

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

No. Labr/ 39 /(LC-IR)/ 22015(16)/10/2026

Date : 08.01.2026

ORDER

WHEREAS an industrial dispute existed between (1) M/s. Jyoti Vihar, 3A/1, Ho Chi Minh Sarani, Kolkata – 700071 and (2) Mr. Venu Gopal Iyer, 61, Jatin Das Road, P.S. Gariahat, Kolkata – 700029 and its workman Sri Biswajit Das (Waiter), C/o Sri Krishna Singh, 16, India Exchange Place, 1st Floor, Room No. 6, Kolkata – 700001, regarding the issues being a matter specified in the second schedule of the Industrial Dispute Act' 1947 (14 of 1947);

AND WHEREAS the 7th Industrial Tribunal, Kolkata has submitted to the State Government its Award dated 29.12.2025 in Case No. 18/2023 on the said Industrial Dispute Vide e-mail dated 02.01.2026 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/ 39 /1(6)/(LC-IR)/ 22015(16)/10/2026

Date : 08.01.2026

Copy forwarded for information and necessary action to :-

1. M/s. Jyoti Vihar, 3A/1, Ho Chi Minh Sarani, Kolkata – 700071.
2. Mr. Venu Gopal Iyer, 61, Jatin Das Road, P.S. Gariahat, Kolkata – 700029.
3. Sri Biswajit Das (Waiter), C/o Sri Krishna Singh, 16, India Exchange Place, 1st Floor, Room No. 6, Kolkata – 700001.
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/ 39 /2(3)/(LC-IR)/ 22015(16)/10/2026

Date : 08.01.2026

Copy forwarded for information to :-

1. The Judge, 7th Industrial Tribunal, N. S. Building, 1, K.S. Roy Road, Kolkata - 700001 with reference to e-mail dated 02.01.2026.
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 Seventh Industrial Tribunal, Kolkata
West Bengal
New Secretariat Buildings, Kolkata

Present: Ms. Yogita Gaurisaria, Judge,
Seventh Industrial Tribunal,
Kolkata

Case no. 18/2023
under Section 10(1B)(d) of the Industrial Disputes Act, 1947

Sri Biswajit Das

(Waiter)

C/o Sri Krishna Singh,
16, India Exchange Place, 1st Floor,
Room No. 6, Kolkata – 700 001

..... **Applicant**

Vs.

1. M/s. Jyoti Vihar

3A/1, Ho Chi Minh Sarani,
Kolkata – 700 071.

2. Mr. Venu Gopal Iyer

61, Jatin Das Road, P.S. Gariahat,
Kolkata – 700 029.

..... **Opposite Parties**

This Award delivered on Monday, the 29th day of December, 2025

A W A R D

1. The instant case has been initiated on 20.04.2023 filed by the applicant (herein after to as the applicant/workman) by filing the application under Section 10(1B)(d) of the Industrial Disputes Act against his employer in connection with termination of his service w.e.f. September, 2021 praying to pass an award of his reinstatement with full back wages from the date of illegal retrenchment along with all consequential benefits and interest.

Case of the applicant-workman

2. The case of the applicant-workman as per his written statement is that the applicant stated that the Company is under coverage of West Bengal

Shops and Establishment Act, but the Company with a view to wrongful gain did not follow the mandatory provision of law as per their whims and choice and intends to deceive the poor and illiterate workmen from the statutory obligation as cast upon them by adopting unfair measure of anti-labour policy. The applicant/workman further stated that he had been working for more than 7 years and his salary was increased to Rs. 9,431/- consolidated per month and he worked with most sincerity and honesty without any iota and blemish during long span of employment. The applicant further stated that he was terminated with effect from September, 2021 without giving any notice or charge sheet. Even the Company did not pay due salary, bonus, leave pay, overtime, medical expenses and other statutory benefits without assigning any satisfactory reason and also representing Union yielded no effect.

The applicant further stated that he requested the management to allow him to join him duty and also requested to make the payment of his dues but was in vain, as such, the employer put the workman in extreme financial privation and left with no alternative, he placed a 'Demand of Justice' on 08.03.2022 under registered cover and copy of which was also served upon representing Union praying their help to (Mr. Rupesh Shah) the personnel of the Union for doing the needful in this matter. Copy of the said letter also was served to local P.S. and Labour Commissioner for their information and needful help by registered post.

The applicant further stated that without getting any response from the employer, he took help from his representing union and they had taken the matter with a protest letter sent under registered post on 08.03.2022 inter alia challenging alleged and illegal termination of service by the Company violating the precondition and prerequisite of the legislature and that the copy of the said letter was served upon the Labour Commissioner, W.B. for necessary protection and help.

The applicant further stated that as there was no chance of settlement, he had no other option but to raise his voice before the conciliatory machinery vide its letter dated 25.03.2022 protesting the illegal termination of service with a prayer of reinstatement and full back wages including all consequential statutory benefits for the period of forced idleness so created by the employer.

The applicant further stated that he further wrote a letter dated 06.05.2022 to the Labour Directorate to open conciliation proceeding arising out of alleged termination of service by the Company, highlighted the credible factum therein for kind intervention to the labour directorate

and that the copy of the said letter was also given to appropriate authority for their information and speedy disposal of the same.

The applicant further stated that thereafter Deputy Labour Commissioner was pleased to issue letter dated 06.01.2023 for joint conference with both the parties.

The applicant further stated that the applicant without finding any ray of hope for settlement was compelled to inform the Labour Commissioner relating to alleged illegal termination of service from September, 2021 after 7 years employment with the above named company and the company also violated the legal provision by way of misutilizing their maximum bargaining power.

The applicant further stated that on series of discussion by union personnel and him with the Deputy Labour Commissioner it was advised to take legal shelter for this sort of alleged victimization before the Court of law and accordingly, FORM – P-4 was submitted to Conciliation Officer duly received on 03.02.2023 for issuance a certificate as prescribed in the statute.

The applicant further stated that the Ld. Deputy Labour Commissioner, S. Dasgupta pleased to issue a certificate dated 08.02.2023 in accordance with the representation raised for this purpose on 03.02.2023 but no settlement could be arrived at as yet.

The applicant prayed for reinstatement in service with full back wages including all other consequential statutory benefits by this Ld. Tribunal and that he is not gainfully employed elsewhere till date from his alleged termination of service w.e.f. 2021 by the Company.

The applicant further stated that the purported termination of service and violation of legal proposition both law and facts w.e.f September, 2021 is in essence a case of Retrenchment by way of non compliance of statutory provision as prescribed in the legislature and this sort of termination is void, ab initio, illegal, irregular as well as violation of settled principle of natural justice.

3. It appears from the order dated 20.04.2023 that the notices were sent to the Opposite Parties and that it appears from order dated 14.07.2023 that the notice sent to the O.P. No. 1 has been received back with the postal remark 'Refused ' which tantamount to valid service and that it further appeared from the said order dated 14.07.2023 that from the postal track report which was filed by the applicant that the notice sent to the O.P. No. 2 has been delivered on 29.05.2023 which is a good service and both the Opposite Parties were found absent on repeated

calls and accordingly, in view of the same, this Tribunal passed order to proceed exparte against the opposite parties.

EVIDENCE

4. The case proceeded exparte against the Opposite Parties as discussed hereinabove.

The applicant Sri Biswajit Das evidence and was examined as PW-1. The following documents were marked as Exhibits on his behalf :

Sl. No.	Documents	Exhibit Nos.
1	Copy of Form P-4	Exbt-1
2	Copy of Form -S	Exbt-2
3,	Copy of the letter dated 08.03.2022 addressed to the OP/Company	Exbt-3
4	Letter of authorization dated 05.03.2022	Exbt-4
5	Photocopy of letter by applicant dated 25.03.2022 to Labour Commissioner	Exbt-5
6	Photocopy of letter by applicant dated 06.05.2022 sent to Asstt Labour Commissioner	Exbt-6
7	Photocopy of letter sent by applicant to Asstt Labour Commissioner dated 29.07.2022	Exbt-7
8	Photocopy of letter sent by applicant to Asstt Labour Commissioner dated 12.12.2022	Exbt-8
9	Photocopy of the membership form of the Union filled by the applicant	Exbt-9
10	Copy of E pechan card of ESI	Exbt-10
11	Copy of the notice dated 06.01.2023 issued by the Dy. Labour Commissioner to the OP/Company	Exbt-11

5. The Ld. Advocate for the applicant submitted that the applicant is a workman within the definition of workman under section 2(s) of the Industrial Disputes Act, 1947 since he was working in eating establishment as a waiter as will reflect from Exbt-5 also. The Ld. Advocate for the applicant/ workman further submitted that the termination of employment of the applicant/workman in September, 2021 is nothing but retrenchment as defined under section 2(oo) of the Industrial Disputes Act, 1947 and does not fall within the exceptions as provided under section 2(oo) of the said Act and is illegal termination of the service of the applicant/ workman since the O.P. did not comply the condition precedent to retrenchment as laid down under section 25F of the said Act, 1947 being compulsory obligation on the O.P. and as such the said retrenchment is illegal retrenchment. The Ld. Advocate for the applicant/ workman further submitted that the applicant/ workman has not been in any gainful employment elsewhere since his said illegal retrenchment and

therefore is entitled to full back wages with reinstatement with all consequential benefits including interest, costs and prayed for continuity of service.

The Ld. Advocate for the applicant/ workman relied on the following citations in support of his case-

1. 1976 (1) LLJ 478 (SC)
2. 1985 LabIC 1733 (SC)
3. 1993 (67) FLR 111
4. 2010 (I) LLJ 841 (SC)
5. 2002 (1) CLR 1106 (SC)
6. 1983 (3) SCLC 50
7. (1978) 37 FLR 136

6. Perused the case record alongwith the documents and the vidences, both oral and documentary.

The evidence of the applicant/ workman remained uncontroverted and unchallenged. In light of the aforesaid contentions as well as uncontroverted evidences of the applicant/ workman brought in support thereof by the applicant/ workman and the settled position of law as regard to the term 'workman', I find that the applicant/ workman falls within the definition of workman as laid under section 2(s) of the Industrial Disputes Act, 1947. It appears from the materials on record that applicant's duty was to do the job of waiter.

From the Exhibit-10 (E pehchan of ESI), it further appears that the applicant was the employee of the establishment namely Jyoti Vihar i.e Opposite Party no.1. The applicant falls within the definition of the workman under section 2(s) of the Industrial Disputes Act, as amended.

I also find that the O.P. has terminated the services of the applicant/ workman with effect from September, 2021

The termination of services of the applicant/ workman with effect from September, 2021 falls within the definition of retrenchment as laid under section 2(oo) of the said Act, 1947 and does not fall within the exceptions as provided under section 2(oo) of the said Act and is illegal termination of the service of the applicant/ workman since the OP did not comply the statutory conditions precedent to retrenchment as laid down under section 25F of the said Act, 1947 being compulsory obligation on the Opposite Party and the said retrenchment is illegal retrenchment.

The applicant workman has averred and deposed that he since the date of his termination of service is unemployed. The same also remains unchallenged and uncontroverted.

The salary of the applicant/workman appears from the written statement and examination in chief that his last drawn salary was Rs. 9,431/- only per month.

7. Therefore, in view of above referred facts and circumstances and the settled position of law and unchallenged and uncontroverted oral testimony of the applicant (PW-1), duly corroborated by the exhibited documents, as well as above made discussions and findings, I have no other alternative but to hold that the termination of service of the workman namely Sri Biswajit Das by way of refusal of employment by the management of the Company w.e.f. September, 2021 is not justified. Further, I have no hesitation to hold that he was terminated from his service by the Opposite party w.e.f. September, 2021 without complying with the mandatory provision of Section 25F of the Industrial Disputes Act, 1947, which is not only illegal, void ab initio but also bad and against the principles of natural justice. So, his claim for reinstatement in service under the OP no.1 is quite justified.

So, considering all aspects, evidence as well as materials on record, armed with discussions, discussed above, I hold that the applicant/workman has been able to prove his case successfully and therefore, he is entitled to get an order of reinstatement in service in the OP no.1 with full back wages alongwith all consequential benefits thereto and of continuity of service.

Hence, it is,

O r d e r e d

that the case being No. Case no. 17/2023 under Section 10(1B)(d) of the Industrial Disputes Act, 1947 be and the same is allowed exparte with cost of Rs. 20,000/- (Rupees twenty thousand only). The termination of employment of the applicant w.e.f. September, 2021 is set aside being bad, illegal and unjustified.

The OP no.1 is hereby directed to reinstate the applicant / workman namely, Sri Biswajit Das in service with full back wages along with all consequential benefits thereto and the services of the said applicant/workman shall be deemed to be continuous service without any break for all purposes. Besides the cost of Rs. 20,000/-, the OP is further directed also to pay a sum of Rs. 25,000/- (Rupees Twenty Five thousand only) as compensation to the

said applicant/workman for his mental agony and unnecessary harassment arising out of this litigation.

The OP no.1 is further directed to comply with the Award within a period of 30 days from the date of this Award, in default, the OP has to pay interest @ 10% per annum from the effective date of this Award till the realization of the entire due amount, failing which the applicant / workman will be at liberty to put the Award in execution in accordance with law.

This is my Award passed exparte

Let a copy of the Award be forwarded to the appropriate authority as envisaged under the law.

Dictated & corrected by me

Judge

(YOGITA GAURISARIA)
Judge,
Seventh Industrial Tribunal
Kolkata
29.12.2025