

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

No. Labr/ 1393 / (LC-IR)/ 22015(15)/2/2025

Date : 08-12-2025

ORDER

WHEREAS under Labour Department's Order No. Labr./944(3)/(LC-IR)/22016/7/2024 dated 13.09.2024 with reference to the Industrial Dispute between M/s. Lagan Engineering Company (P) Ltd., (Erstwhile The Lagan Jute Machinery Company Limited), 14, Dr. Mohd. Ishaque Road (Kyd Street), Kolkata-700016 and its workman Mr. Sandip Das, Bhadreswar Sitala Monsatala Lane, P.O. Bhadreswar, District-Hooghly, PIN-712124, regarding the issues mentioned in the said order, being a matter specified in the Second Schedule of the Industrial Dispute Act' 1947 (14 of 1947), was referred for adjudication to the 3rd Industrial Tribunal, Kolkata.

AND WHEREAS the 3rd Industrial Tribunal, Kolkata, has submitted to the State Government its Award dated 28.11.2025 in Case No. 05/2021 on the said Industrial Dispute Vide e-mail dated 01.12.2025 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/ 1393 /1(5)/(LC-IR)/ 22015(15)/2/2025

Date : 08-12-2025

Copy forwarded for information and necessary action to:

1. M/s. Lagan Engineering Company (P) Ltd., (Erstwhile The Lagan Jute Machinery Company Limited), 14, Dr. Mohd. Ishaque Road (Kyd Street), Kolkata-700016.
2. Mr. Sandip Das, Bhadreswar Sitala Monsatala Lane, P.O. Bhadreswar, District-Hooghly, PIN-712124.
3. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The O.S.D. & E.O. Labour Commissioner, W.B. New Secretariat Building, 1, K. S. Roy Road, 11th Floor, Kolkata- 700001.
5. 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/ 1393 /2(3)/(LC-IR)/ 22015(15)/2/2025

Date : 08-12-2025

Copy forwarded for information to :

1. The Judge, 3rd Industrial Tribunal, Kolkata, with reference to e-mail dated 01.12.2025.
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 Third Industrial Tribunal,
New Secretariat Buildings, Kolkata

Case No. 05/2021 u/s. 10(1B)(d)

Present: Sri Mihir Kumar Mondal
Judge, 3rd Industrial Tribunal
Kolkata

Mr. Sandip Das Applicant
Residing at Bhadreswar Sitala Monsatala Lane,
P.O. Bhadreswar, District-Hooghly, PIN-712124.

-Vs.-

M/s. Lagan Engineering Company (P) Ltd.,OP/Company
(Erstwhile The Lagan Jute Machinery Company Limited)
14, Dr. Mohd. Ishaque Road (Kyd Street), Kolkata-700016.

A W A R D

Dated : 28.11.2025

This is a case u/s. 10(1B)(d) of the Industrial Dispute Act, 1947. The instant case was received by this Tribunal on 12.03.2021. However, the case was registered on 10.12.2021 as it appears from the Order No.1 dated 10.12.2021. The applicant/workman on 12.03.2021 filed an application under Section 10(1B)(d) of the Industrial Disputes Act, 1947 along with Form 'S' [under Rule 12A(3) of the West Bengal Industrial Dispute Rules, 1958] but sans Form-T under Rule 12A(4) of the West Bengal Industrial Dispute Rules, 1958.

The instant case has been started on the basis of an application u/s. 10(1B)(d) of the Industrial Dispute Act, 1947 filed by one Sandip Das, a resident of Bhadreswar Sitala Monsatala Lane, P.O. Bhadreswar, District-Hooghly, PIN-712124 against M/s. Lagan Engineering Company (P) Ltd., (Erstwhile The Lagan Jute Machinery Company Limited), 14, Dr. Mohd. Ishaque Road (Kyd Street), Kolkata-700016 raising an industrial dispute. The applicant by his application u/s. 10(1B)(d) of the Industrial Disputes Act, 1947 (*hereinafter refer to as 'application'*) stated that he was an employee (bearing Emp. No.1005) of M/s. Lagan Engineering Co. Pvt. Ltd. (Unit: Angus) and he continuously performed his duty as well as performed the work allotted to him since 06.05.1997 till the date of termination notice. It has been stated that he had worked for more than 240 days in a year without any break of service during his employment. It has been stated that he received a Show-Cause Notice dated 22.01.2019 from the OP/Company, in which it was alleged that on 16.01.2019 at 9 a.m. he deliberately and intentionally provoked and instigated other general workmen in order to stop their work and thereby they resorted to wildcat strike in a well concerted manner. It has been stated that the workmen in course of wildcat strike created panicky situation, pandemonium and violence inside the factory and thus, the Management alleged that he by such acts violated several provisions of the Certified Standing Orders of the OP/Company. It has been mentioned that the OP/Company made allegations against him on four points, such as – (i) participation in an illegal strike, (ii) participation in strike or a sit down strike or refusal to work without serving fourteen days notice, (iii) commission of acts subversive of the discipline of the OP/Company and (iv) organizing, holding, attending or taking part in any meeting within the factory premises without prior sanction of the Manager. It

[05/2021/10(1B)(d)]

has been mentioned that in the Show-Cause Notice dated 22.01.2019 it was directed to file reply within seven days from the date of receipt of such Notice and he submitted the reply dated 24.01.2019 against the said Show-Cause Notice before the 'concerned officer' of the OP/Company denying all the allegations levelled against him alongwith the prayer to withdraw the Show-Cause Notice with immediate effect. It has been stated that although he submitted reply against the Show-Cause Notice and requested to withdraw the 'Notice', the OP/Company on 28.01.2019 refusing / neglecting his 'reply' framed Charges against him alleging that – (i) he resorted to an illegal strike without Notice, (ii) he held meeting within the factory premises without obtaining permission of the competent authority and accordingly issued direction upon him to file reply within seven days of the receipt of the copy of 'Charge-Sheet'. It has been stated that on receiving the copy of the Charge-Sheet, he prepared the 'reply' against such Charge-Sheet but failed to submit such reply to the competent authority of the OP/Company because in the meantime the Management of the Company declared 'Temporary suspension of work' on 18.03.2019 and for that reason the gate of the factory premises remained closed. It has been stated that the OP/Company on 03.10.2019 sans conducting Domestic Enquiry by any independent Enquiry Officer, straightway dismissed him from his service illegally and with immediate effect. It has been mentioned that apart from dismissing him from his service, the Management of the Company illegally forfeited all his legitimate dues and claims. It has been claimed that his employer i.e. the OP/Company had no right to terminate him from his service without conducting any Domestic Enquiry as well as without holding any departmental proceedings. He has claimed in his application that the Management of the OP/Company created problems within the factory premises with a view to depriving its employees/workmen from their lawful financial demands. He has claimed that as the OP/Company terminated him from his service, he became unemployed and thus he has been facing severe financial hardship to maintain the livelihood of him and his family. He has claimed in his application that his last drawn wages was Rs.13,230.64 per month. He has mentioned that on 19.03.2020 he submitted application before the Deputy Labour Commissioner, Chandannagore, Government of West Bengal seeking redress against the unlawful steps taken by the Management of the Company along with the prayer for reinstatement in his service but ultimately he did not get any relief from such authority and thus, obtained appropriate certificate in Form-S bearing Memo. No.835/DLC/CNR dated 26.06.2020 under Rule 12A(3) of the West Bengal Industrial Dispute Rules, 1958.

He has prayed for passing an Award with the direction upon the OP/Company to withdraw the notice of illegal termination of service which was served upon him and to reinstate him to his original post as well as for granting full back wages.

The OP/Company i.e. M/s. Lagan Engineering Co. Pvt. Ltd. has contested this case by filing Written Statement. The OP/Company by its Written Statement has denied all the material allegations levelled against it by the applicant/workman. It is seen that the OP/Company has apportioned its Written Statement in two parts i.e. Part-I and Part-II. In Part-I of the Written Statement, the OP/Company has claimed that the application filed by the concerned workman is not maintainable and it has been mentioned that from the office records it was revealed that the applicant Sandip Das was an employee of M/s. Lagan Engineering Co. Pvt. Ltd. and he along with other workmen provoked and participated in illegal strike without any notice and thus committed activities violating the provisions of Certified Standing Orders of the Company. It has been stated that the 'Company' dismissed Sandip Das from his service by issuing dismissal letter dated 03.10.2019. It has been claimed that in view of the submission of the OP/Company in its letter dated 18.02.2020 addressed to the Deputy Labour Commissioner, Government of

[05/2021/10(1B)(d)]

West Bengal, the 'application' of the workman is bad in law since the workman was dismissed from his service by M/s. Lagan Engineering Co. Pvt. Ltd. on the 'Charge' that he resorted to an illegal strike without notice and also held meeting within the factory premises sans obtaining permission from the competent authority. It has been clarified in the Written Statement that the concerned workman Sandip Das on 15.01.2019 had his duty in 'G' shift and at around 2:40 p.m. he deliberately/intentionally provoked/instigated other workmen to stop their work and to resort to wildcat strike and thereafter in a well concerted manner, created panic and violent situation inside the factory premises for which the said workman was dismissed from his job. It has been stated that the OP/Company on 22.01.2019 issued Show-Cause Notice against the workman Sandip Das explaining the act of misconduct that he allegedly committed in course of working hours violating the provisions of Certified Standing Orders of the Company. Specific acts of misconduct and unlawful acts had been mentioned in the Show-Cause Notice. It has been stated that the OP/Company directed the said employee Sandip Das by Show-Cause Notice dated 22.01.2019 to submit his reply and he submitted reply on 24.01.2019 but such reply was found neither satisfactory nor reliable. Apart from that, the workman further threatened the Management to organize a big demonstration roping in many workmen of rank and file. It has been stated that the OP/Company on 28.01.2019 issued Charge-Sheet against the workman alleging that – (i) he resorted to an illegal strike without Notice, (ii) he held meeting within the factory premises without obtaining permission of the competent authority and accordingly issued direction upon him to file reply within seven days of the receipt of the copy of 'Charge-Sheet' but the workman did not submit any 'reply' inspite of issuance of reminder letter. Thus, the OP/Company issued dismissal order against the workman on 03.10.2019 and consequently the OP/Company forfeited his dues to compensate the losses of the Company which it incurred due to the act of misconduct committed by the workman.

In Part-II of the Written Statement, the OP/Company has put forward its paragraph-wise denials in respect of various allegations and claims made by the workman in his application u/s. 10(1B)(d) of the Industrial Disputes Act, 1947.

It is found that by filing Written Statement the OP/Company has prayed for dismissal of this case on the ground that the concerned workman is not entitled to get any relief as prayed for.

After submission of Written Statements and List of Documents by the parties to this case, exchange of documents took place. Thereafter, the matter was fixed for framing of issues.

On the basis of pleadings of the parties, the following issues were framed in this case by the then Learned Presiding Officer of this Tribunal on 12.05.2022 :

ISSUES

1. *Whether termination of service of workman Sri Sandip Das w.e.f. 03.10.2019 by the management of M/s. Lagan Engineering Co. Pvt. Ltd. justified ?*
2. *What relief, if any, the workman is entitled to ?*

After framing of the issues, the evidence of this case was started.

During evidence stage, applicant/workman Sri Sandip Das examined himself as PW-1.

[05/2021/10(1B)(d)]

The OP/Company has adduced two witnesses namely Manas Kumar Banerjee as OPW-1 and Soumen Dutta as OPW-2.

In course of evidence, both the parties proved documents during examination of witnesses.

The applicant Sri Sandip Das has identified and proved the following documents in course of his examination as witness:-

1. Exbt.-1 : photocopy of appointment letter dated 06.05.1997;
2. Exbt.-2 series : photocopy of pay slips;
3. Exbt.-3 : photocopy of ESI card;
4. Exbt.-4 : photocopy of PF slip;
5. Exbt.-5 : photocopy of attendance cum punching card;
6. Exbt.-6 : photo copy of show-cause letter dated 22.01.2019;
7. Exbt.-7: photocopy of reply dated 24.01.2019 to the show-cause;
8. Exbt.-8 : photocopy of charge-sheet dated 28.01.2019;
9. Exbt.-9 : photocopy of dismissal letter dated 03.10.2019.;
10. Exbt.-10: photocopy of representation to the Personnel Manager of the OP/Company;
11. Exbt.-11 : photocopy of letter dated 02.12.2019 to the Deputy Labour Commissioner;
12. Exbt.-12 : photocopy of letter dated 19.03.2020 to Conciliation Officer;
13. Exbt.-13 : photocopy of joint letter dated 31.01.2019 to Deputy Labour Commissioner;
14. Exbt.-14 : photocopy of Form-S.

In course of examination of witness on behalf of the OP/Company, the following documents were identified and proved. The exhibited documents are as follows:-

1. Exbt.-A: Authorization letter dated 16.07.2014 of Manas Kr. Banerjee;
2. Exbt.-B: photocopy of Standing Orders of the Company;
3. Exbt.-C: photocopy of Show-Cause Notice dated 22.01.2019;
4. Exbt.-D : photocopy of Charge-Sheet dated 28.01.2019;
5. Exbt.-E: photocopy of reminder dated 11.02.2019 for reply on charge-sheet;
6. Exbt.-F: photocopy of letter of dismissal dated 03.10.2019 issued by the Personnel Manager of the Company;
7. Exbt.-G: photocopy of letter dated 18.02.2020 to the Deputy Labour Commissioner, Chandannagore, Hooghly written by Manas Banerjee, Personnel Manager of the Company;
8. Exbt.-H: photocopy of extract of meeting dated 30.08.2023.

After closing the evidence of this case Ld. Advocates of the parties to this case prayed for fixing a date for filing written notes of argument on behalf of the parties to this case. Accordingly, date was fixed for filing written notes of argument by the parties to

this case. Ld. Advocates of the parties to this case filed their respective written notes of argument.

Evidence on Record

PW-1 Sandip Das in his examination-in-chief on affidavit has practically reproduced his statements as contained in the Written Statement submitted in this case. The PW-1 during his examination-in-chief before the Tribunal on dock proved the documents which he filed along with list of documents.

During cross-examination, he has divulged that he joined in the service of the company on 06.05.1997. He has divulged that he has filed so many pay slips i.e. Exbt.-2 series to establish that he had worked for 240 days in every year during his service tenure including the year just preceding his termination from service. He has admitted that he received the copy of charge-sheet dated 28.01.2019 and on receiving the same he had gone through the same. He has admitted that according to the charge-sheet he was required to submit his written objection against the same within seven days of the receipt of the charge-sheet but he did not submit any written objection against the charge-sheet. He has admitted that after observing the dismissal letter, he came to learn that he was dismissed from the service of the Company and his legitimate dues were forfeited by the Company as compensation against the losses incurred by it due to committing of grave act of misconduct by him. He has divulged that according to his knowledge, Section 25F of the Industrial Disputes Act, 1947 provides for holding domestic enquiry by an independent Enquiry Officer prior to taking decision of dismissal of any employee / workman by the Management of the Company. He has divulged that according to his pay slip for the month of December, 2018 his last drawn salary was Rs.13,230.64 per month. He has divulged that Lagan Engineering Company Ltd. was a Government of India Undertaking Company and previously it was named as The Lagan Jute Machinery Company Ltd. He has disclosed that presently he is completely an unemployed person and the expenditure to maintain his family is disbursed from the funds raised by the monetary help of his close relatives. He has denied the suggestion of the OP/Company that he was working as a badli worker and he was never made permanent in his job by the Company. He has admitted that he had received all the letters issued by the Company to him. He has denied the suggestion of the OP/Company that he is not an unemployed person. He has denied the suggestion of the OP/Company that he never worked continuously for 240 days in a year during his service tenure under the OP/Company.

OPW-1 Manas Kr. Banerjee brought an authorization issued by the competent authority of Lagan Engineering Co. Ltd. to establish his competence to depose on behalf of the OP/Company. He has mentioned in his examination-in-chief on affidavit that he has been working as Personnel Manager of the Company and he is fully acquainted with the facts and circumstances of this case. The OPW-1 in his examination-in-chief on affidavit has stated that the alleged workman was working in Grade-C, semi-skilled category and the said workman never worked continuously for 240 days during his working period as the applicant/workman had worked only occasionally under the OP/Company. He has stated that the applicant along with other workmen, provoked and participated in an illegal strike without any notice and acted against the provisions of the Certified Standing Orders of the company. It is seen from the examination-in-chief on affidavit of OPW-1 that the statement of facts contained in the company's written statement has been reproduced therein. The OPW-1 in course of preparation of his examination-in-chief on affidavit proved the documents filed by the OP/Company along with list of documents and those documents have been marked as exhibited documents.

[05/2021/10(1B)(d)]

During cross-examination he has admitted that there is no signature of any 'authority' as a measure of certifying the 'Standing Orders' of the OP/Company as well as, 'date of effect' of the Standing Orders (Exbt.-B) of the OP/Company is not mentioned in the same. He has admitted that it is not specifically mentioned either in the written statement or in his examination-in-chief on affidavit in which year the workman Sandip Das worked for how many days. He has divulged that Sandip Das is a permanent workman under the OP/Company. He has divulged that he cannot remember whether the Management of the Company sent any letter to the workman Sandip Das intimating his frequent absence in the work. He has admitted that he has not filed any document in support of his statement that the workman never worked continuously for 240 days during his (workman) working period. He has admitted that he has not mentioned the name of 'other workman' along with whom he (workman) participated in illegal strike. He has admitted that he has not mentioned the names of the workmen who were provoked by the applicant and 'other workman'. He has admitted that there was no CCTV coverage in the factory premises. He has denied the suggestion of the applicant that Sandip Das was working in 'Grade-B – skilled' category. He has admitted that it is unknown to him whether Sandip Das was upgraded to 'Grade-B – skilled' category on and from 01.08.2008 from 'Grade-C – semi skilled' category. He has divulged that the strike by the workers of the Company was started from 15.01.2019 but he was unable to recollect the 'date' upto which the strike was continued. He has admitted that although in the para. 6 of his examination-in-chief on affidavit he has mentioned that the applicant on 15.01.2019 at about 2:40 p.m. while working in G-shift deliberately and intentionally provoked and instigated other general workmen to stop their work and resorted to wildcat strike in a concerted manner but in fact no workman submitted any written complaint to him stating that Sandip Das (applicant) deliberately and intentionally provoked and instigated other general workmen to stop their work. He has admitted his inability to remember whether the Management of the Company started disciplinary action against the workman Sandip Das in terms of the condition laid down in the last paragraph of the charge-sheet dated 28.01.2019 (Exbt.-8) taking into consideration the fact that the workman Sandip Das did not submit his 'written submission' within seven days of the receipt of the charge-sheet. He has admitted his inability to remember whether according to the Company's Certified Standing Orders (Exbt.-B), starting of domestic enquiry proceeding is mandatory or not in the event any workman commits 'misconduct'. He has denied the suggestion of the applicant that the Management of the Company did not give proper opportunity to the applicant to prove himself 'not guilty' prior to dismissing him from his job.

OPW-2 Soumen Dutta in his examination-in-chief on affidavit has stated that he is an authorized representative of Lagan Engineering Co. Ltd. He has mentioned in his examination-in-chief on affidavit that the applicant Sandip Das was engaged as a semi-skilled workman in Grade-C category and from the very inception of his engagement in the works sphere of the Company his conduct, sense of discipline and attendance were found as not satisfactory. He has mentioned that inspite of good advice and counseling, he was unable to improve his behaviour. He has divulged that the applicant Sandip Das never worked continuously for 240 days in a calendar year and thus his service failed to be qualified as 'continuous service' as contemplated u/s. 25B of the Industrial Disputes Act, 1947. He has divulged that the applicant Sandip Das along with certain other workmen instigated and participated in an illegal strike in violation of the provisions of the Certified Standing Orders of the Company. He has mentioned that a show-cause notice was issued to the applicant asking him to explain why disciplinary action would not be taken against him. He has divulged that the applicant submitted his reply through a

letter, contents of which was full of arrogance and threat. He has divulged that a charge-sheet was served upon the applicant Sandip Das but he (applicant) failed and neglected to submit any proper written explanation against the charge-sheet. He has divulged that a proper domestic enquiry was conducted in accordance with the principles of natural justice and in such domestic enquiry the applicant was given full opportunity to participate but he deliberately abstained from the enquiry proceeding. He has mentioned that the Company dismissed the applicant from his service by a letter complying the procedure laid down in the law. He has mentioned that the allegation made by the applicant are completely false, concocted and afterthought. He has claimed that the applicant Sandip Das is not entitled to get any relief under the Industrial Disputes Act, 1947.

The witness Soumen Dutta during his examination-in-chief before this Tribunal has divulged that he has been working as a staff in the Personnel Department of M/s. Lagan Engineering Co. Ltd. and he has appeared before this Tribunal along with authorization letter issued by one Director of M/s. Lagan Engineering Co. Ltd. He has identified the said authorization letter and the same has been marked as Exbt.-H. During cross-examination he has divulged that the industrial dispute took place in the year 2019 and he was working under the Company in the year 2019. He has admitted that he has not filed any document to show that he was working as an employee (staff) under M/s. Lagan Engineering Co. Ltd. in the year 2019. He has admitted that he has no idea whether Sandip Das initially joined as Grade-C employee and thereafter he got promotion and became Grade-B employee of the Company. He has divulged that the Company took action against Sandip Das in the matter of his misconduct, indiscipline and unsatisfactory attendance. He has admitted that he cannot recollect that on which occasion the OP/Company took action against Sandip Das over his misconduct etc. He has denied the suggestion of the applicant that he has made false statement in his examination-in-chief on affidavit to the effect that from the very inception of the engagement of the workman Sandip Das his conduct, discipline and attendance were unsatisfactory. He has admitted that there was no employee under the designation 'counsellor' working under the OP/Company for holding counseling of the employees if occasion arises. He has admitted that he has not filed any document in support of his statement made in his examination-in-chief on affidavit to the effect that *'despite repeated advice and counseling he did not improve his behaviour'*. He has admitted that he has not produced any service record / attendance sheet in respect of the workman Sandip Das. He has divulged that – *'it is true that copy of service records / attendance sheet in respect of Sandip Das was filed previously and those were marked as exhibited documents.'* [On scrutiny of the exhibited documents of this record it is found that in this case no service record / attendance sheet in respect of Sandip Das was filed by the OP/Company as well as no such document was marked as exhibited document. It is to mention here that by order No.26 dated 08.09.2023 this Tribunal directed the OP/Company to produce (i) Attendance Register of the workman, (ii) Wages Register of the workman and the (iii) Muster Roll of the Company before this Tribunal. But it appears from the order No.30 dated 12.03.2024 that the OP/Company opted not to comply the order dated 08.09.2023 as the OP/Company did not produce the documents complying the 'Form D-4' issued by this Tribunal. So, unhesitatingly it can be said that such statement of OPW-2 has no resemblance with the reality and truth.] He was unable to say in which calendar year during the service tenure Sandip Das did not work continuously for 240 days. He has admitted that he has not filed any document to substantiate his statement to the effect that Sandip Das never worked continuously for 240 days in any calendar year and hence his service does not come within the ambit of continuous service as contemplated u/s. 25B of the Industrial

Disputes Act, 1947. He has admitted that although he has mentioned in para. 5 of his examination-in-chief on affidavit that the workman Sandip Das along with certain other workmen instigated and participated in an illegal strike in violation of the Certified Standing Orders but he did not mention the names of those other workmen who acted along with the applicant/workman Sandip Das. He has admitted that he cannot say the names of the workmen who were instigated to participate in the illegal strike by the workman Sandip Das and his henchmen. He has admitted that he cannot say the specific date of 'strike' took place in the factory. He has divulged that he has no document to show that any 'strike' happened in the factory in the year 2019. He has admitted that his statement in para. 8 of his examination-in-chief on affidavit is not his personal statement. He has admitted that he has no knowledge about his statement, as contained in para. 11 in his examination-in-chief on affidavit, to the effect that *'a proper domestic enquiry was conducted in accordance with the principles of natural justice, wherein the applicant Sandip Das was given full opportunity to participate. However, he deliberately abstained from the enquiry proceedings. The enquiry report, has been marked as Exhibit before this Learned Tribunal.'* He has admitted that no enquiry report was marked as exhibit before this Tribunal. He has admitted that he did not go through the dismissal letter dated 03.10.2019 (Exbt.-9 & Exbt.-F) issued to the workman Sandip Das.

Decision with reasons

Issue No. 1 :

The applicant/workman in his application u/s. 10(1B)(d) of the Industrial Disputes Act, 1947 has specifically mentioned that the OP/Company name and style 'Lagan Engineering Company Private Limited' was erstwhile known as 'The Lagan Jute Machinery Company Limited'. The applicant/workman has noted the present and previous names of the 'opposite party / company' in the cause title of the application u/s. 10(1B)(d) of the Industrial Disputes Act, 1947.

The workman in his application u/s. 10(1B)(d) of the Industrial Disputes Act, 1947 (hereinafter refer to as 'application') has claimed that the OP/Company issued charge-sheet against him and directed him to file his 'reply' within seven days of the receipt of the copy of the charge-sheet. The workman in his 'application' has pleaded that although he prepared his 'reply' to the charge-sheet, he failed to submit the same because 'temporary suspension of work' of the factory of the Company was declared on 18.03.2019 and the office of the Company was closed.

The workman during hearing on merit of this case did not produce any copy of the notice of 'temporary suspension of work' of the factory of the Company with a view to substantiate his claim. Here in this space it is to be mentioned that the workman would have sent his 'reply' to the charge-sheet by post had he realized that his 'reply' to the charge-sheet would not be submitted by hand due to some adverse situation. Moreover, during hearing on merit of this case, he would have submitted petition before this Tribunal seeking direction upon the OP/Company to furnish the copy of the 'notice of suspension of work' with a view to substantiate his claim. On scrutiny of the record it is evident that the workman being the PW-1, has corroborated his statements in this matter by reiteration of such statement as contained in the 'application'.

Taking into consideration the above discussion, I am of the opinion that the workman committed fault by not complying the direction of his employer.

The workman in his 'application' has claimed that the OP/Company without holding any domestic enquiry over the charges brought against him by the charge-sheet dated 28.01.2019 (Exbt.-8) straightway issued dismissal letter dated 03.10.2019 (Exbt.-9) against him and summarily dismissed him from his service with immediate effect from 03.10.2019. It is needless to mention here that the workman being PW-1 has corroborated his statement over such matter in his evidence. Moreover, the OP/Company during cross-examination of PW-1 did not make any effort to challenge or controvert such statement of PW-1. The OP/Company by cross-examining the PW-1 has been able to extract from him that he did not submit any written objection against the charge-sheet (Exbt.-8) within seven days of receiving the same whereas the applicant/workman in his 'application' mentioned that he was unable to submit such written objection due to the reason of 'temporary suspension of work' on and from 18.03.2019. It is found from the written statement of the OP/Company that the OP/Company mentioned that since the workman did not submit his reply to the charge-sheet, dismissal letter dated 03.10.2019 was issued and the workman was dismissed from his service of the OP/Company. So, it is clear that actually no domestic enquiry was held over the charge-sheet dated 28.01.2019 and the workman was straightway dismissed from his service of the OP/Company. The OP/Company adduced Soumen Dutta, an employee of it, as OPW-2. It is evident from the examination-in-chief on affidavit of OPW-2 that he mentioned that proper 'domestic enquiry' was conducted according to the principles of natural justice and the applicant Sandip Das was given full opportunity to participate in the said domestic enquiry but he deliberately abstained from the enquiry proceeding. The OPW-2 during his cross-examination has admitted that he does not know whether any domestic enquiry took place after issuance of charge-sheet upon the workman Sandip Das as well as he has admitted that no 'enquiry report' was marked as exhibit in this case. It is also evident from the evidence of OPW-1 Manas Kr. Banerjee that he did not make any statement about holding 'domestic enquiry' over the charge-sheet dated 28.01.2019 (Exbt.-8) under the arrangement of Management of the Company. Further, during cross-examination the OPW-1 evaded to disclose directly and specifically whether the Management of the Company started any disciplinary action against the workman Sandip Das in terms of the condition laid down in the last paragraph of the charge-sheet dated 28.01.2019 (Exbt.-8) and he preferred to express his inability to recollect whether disciplinary action was started against the workman Sandip Das or not.

The Hon'ble Supreme Court of India in the matter of **Workmen of Motipur Sugar Factory (Private), Ltd. and Motipur Sugar Factory (Private), Ltd.** [Civil Appeal No.108 of 1964, dated 30.03.1965] has been pleased to observe – *It is now well-settled by a number of decisions of this Court that where an employer has failed to make an enquiry before dismissing or discharging a workman, it is open to him to justify the action before the Tribunal by leading all relevant evidence before it. In such a case the employer would not have the benefit which he had in cases where domestic enquiries have been held. The entire matter would be open before the Tribunal which will have jurisdiction not only to go into the limited questions open to a Tribunal where domestic enquiry has been properly held [see Indian Iron and Steel Company v. their workman (1958 1 L.L.J. 260)] but also to satisfy itself on the facts adduced before it by the employer where the dismissal or discharged was justified..... 'It was pointed out that – 'the important effect of omission to hold an enquiry was merely this : that the Tribunal would not have to consider only whether there was a prima facie case but would decide for itself on the evidence adduced whether the charges have really been made out.'*

The charge-sheet dated 28.01.2019 has been marked as Exbt.-8. It is seen from the Exbt.-8 that two numbers of charges were framed against the workman by the OP/Company. The charges are as follows :-

- (i) that you have resorted to an illegal strike without notice;
- (ii) that you have held meeting within the factory premises without obtaining permission of the competent authority.

In view of the above cited observation of the Hon'ble Supreme Court of India, it is to be looked into whether the OP/Company has been able to justify its action i.e. dismissal of the workman Sandip Das from his service by leading all relevant evidence before this Tribunal in connection with this case.

In my considered opinion although the instant application u/s. 10(1B)(d) of the Industrial Disputes Act, 1947 has been filed by the workman claiming certain reliefs from this Tribunal against the action (relating to dismissal), in view of the observation of the Hon'ble Supreme Court of India in *Civil Appeal No.108 of 1964, dated 30.03.1965*, as mentioned above, onus has shifted on the shoulder of the OP/Company to establish the charges, so framed by the charge-sheet dated 28.01.2019, in this case by adducing all relevant evidence.

So, we have to go through the evidence lying with this record, particularly the evidence adduced on behalf of the OP/Company, to find out whether the OP/Company has been able to establish the allegation levelled against the workman by framing charge against him through charge-sheet dated 28.01.2019.

Charge No. 1 – *‘that you have resorted to an illegal strike without notice.’*

From the wordings of the charge no.1, it appears that the OP/Company has confirmed that an ‘illegal strike’ took place in the workplace i.e. in the factory at the behest / effort of the workman. This can be spelt out in this manner that the workman was instrumental in the matter of cessation of normal functioning of the workplace i.e. of the factory. In the circumstances of such an imputation brought by the OP/Company, the OP/Company with a view to making it reliable and believable, would have to bring in the record the ‘attendance register’ of the workers / employees to show that during the period of such ‘illegal strike’ the space for marking attendance of the concerned workers / employees including the present workman remains blank in the attendance register because the workers or workmen participating in the ‘illegal strike’ would not certainly put their signatures in the attendance register as a mark of their presence at the workplace / factory during such period of illegal strike. Apart from that, if any ‘illegal strike without notice’ takes place in the work-place / factory, it is supposed that immediate officials / authority i.e. Factory Manager / Workshop Manager, Personnel Manager etc. would prepare official documents for recording such ‘illegal strike without notice’ and would make written communication about such unnatural happening to their authority in upper line (line of authority) seeking instruction etc. So, it is supposed that all those ‘documents’ would be under the custody of the OP/Company and with a view to establishing the allegation as contained in ‘Charge No.1’, the OP/Company was required to produce and prove all those documents in course of hearing on merit i.e. at the time of recording evidence of witness on behalf of the OP/Company. Apart from that, it is reasonably considered that the OP/Company was required to adduce other witness(s) with a view to get support from such witness(s) in respect of ‘Charge No.1’ as well as for getting corroboration of the version of OPW-1 to make it more certain or reliable, ultimately for strengthening the allegation levelled against the workman by ‘Charge No.1’. The fact remains that the OP/Company, although has adduced another witness

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being OPW2, in my considered view, his evidence is not found up to the mark to support the case of the OP/Company.

On perusal of the evidence of the OPW-1 it is found that his statements in his examination-in-chief on affidavit were fetched from the contents of the written statement of the OP/Company. It is seen that the OPW-1 in course of preparation of his examination-in-chief on affidavit and subsequently during swearing affidavit identified and proved fourteen sets of documents and all those documents were marked as exhibited documents. On scrutiny of the exhibited documents it is found that no 'attendance register' of the relevant period of the 'illegal strike without notice', held at the workplace of the factory, was identified by the OPW-1 and marked as exhibited document. Furthermore, in course of evidence of OPW-1, no cogent and reliable document in the nature of official record in respect of 'illegal strike without notice' and official communication, as described in the above, was brought in the record and identified by the OPW-1. Consequently, no such document was marked as exhibited document. It is to note here that the OP/Company in its 'list of documents' did not file 'attendance register' of the relevant period of the 'illegal strike without notice' for showing the attendance marks of the workmen / employees of the OP/Company during the period when the alleged 'illegal strike without notice' happened in its workplace / factory as well as no 'document' from office record and official communication in respect of alleged 'illegal strike without notice' was brought in the record and identified by the OPW-1 for the purpose of establishing its claim against the workman Sandip Das as contained in Charge No.1 of the charge-sheet dated 28.01.2019. It is evident from the examination-in-chief on affidavit of OPW-1 that he did not mention the name(s) of other workman / workmen who allegedly participated in the said 'illegal strike without notice' along with the workman Sandip Das for the purpose of making his statements more specific and reliable. It is evident from the cross-examination of OPW-1 that he has admitted that he did not mention in his examination-in-chief on affidavit the names of other workmen who were provoked by the workman Sandip Das and participated in the illegal strike. Further, he has admitted that he has not filed any document to substantiate his statement contained in his examination-in-chief on affidavit to the effect that the workman Sandip Das provoked other workmen working in 'G' shift on 15.01.2019 at about 2:40 p.m. and instigated general workmen to stop their work and thereby they resorted to wildcat strike in a concerted manner. The OPW-1 in his cross-examination has admitted that he is unable to disclose the names of the workmen who were the henchmen of the workman Sandip Das as well as the names of the workmen who got provoked by the instigation of Sandip Das to participate in illegal strike without notice. So, it is surfaced from the evidence of OPW-1 that he has no knowledge about the names of the workmen who were the henchmen of the workman Sandip Das as well as about the names of the workmen who got provoked by the instigation of Sandip Das for holding 'illegal strike without notice'. At the same time, it is evident from the testimony of OPW-1 that he levelled a salvo of accusations against the workman Sandip Das without having complete knowledge about the 'fact in issue', as stated by the OP/Company in its written statement, filed by one Jayanta Ganguly. It is to mention here that the OP/Company in the 'Charge No.1' as contained in the charge-sheet dated 28.01.2019, did not mention the specific date on which the workman allegedly resorted to an illegal strike without notice and for how long such illegal strike without notice was continued. In my view, absence of specific date of starting 'illegal strike without notice' by the workman, as alleged, and the tenure / continuance of such 'illegal strike without notice' in the charge-sheet dated 28.01.2019 makes the same as omnibus allegation.

It is seen that the statements, as contained in examination-in-chief on affidavit of OPW-2, against the applicant/workman Sandip Das have resemblance with the statements of OPW-1 i.e. it is evident that the OPW-2 has sung in the same tune with the OPW-1 in respect of the allegation of illegal strike caused by the applicant/workman Sandip Das. But, during cross-examination he was not able to stand affirm by his earlier statements made in his examination-in-chief on affidavit. It is well transpired that the word 'applicant/workman' assailed his (OPW-2) such statements and has been able to make his statements unbelievable. Apart from that it is found that the OPW-2 during his cross-examination has divulged some statements which contradict his earlier statements as contained in his examination-in-chief on affidavit i.e. he has made self-contradictory statements in his evidence. Apart from that, it is found that he has made some statements in cross-examination which have no resemblance with the reality. So, in my view the evidence of OPW-2 has not been able to lend support to the evidence of OPW-1. In fact, in my view, the OPW-2 has failed to emerge as a reliable witness in respect of this case.

After taking into consideration the statements of the OPW-1 in his examination-in-chief on affidavit and in his cross-examination as well as the evidence of OPW-2, it is found crystal clear that the OP/Company has failed to perform its obligation with the purpose of establishing its claim as well as for substantiating the allegation, as contained in Charge No.1, brought against the workman Sandip Das by adducing best evidence supposedly lying under its custody and control.

Charge No.2 – *“that you have held meeting within the factory premises without obtaining permission of the competent authority.”*

From the very face of the subject matter of the Charge No.2, it can be spelt out that any 'meeting' under the initiative of workman / workmen may take place within the factory premises subject to the prior permission of the competent authority of the OP/Company but in this instant matter allegation is that a meeting was held within the factory premises under the initiative of the workman Sandip Das but he did not obtain prior permission of the competent authority for holding such meeting. So far the knowledge goes, the term 'meeting' is not defined in the Industrial Disputes Act, 1947. According to Oxford Learner's Dictionary the meaning of 'meeting' is – *'an occasion when people come together to discuss or decide something'*. The word 'meeting' can be explained as – *'an assembly of people for a particular purpose, especially for formal discussion'*. Further, the word 'meeting' can be explained as – *'a planned or unplanned gathering of two or more people to discuss a specific topic or achieve a common goal'*. So, it is realized that presence of at least two persons, without any upper limit, is required for discussion over any issue at a certain place and time. In this case, it has been alleged that the workman Sandip Das held meeting within the factory premises without obtaining permission of the competent authority. In view of such imputation against the workman Sandip Das, it is realized that he along with other workman / workmen assembled within the factory premises for holding meeting and such meeting was held without taking prior permission of the competent authority. The OP/Company in its written statement did not divulge any name / names of other workman / workmen who were supposedly assembled within the factory premises in a meeting held under the initiative of the workman Sandip Das. As stated earlier, the OPW-1 in his examination-in-chief on affidavit has reproduced the relevant contents of the written statement submitted by the OP/Company. So, from the examination-in-chief on affidavit of OPW-1 the name / names of workman / workmen who allegedly assembled in a meeting held under the initiative of the workman Sandip Das within the factory premises without prior permission of the competent authority, could not be found. Moreover, the Charge No.2 does not contain the specific

date of holding meeting, as alleged, within the factory premises under the initiative of the workman Sandip Das. In the above it has been mentioned that the OPW-1 in his cross-examination has admitted that he cannot say the names of the workmen who were the henchmen of the workman Sandip Das as well as who were provoked by the instigation of Sandip Das and his henchmen. Further, he has admitted that he has not filed any document to substantiate his statement made in his examination-in-chief on affidavit to the effect that the workman Sandip Das on 15.01.2019 while working in 'G' Shift at about 2:40 p.m. deliberately and intentionally provoked and instigated other general workmen to stop their work and to create panicky and violent situation inside the premises. In fact, the OPW-1 in his evidence did not make any statement alleging that the workman Sandip Das held meeting within the factory premises without obtaining permission of the competent authority. Actually the OPW-1 in his evidence did not make any statement in consonance with the wordings of Charge No.2 as contained in Exbt.-8 (charge-sheet dated 28.01.2019). Similarly, the OPW-2 also did not make any statement to support the Charge No.2, levelled against the applicant/workman Sandip Das.

So, it is revealed from the materials on record and the evidence on record that the OP/Company has been unable to adduce satisfactory evidence to establish that 'meeting' took place within the factory premises. Apart from that it is found that the Charge No.2 does not disclose the 'date' on which such a 'meeting', as alleged, took place inside the factory premises. In my considered opinion, absence of specific date of holding 'meeting' within the factory premises by the workman, as alleged, as well as lack of disclosure of the names of participant(s) workman / workmen in the said 'meeting', marks the same as omnibus allegation.

In view of the logical deduction made above and based on the observation of the Hon'ble Supreme Court of India made in the matter of *Workmen of Motipur Sugar Factory (Private), Ltd. and Motipur Sugar Factory (Private), Ltd.*, it is now convincing and uncontradicted that the OP/Company in absence of holding domestic enquiry over the charge-sheet dated 28.01.2019 has failed to justify its action against the workman Sandip Das taken on the basis of two numbers of charges, as contained in the charge-sheet dated 28.01.2019, levelled against him by leading all relevant evidence in this case. Further, the occasion has arisen to hold that the charges as contained in the charge-sheet dated 28.01.2019 (Exbt.-8) have not been really made out.

Thus, I am of the opinion that there is no need for further discussion as we have got sufficient reason to come to the conclusion that the termination of service of the applicant/workman Sandip Das by the OP/Company w.e.f. 03.10.2019 is not at all justified.

So, the Issue No.1 is decided in negative in favour of the applicant/workman.

Issue No. 2 :

In the above, we have already come to the conclusion that the Issue No.1 has been decided in negative i.e. it has been held that the termination of service of the applicant/workman by the OP/Company w.e.f. 03.10.2019 is not at all justified.

In view of the decision in respect of Issue No.1, the applicant/workman is entitled to get relief. The applicant/workman in his application u/s. 10(1B)(d) of the Industrial Disputes Act, 1947 has sought for relief (relevant to the facts and up to date situation) in the nature of reinstatement in service and making payment of 'due wages'.

The applicant/workman in his application u/s. 10(1B)(d) of the Industrial Disputes Act, 1947 has claimed that after termination of his service from the OP/Company he

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became unemployed and he has been maintaining his livelihood in miserable condition because of his severe financial hardship. The applicant/workman being PW-1 in his examination-in-chief on affidavit has stated that he is an unemployed person. Being cross-examined by the OP/Company he has divulged that he is completely an unemployed person and the expenditure to maintain his family is being disbursed from the fund raised from monetary help of his close relatives. It is found that the OP/Company did not controvert the version of the applicant/workman that he is going through unemployment after termination of his service and he has been going through financial hardship. Apart from that the OP/Company did not lead evidence by its witness to bring in the record that the applicant/workman is not an unemployed person as well as he is not going through financial hardship to maintain his livelihood. In view of the evidence on record and the materials on record it is safe to say that the OP/Company found no sufficient ground to controvert the claim of the applicant/workman that he has become unemployed after termination of his service from the OP/Company and that he has been leading his livelihood in financial hardship.

In this situation, I am of the opinion that the applicant/workman is entitled to get the relief of full back wages from the OP/Company as he is entitled to be reinstated in his service from the date of his termination i.e. from 03.10.2019.

Thus, the Issue No.2 is decided accordingly in favour of the applicant/workman.

Hence,

it is,

O r d e r e d

that the Application u/s. 10(1B)(d) of the Industrial Disputes Act, 1947 is allowed on contest and after full adjudication of the industrial dispute raised by the applicant through such 'Application'.

In view of the decision made in the Issue No.1, M/s. Lagan Engineering Co. Pvt. Ltd. is directed to reinstate the applicant/workman Mr. Sandip Das to his original post with full back wages from the date whence the Management of the Company stopped payment of his wages and benefits till the date of his reinstatement in the service. Further, M/s. Lagan Engineering Co. Pvt. Ltd. is directed to provide other consequential benefits in accordance with law within 60 (sixty) days from the date of publication of this Award.

This is the award of this Industrial Tribunal in this case.

In view of letter No. Labr./944(3)/(LC-IR)/22016/7/2024 dated 13.09.2024 of the Assistant Secretary, Labour Department, I.R. Branch, Government of West Bengal, New Secretariat Buildings, 12th Floor, the PDF copy of the Award be sent to the Labour Department, Government of West Bengal through e-mail ID(wblabourcourt@gmail.com) for information.

Dictated and corrected

sd/-
Judge

sd/-
(Mihir Kumar Mondal)
Judge
Third Industrial Tribunal
Kolkata
28.11.2025