

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

2267
No. Labr./...../(LC-IR)/22015(16)/41/ 2021.

14/12/
Date2021

ORDER

WHEREAS an industrial dispute existed between M/s Vasundhara Milk Production Research Centre Pvt. Ltd. Sabri, Ananda Dham, Munsef Danga, Dist - Purulia - 723101 and M/s. Abhijit Enterprise, 22/10, R.C. Nandi Path, B.T. Road, Khardah, Dist. North 24 Parganas, Kolkata-700117 regarding the issues being a matter specified in the Second schedule of the Industrial Dispute act, 1947 (14of 1947);

AND WHEREAS the petitioner company has filed an application directly under Section 14 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 Ninth Industrial Tribunal heard the Parties and framed the following issues as the "Issue" of the said dispute;

AND WHEREAS the Ninth Industrial Tribunal has submitted to the State Government its Award dated 28/10/2021 the said Dispute vide memo no. 109-L.T. dated 03/11/2021.

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

(2)

2267
No.Labr...../1(2) - IR

14/12/
Dated2021.

Copy forwarded for information to :

1. The Judge, Ninth Industrial Tribunal with reference to his Memo No.109- L.T. dated 03/11/2021 .
2. The Joint Labour Commissioner (Statistics), W.B., 6, Church Lane, Kolkata-700001.

2267
No.Labr...../2(7) - IR

14/12/
Dated2021
Joint Secretary

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

1. M/s Vasundhara Milk Production Research Centre Pvt. Ltd. Sabri, Ananda Dham, Munsef Danga, Dist - Purulia - 723101.
2. M/s. Abhijit Enterprise, 22/10, R.C. Nandi Path, B.T. Road, Khardah, Dist. North 24 Parganas Kolkata-700117
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. Shri Ujjal Prasad Chattapadhyay, S/O Late Amal Prasad Chattapayay, residing at 4th floor, 74-B, Purnadas Road, Kolkata - 700029.
7. The Chief General Manager (R.S.), Indian Oil Corporation Ltd. 2 Gariahat Road (South), Kolkata - 700068.


Joint Secretary

In the matter of an application under Section 14 of the Industrial Disputes Act, 1947 filed by Shri Abhijit Enterprise, 22/10, R.C. Nandi Path, B.T. Road, Khardah, Dist. North 24 parganas, Kolkata-700117 against M/s. Vasundhara Milk Production Research Centre Pvt. Ltd. Sabri, Ananda Dham, Munsef Danga, District – Purulia-723101, Shri Ujjal Prasad Chattapadhyay, S/O Late Amal Prasad Chattapadhyay, residing at 4th floor, 74-B, Purnadas Road, Kolkata-700029. And The Chief General Manager (R.S.), Indian Oil Corporation Ltd. 2 Gariahat Road (South), Kolkata-700068

(Misc. Case No. 01 of 2021 u/s. 14 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

Petitioner's Id. Lawyers are present.

Instant Case is taken up for further hearing on jurisdiction issue.

The Id. Lawyer continue with his submission by reiterating that since the Respondent No.1 firm is an Industry within the meaning within the Industrial Disputes Act, 1947 and in the year 2011 the Respondent No.2, who is an employee of the Indian Oil Corporation, in connivance with his wife Nupur Chattapadhyay (i.e. the Director of the Respondent No.1 firm) took Rs.93,00,000/- (ninety three lakhs) in deceitful manner to start Diary Firm business but subsequently, neither started the business nor refunded the said amount, so this tribunal has the power u/Sec 14 of the Industrial Disputes Act, 1947 to inquire into the matter and report thereto to the appropriate Government.

Being asked by the tribunal, why the petitioner did not approach the appropriate Government either U/S 10 or any other provision under the Act of 1947 the Id. Lawyer failed to give any satisfactory reply. (Contd.)

Perused the main petition/ complaint and documents annexed therewith.

Considered.

At the very outset of discussion it must be mentioned herein that as there is no provision in e-filing system for registering any case U/S 14 of the Act of 1947, so the instant case has been registered as a miscellaneous case and posted for hearing on jurisdiction issue.

Now, let us come back to discussion on the merit of petitioner's submission.

It transpires from the main petition that the same has been filed as an execution case U/S.14 of the Act of 1947 by the Petitioner –M/S Abhijit Enterprise against the Respondents namely, M/S Vasundhara Milk Production Research Centre Pvt. Ltd., one Shri Ujjal Chattapadhyay and The Chief Manager, (R.S.), IOC, Kolkata Praying for an order/decreed for return of the alleged advanced money of Rs.93,00,000/- (ninety three lacks), which it had allegedly paid to the Respondent No.1 to start a Dairy Firm. In other words, the averments of the petition simply speaks about alleged act of misappropriation of the said huge amount of money in deceitful manner by the Respd.No.2 and his wife i.e. the director of the Respd.No.1 but does not speak about any Industrial Disputes as defined in the Sec.2K of the Act of 1947 between the employer and workman.

It prima facie appears that the petitioner files the instant case under the Act of 1947 as the Respondent No. 2 is an employee of the Respondent No.3, IOC and not for determination/settlement of any Industrial dispute in between him being a workman, and the Respondents.

No award of any Industrial Tribunal is filed. No Form –S is filed. The instant case has not been referred U/S 10 of the Act of 1947 or is filed U/S 2(A)2 of the Act of 1947.

Chapter III of the Act Of 1947 speaks about reference of disputes to Boards, Courts Or Tribunals and on plain reading of the relevant provisions of the Act of 1947 it is clear that Section 10 Statutorily obligates a workman who approached the appropriate Government for its opinion in case of any dispute between the employer and the workman and if the appropriate Government is of the opinion that any industrial disputes existed or was apprehended, then, it would refer the matter to the Boards, Courts Or Tribunals. (Contd.)



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Besides that, Sec. 2(A)2 of the Act of 1947 also empowered the workman to approach the Labour Court or Tribunal directly by way of making an application directly notwithstanding anything contained in Sec.10 for adjudication of the disputes arising out of dismissal, discharge, retrenchment or otherwise after expiry of 45 days from the date he makes the application to the Conciliation Officer of the appropriate government for conciliation of dispute and the Labour Court or Tribunal has been given powers to adjudicate such dispute. Thus, it is absolutely clear that no application for adjudication of industrial disputes can be directly be made to the Tribunal without approaching the appropriate Government.

It is pertinent to mention herein that Sec. 14 of the Act of 1947, which speaks about duties of courts to inquire **into the matter referred to it** and report thereabout to the appropriate government, has no application on the alleged factual matrix of the petitioner as per his petition.

However, as I have already mentioned herein above that the averments of the petition does not speak about any industrial disputes between the any employer and the alleged workman i.e. the petitioner and petitioner directly filed the instant case without complying with the mandatory requirements of Sec.10 or Sec.2(A)2 of the Act of 1947, so this Tribunal Lacks Jurisdiction to adjudicate the alleged disputes which appears to be a matter of Money suit in disguise of Industrial dispute.

Having regard to my above discussion I am of the view that the instant case is not maintainable under the Industrial Disputes Act, 1947.

This is my award.

Sd/-
Judge,

28.10.21,
9th. Industrial Tribunal

Durgapur

JUDGE
NINTH INDUSTRIAL TRIBUNAL DURGAPUR
GOVT. OF WEST BENGAL