hand, the Opposite Party has not contested this case to prove that all the above documents are false and the said documents have been manufactured by the petitioner for the purpose of this case.

There is also no evidence on record to show that since July, 2013 the Opposite Party paid the salary to the petitioner.

There is nothing on record to show that by way of disciplinary action the petitioner has been given punishment by the Opposite Party for any offence. So, it is clear that according to Section 2(OO) of The Industrial Disputes Act, 1947 the service of the petitioner has been retrenched by the Opposite Party **without inflicting any punishment on him by way of disciplinary action.**

There is also no evidence on record to show that the petitioner did not work **continuously for more than one year** and accordingly, as per Section 25F of The Industrial Disputes Act, 1947, no notice was served upon the petitioner by the Opposite Party for his retrenchment and no compensation has been paid to the petitioner by the Opposite Party at the time of said retrenchment.

There is also no evidence on record to show that the Opposite Party followed the procedure of retrenchment according to Section 25G of The Industrial Disputes Act, 1947 at the time of retrenchment of the petitioner.

Though the case was heard exparte, the petitioner himself has produced sufficient unchallenged oral and documentary evidences on record to prove that he was retrenched by the Opposite Party illegally and he was refused employment though other workers were given employment by the Opposite Party and there is no evidence on record to show that for any offence committed by the petitioner his service has been terminated illegally.

In this case there is no evidence on record to show that since after termination on 01.07.2013 the petitioner used to work in any service place and earn salary.



Due to such illegal termination w.e.f. 01.07.2013 the petitioner has been suffering mentally and financially till now and for such type of unexpected sufferings caused by the Opposite Party, he is entitled to get cost as compensation from the Opposite Party in this case.

Considering the entire materials on record, I hold that the above mentioned materials on record produced by the petitioner are sufficient enough to hold that refusal of his employment from 01.07.2013 by the Opposite Party is unjustified and the case is maintainable in his present form and law and the petitioner is entitled to get relief as prayed for.

In the result the case succeeds exparte.

Hence, it is

**ORDERED**

that the Case No. VIII-08 of 2016 under Section 10(2A) of The Industrial Disputes Act, 1947 is allowed exparte against the Opposite Party with a cost of Rs. 50,000/-.

It is hereby declared that the Opposite Party has refused employment to the petitioner from 01.07.2013 and he has been terminated from 01.07.2013 illegally.

It is also declared that the petitioner is entitled to be reinstated in his previous service and status as on 01.07.2013 with full back wages and the Opposite Party is directed to pay the full back wages to the petitioner from 01.07.2013 till his reinstatement with a compound interest of 10% p.a. on the entire arrear amount of back wages and the Opposite Party is directed to pay the entire arrear amount to the petitioner within thirty days from this date of order.

The Opposite Party is directed to regularise the provident fund account and other benefits of the petitioner w.e.f. 01.07.2013 within thirty days from this date of order.



The Opposite Party is directed to reinstate the petitioner on 15.04.2021 in his previous job with the same status as on 01.07.2013, in default, the petitioner is at liberty to take legal action against the Opposite Party.

Let this judgement and 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.

*Partha Sarathi Mukhopadhyay*  
Judge

*Partha Sarathi Mukhopadhyay*  
(Partha Sarathi Mukhopadhyay)  
Judge  
2nd Industrial Tribunal

