

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

No. Labr/ 1362 / (LC-IR)/ 22015/8/2019

Date : 28-11-2025

ORDER

WHEREAS an industrial dispute existed between (1) Mr. Pawan Kumar Ganeriwal, Director of the Company - M/s. Indo Thai Flexible Tubes Ltd. having their registered office at 1, Kyd Street, Flat No.-17B, Palace Court, Kolkata - 700016 (2) factory address at Maheshtala, Budge Budge Trunk Road, Jalkal, near Babul Paste, Dist-South 24-Pgs., Kolkata - 700141 and its workman Shri Rabin Sardar, Vill- Haral, P.O.- Champahati, P.S.-Baruipur, Pin – 743330, District-South 24-Parganas, regarding the issues, being a matter specified in the second schedule of the Industrial Dispute Act' 1947 (14 of 1947);

AND WHEREAS the 2nd Labour Court, Kolkata has submitted to the State Government its Award dated 19.11.2025 in Case No. 03/ 2014 on the said Industrial Dispute Vide e-mail dated 20.11.2025 in compliance of Section 10(2A) of the I.D. Act' 1947.

NOW, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Dispute Act' 1947 (14 of 1947), the Governor is hereby pleased to publish the said Award in the Labour Department's official website i.e **labour.wb.gov.in**

By order of the Governor,


Assistant Secretary
to the Government of West Bengal

No. Labr/ 1362 /1(6)/(LC-IR)/ 22015/8/2019

Date : 28-11-2025

Copy forwarded for information and necessary action to :-

1. Mr. Pawan Kumar Ganeriwal, Director of the Company - M/s. Indo Thai Flexible Tubes Ltd., 1, Kyd Street, Flat No.-17B, Palace Court, Kolkata - 700016.
2. M/s. Indo Thai Flexible Tubes Ltd., Maheshtala, Budge Budge Trunk Road, Jalkal, near Babul Paste, Dist-South 24-Pgs., Kolkata – 700141.
3. Shri Rabin Sardar, Vill- Haral, P.O.- Champahati, P.S.-Baruipur, Pin – 743330, District-South 24-Parganas.
4. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
5. The OSD & EO Labour Commissioner, W.B., New Secretariat Building, 11th Floor, 1, Kiran Sankar Roy Road, Kolkata – 700001.
6. The Deputy Secretary, IT Cell, Labour Department, with request to cast the Award in the Department's website.


Assistant Secretary
to the Government of West Bengal

No. Labr/ 1362 /2(3)/(LC-IR)/ 22015/8/2019

Date : 28-11-2025

Copy forwarded for information to :-

1. The Judge, 2nd Labour Court, N. S. Building, 1, K.S. Roy Road, Kolkata - 700001 with reference to e-mail dated 20.11.2025.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.
3. Office Copy.


Assistant Secretary
to the Government of West Bengal

In the matter of a Industrial Dispute between (1) Mr. Pawan Kumar Ganeriwal, Director of the Company - **M/s. Indo Thai Flexible Tubes Ltd.** having their registered office at 1, Kyd Street, Flat No.-17B, Palace Court, Kolkata - 700016 (2) factory address at Maheshtala, Budge Budge Trunk Road, Jalkal, near Babul Paste, Dist-South 24-Pgs., Kolkata - 700141 and its workman Shri Rabin Sardar, residing at Vill- Haral, P.O.- Champahati, P.S.-Baruipur, Pin – 743330, District-South 24-Parganas.

Case No. 03/ 2014 / U/S 2A(2) Of The Industrial Disputes Act 1947

Before the Judge, 2nd Labour Court, West Bengal at Kolkata

Present : MD. RUKNUDDIN (J.O. Code :- WB-0978)

Judge, 2nd Labour Court, West Bengal.

A W A R D

Dated 19th November 2025

Shri Asit Banerjee, Ld. Advocate ---- for Applicant

Shri P.K. Ganariwala, Ld. Advocate ---- for O.P. / Management

Shri Sandip Mukherjee, Ld. Advocate

The applicant/workman's case :-

1. The applicant /workman's case in short is that M/s.Indo Thai Flexible Tubes Ltd. is a company within the meaning of Company's Act, 1956 having its registered office located at 1, Kyd Street, Flat No.- 17B, Palace Court, Kolkata – 700016 and factory located at Budge Budge, Trunk Road, Maheshtala, Kolkata – 700141. and workman came in employment role on 13.12.2007 and he was working at the factory as a workman of the aforesaid company without an iota of blemish and/or any adverse report was ever recorded against the applicant/workman on any point of time during his tenure of service.
2. The further case of the workman is that he used to draw Rs.4600/- per month and his Provident Fund Account No.- was WB/PRB/33436/172 but the company deduct the Provident Fund from the earned wages of the workman and did not to deposite the same to the office of the Regional Provident Fund Commissioner for a long time causing which it was also protested to the Regional Provident Fund Commissioner vide its letter dated 02.05.2013 but it yielded no effect exposing violation of law of the land.
3. The further case of the applicant/workman is that the O.P. Company forced the workman concerned and informed to discontinue his service by way of refusal of

employment otherwise the applicant/workman will not get his statutory payment so long the resignation letter is submitted to the employer by taking the advantage of mis-utilisation of maximum bargaining power and the petitioner compelled to submit his resignation letter on 09.04.2014 under duress and intimidation with pressure which is nothing but 'alleged consequential effect of termination of service under veil of forced resignation. It is further stated that the company threatened the applicant by way of creating fear for losing the lien of employment with a motivated presumption to stop the payment of wages after utilising services month after month and Applicant/workman repeatedly requested the management to take back in employment as well as pay the statutory dues but the employer was kept mum and did not consider the grievances of the workman which is causing utter dismay as well as highly shocking. The company also recruited fresh workman instead of alleged consequential effect of termination of service under the veil of forced resignation from the workman.

4. The further case of the applicant is that The O.P. Company administered discipline arbitrarily and vindictively violating the pre-conditions and pre-requisite of the legislature by their whimsical adlibitum by way of adopting an unfair measure of anti labour policy, taking the advantage of illiteracy and poverty of the working class of the society and finding no avenue left open, applicant requested conciliatory machinery vide its letter dated 27.03.2014 recorded his consequential effect of termination of service under the veil of forced resignation with effect from 09.04.2014 duly received by the Labour Commissioner, Government of West Bengal on 27.03.2014 and the said industrial dispute was finally brought to the notice of the Labour Director, Government of West Bengal on 27.03.2014 by the applicant when 45 days have already been completed. The instant case hits sub-section (2) of Section 2(A) of the Industrial Disputes Act 1947.
5. Finally, the applicant has prayed before this Court to hold that the forced resignation with intimidation and duress with effect from 06.11.2013 by the O.P. Company is unjustified, bad and illegal and to pass an award in favour of the applicant directing the O.P. Company to reinstate the petitioner with full back wages for the period of forced non employment and consequential statutory benefits thereto or pass any such order as it deem fit and proper..
6. This court issued notice to the Opposite Party and the notice was served to the O.P. in this matter and O.P. appeared initially on 26.06.2014 through their authorised representative Mr. Arun Dhar. and Mr. Sandip Mukherjee appeared on behalf of O.P. by filing Vakalatnama and filed written statement.

The Opposite Party's case :-

7. Opposite party Company appeared and filed written statement in this matter ipso facto denying and disputing contentions of the applicant/workman and it is stated that the application under section 2A(2) of the Industrial Disputes Act 1947 of

workman contained various statements and/or allegations and/or contentions which are baseless, incorrect and misleading.

8. It is further contended by O.P. Company that the application filed under section 2A(2) of the Industrial Disputes Act 1947 of workman is not maintainable since no rules has yet been framed by the appropriate government to regulate the provision of section 2A(2) of the Industrial Disputes Act 1947 as introduced by the Government of India and also the purported dispute is not maintainable since neither the government of India nor the Government of West Bengal has framed the rules prescribing the procedures to initiate the proceedings under the provisions of section 2A(2) of the Industrial Disputes Act 1947.
9. O.P. Company has further stated that the purported dispute is not maintainable since the provision under section 2A(2) of the Industrial Disputes Act 1947 itself requires to be guided under the appropriate rule to be framed by the appropriate govt and the dispute is not maintainable since there is no certificate issued by the authority concerned to show that the qualifying period of conciliation proceeding is ended. Besides that there has been no investigation made by the conciliation officer as regarded the existence of an Industrial dispute relating to the individual workman and in absence thereof the entire proceeding is, therefore, void nullity in the eye of law.
10. O.P. Company has further stated that the purported dispute is not maintainable since Sri Rabin Sardar is not a workman within the meaning of Section 2(s) of the Industrial Disputes Act 1947. After on cessation of employment by his own violation. Also the dispute is not maintainable since the statutory provision envisaged in an Industrial Dispute Act 1947 as amended by the government of West Bengal and the West Bengal Industrial Dispute Rules 1958 pertaining to the powers and duties of the conciliation officer case an obligation on the conciliation officer to investigate and satisfy himself as to the existence of an Industrial Dispute relating to the individual workman and thereafter to commence the conciliation proceeding and consequently to issue a certificate but in the instant proceedings there is none. Also the purported dispute is not maintainable since the same is beyond the scope and ambit of the provision of section 2A(2) of the Industrial Disputes Act 1947 and the dispute is not maintainable as Industrial Dispute is non-existence since there is no termination of service or refusal of employment of Sri Rabin Sardar at any point of time. Also the dispute is not maintainable since the applicant has not acquired any legal status and/or legal character to espouse the cause of his grievances alleging so called termination of service against this opposite party company.
11. O.P. Company further submits that applicant is not a workman within the meaning of section 2(s) of the industrial disputes Act 1947 as the relationship of employer and employee is ceased to exist. As the applicant left from service there does not

arise any question of termination of service. Here is no basis to contend that the applicant is covered under the periphery of Industrial disputes act 1947.

12. O.P. Company further submits that it is denying and disputing that there was a termination of service as alleged or at all. The applicant left the job at his own volition. The allegation to the effect of forced resignation with duress is false and concocted. The management has not received any letter which is to be substantiated by proving the documents. That so called demand have no basis and the same was an attempt to confuse the exact state of affairs. The purported representation to the conciliation machinery have no basis as the same is beyond the purview of conciliation. There is no scope of the invoking the provision of section 2A(2) of the Industrial Disputes Acty 1947 as the applicant was not a workman.
13. O.P. did not complete cross examination of P.W.-1 and also did not adduce any evidence.

I S S U E S :-

1. Is this case maintainable in its present form and in law ?
2. Whether the applicant was compelled to submit his resignation letter on 09.04.2014 under duress and intimidation with pressure as alleged ?
3. Whether the letter dt. 09.04.2014 submitted by the applicant is deemed to be consequential effect of termination of service under the veil of forced resignation as alleged ?
4. Is the applicant entitled to get any relief as prayed for ?
5. To what other relief or relieves the applicant is entitled to get ?

EVIDENCE ON RECORD

A. Workman's evidence :-

14. To prove his case the applicant – Rabin Sardar examined himself as P.W.-1 and the applicant has filed the following documents which are marked as Exhibits as under :-

Exhibit-1	Copy of appointment letter issued by the O.P. Company to the applicant in two pages.
Exhibit-2	Copy of appreciation certificate.
Exhibit-3.	Copy of employees P.F. slip for the period from 1 st April 2008 to 31 st March 2009.
Exhibit-3 / 01	Copy of employees P.F. slip for the period from 1 st April 2010 to 31 st March 2011.
Exhibit-4	Copy of ESI Card.
Exhibit-4 / 1	Copy of ESI Family Card.
Exhibit-5	Copy of voter identity card.

B. Opposite Party's evidence :-

15. O.P. Company did not adduce any evidence. However, opposite party company partly cross examined the P.W.-1 Rabin Sardar till 25.10.2017, but thereafter O.P. did not complete the cross examination in spite of getting ample opportunity and time, rather they took uncountable adjournment. Accordingly vide order no.-90 dt. 08.03.2018, O.P. Company was imposed cost of Rs.500/- payable to the applicant, but O.P. did not pay the cost and as such the case was fixed for hearing argument vide Order no.- 48 dated 17.12.2018. Thereafter, opportunities were given to the opposite party to argue this case but none appeared for opposite party since 24.01.2019. So the argument of opposite party was dispensed with.
16. I have heard the argument of Ld. Counsel for applicant in full and several opportunities were provided to the opposite party but none appeared to advance argument on behalf of opposite party. So argument of opposite party was dispensed with.

DECISION WITH REASONS :-

(1) Is this case maintainable in its present form and in law ?, (2) Whether the applicant was compelled to submit his resignation letter on 09.04.2014 under duress and intimidation with pressure as alleged ? and (3) Whether the letter dt. 09.04.2014 submitted by the applicant is deemed to be consequential effect of termination of service under the veil of forced resignation as alleged ?

17. My issue wise decision is as under :-
18. All these issues no. 1 to 3 are taken up together for discussion and adjudication as they are related with same set of facts and evidence.
19. On meticulous scrutiny of pleadings and evidence on records, I find that workman Rabin Sardar alleged that he was forced to submit his resignation letter on 09.04.2014 under duress and intimidation with pressure and workman Rabin Sardar as P.W.-1 is stated in his affidavit in chief that the “company forced the workman concerned and inform to discontinue my service by way of refusal of employment otherwise I will not get any statutory payment.”
20. Furthermore, P.W.-1 Rabin Sardar has also stated in his affidavit in chief that he compelled to submit his resignation letter on 06.11.2013 under duress, intimation with pressure, but he has not produced any independent witness nor any documentary evidence to substantiate his allegations that he was compelled to submit his resignation letter on 09.04.2014.
21. Furthermore, P.W.-1 Rabin Sardar has stated during cross examination that he cannot remember the date when the company did not allow him to resume his duty. However, it is clear from his affidavit in chief that he submitted resignation letter on 06.11.2013 but he alleged that the resignation was under duress, intimation and pressure. The workman has not produced any documentary evidence much less oral

evidence of any other witness to establish that he was compelled to resign on 09.04.2014 from the service of opposite party company.

22. Moreover, the applicant/workman could not produce the copy of resignation letter. Moreso, if workman was compelled to resign from service then he should have filed a complaint or G.D.E. before the appropriate police station or appropriate authority regarding the forceful act of opposite party company, but the workman has not done any such act. Besides that there is no pleadings of the workman as to which officer of opposite party company M/s. Indo Thai Flexible Tubes Ltd. compelled him to submit resignation letter.
23. Thus, the allegation of the workman that he was forced to submit resignation letter under duress, intimation with pressure has not been proven. Therefore, the instant case of the applicant does not fall under Section 2A(2) of Industrial Disputes Act and as such, the instant application/case is not maintainable in its present form and law. Moreso, the workman has also failed to prove with cogent and substantial evidence that his resignation letter dated 09.04.2014 is forced resignation. Therefore, the workman has measurably failed to prove these issues with cogent and substantial evidence.
24. Accordingly all these issues no. 1 to 3 are answered in negative and decided against the workman and disposed of.

(4) Is the applicant entitled to get any relief as prayed for ? and (5) To what other relief or relieves the applicant is entitled to get ?

25. Both these issues are taken up together for discussion and adjudication for the same of brevity and convenience.
26. It is abundantly clear from discussion and decision of issue no. 1 to 3 and evidence on record that the workman/applicant has not been able to prove the fact that he was compelled to submit resignation under duress, intimidation with pressure and the instant case is not maintainable in its present form and law and the workman has also not proved that his resignation letter dated 09.04.2014 is amount to forced resignation.
27. Moreso, the issue no. 1 to 3 of this case has been decided against the workman / applicant, so applicant is not entitled to get any relief in this matter. Therefore, issue no. 4 and 5 are also liable to be decided against the workman.
28. Accordingly issue no. 4 and 5 are answered in negative and decided against the workman and disposed of.
29. Consequently, this case is deserved not to be allowed.

30. Hence, it is,

Ordered

That this proceedings being no. 03 of 2014 under section 2A(2) of Industrial Disputes Act 1947 is not **allowed on contest** and without any cost.

AND

This is my Award.

Let a certified copy of this order U/S 17AA of the Industrial Disputes Act 1947 be given free of cost to the parties and also a copy of the same be sent to Department concerned of Government of West Bengal for necessary action.

Announced in open court on 19.11.2025.

Dictated & Corrected by me.

Md. Ruknuddin
Judge
2nd Labour Court, West Bengal

Md. Ruknuddin
Judge
2nd Labour Court, West Bengal