

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

No. Labr/ 338 / (LC-IR)/ 22015(16)/44/2025

Date : 21/03/2025

ORDER

WHEREAS under Labour Department's Order No. 1173 -I.R./IR/11L-124/2014 dated 18.08.2014 with reference to the Industrial Dispute between M/s. Luthern World Service India Trust, having its registered office at 84, Dr. Suresh Sarkar Road, Entally, Kolkata – 700014 and Sundarban Project Office at 131/17, Netaji Subhas Chandra Bose Road, Regent Park, Kolkata - 700040 and their workman Ashish Biswas alias Asish Biswas, 13/3A, Narendra Nath Ghosh Lane, P.S. – Regent Park, Tollygunge, Kolkata - 700040, regarding the issues mentioned in the said order, being a matter specified in the Second Schedule to the Industrial Dispute Act, 1947 (14 of 1947), was referred for adjudication to the 2nd Labour Court, Kolkata.

AND WHEREAS the said 2nd Labour Court, Kolkata, has submitted to the State Government its Award dated 13.03.2025 in Case No. VIII-90 / 2014 on the said Industrial Dispute Vide e-mail dated 19.03.2025 in compliance of u/s 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 pleased hereby to publish the said Award in the Labour Department's official website i.e **wblabour.gov.in**.

By order of the Governor,


Assistant Secretary

to the Government of West Bengal

No. Labr/ 338 /1(6)/(LC-IR)/ 22015(16)/44/2025

Date : 21/03/2025

Copy forwarded for information and necessary action to:

1. M/s. Luthern World Service India Trust, registered office at 84, Dr. Suresh Sarkar Road, Entally, Kolkata – 700014.
2. M/s. Luthern World Service India Trust, Sundarban Project Office at 131/17, Netaji Subhas Chandra Bose Road, Regent Park, Kolkata - 700040.
3. Ashish Biswas alias Asish Biswas, 13/3A, Narendra Nath Ghosh Lane, P.S. – Regent Park, Tollygunge, Kolkata - 700040.
4. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
5. The O.S.D. & E.O. Labour Commissioner, W.B. New Secretariat Building, 1, K. S. Roy Road, 11th Floor, Kolkata- 700001.
6. The Deputy Secretary, IT Cell, Labour Department with request to cast the Award in the Department's website.


Assistant Secretary

No. Labr/ 338 /2(3)/(LC-IR)/ 22015(16)/44/2025

Date : 21/03/2025

Copy forwarded for information to :

1. The Judge, 2nd Labour Court, Kolkata, N.S. Building, 1, K.S. Roy Road, Kolkata-700001 with respect to her e-mail dated 19.03.2025.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata -700001.
3. Office Copy.


Assistant Secretary

O.I. No. Labr/338/1(6)-(LC-IR)-1/2025
Date 21/03/2025

THE SECOND LABOUR COURT, KOLKATA.**IN THE MATTER OF****AN APPLICATION NO. 90/2014 UNDER SECTION 10 OF THE INDUSTRIAL DISPUTES ACT,
1947****Ashish Biswas alias Asish Biswas**

13/3A, Narendra Nath Ghosh Lane, P.S.-Regent Park,

Tollygunge, Kolkata- 700040

VERSUS**M/S. Luthern World Service India Trust having its registered office at 84, Dr. Suresh****Sarkar Road, Entally, Kolkata-700014 and Sundarban Project Office at 131/17, Netaji****Subhas Chandra Bose Road, Regent Park, Kolkata 700040.****PRESENT : SREEJITA CHATTERJEE****JO CODE : WB001252****Appearance****MR/MRS. R.N. BHATTACHARYA , LD. Advocate for the Applicant****MR/MRS. NIRMALENDU BHATTACHARYA, CHACKO MATHAI, LD. Advocates for the Opposite
Party.****DATE OF AWARD: 13.03.2025****1) EXORDIUM**

This is an application Under Section 10 of Industrial Dispute Act, 1947.

The present case is set to motion by an application of the workman in the above captioned industrial dispute case, seeking reinstatement on alleged illegal termination in service.

State by representation 1173 -IR/ IR/11L-124/2014 dated 28.08.2014 raised an Industrial Dispute relating to illegal termination, in terms of Section 10, as amended, with respect to the State of West Bengal vice Act No. 33 of 1989, on the following counts:-

- i) Whether the dismissal of Sri Ashish Biswas w.e.f. 15.02.2014 by the management of M/s Luthern World India?
- ii) To what relief, if any, is he entitled?

2) JURISDICTION

The matter in issue relates to "Discharge or dismissal of a workman including reinstatement of or grant of relief to workman wrongfully dismissed and covered in the Second Schedule to the Act and well within the cognizance of this Court.



4) FACTUAL MATRIX

FACT BY APPLICANT:

The fact of case is in brief is that the employer establishment since inception, is functioning as Luthern World Service in India as an International Non-Government Organisation under Christian Economical Organisation, (An Associated Programmes of Luthern World Federation, A Department of World Service, Geneva and Since the month of September, 2008). The employer establishment changed their role of an International Non-Government Registered Trust of Government of India (w.e.f. 4th September, 2008) and continued to enjoy the status as its successors and proceeded with programme of Luthern World Service.

It is averred that the employer establishment earns huge dollars/funds from its donors and makes surplus profit out of total development expenses in a year in the business and is an Industry as per the definition envisaged in Section 2(j) of the Industrial Disputes act, 1947.

The petitioner was appointed temporarily as a store assistant for 3 (three) months on 5th July, 1979 vide the letter of appointment letter under reference NO. 1804-10 dated 4th July, 1979.

The workman herein completed the said three months of temporary service w.e.f. 5th July, 1979 to the satisfaction of the management and became a permanent employee of the establishment and enjoyed all the benefits of the other permanent staff members of the establishment and pay scale increase from Rs. 350-25-525 to Rs. 1620-110-1730 (upto receipt of salary drawn on March, 1983).

It is further averred that all of a sudden, Programme Co-Ordinator, Sunderban Project of the establishment issued a letter of dismissal dated 15th February, 1984 with a false and fabricated allegations of not accounting for 350 pieces of G.I. Pipes and 2 Nos. of Kirloskar Engines (5 H.P.) with Centrifugal Pumps. The allegation leveled against the Petitioner workman is submitted to be totally false, fabricated and devoid of truth. It has been falsely alleged that, the petitioner /workman admitted the charge of theft. The management, prior to dismissal of the petitioner workman, failed to hold any enquiry for the stigma leveled against the petitioner workman. The management violated the principle of natural justice as well the management failed to pay the retrenchment compensation as per the provision of Section 25F of the Industrial Disputes act, 1947.

Immediately thereafter, the management has forcefully took his signature on the letter dated 10th February, 1984 and the averment made therein are not the willful averment of the petitioner rather it is under coercion.

The workman /Petitioner vide the letter dated 18th February duly informed the matter to the Labour Commissioner, Labour Directorate, 24 Parganas, South. In spite of receiving the said letter they failed to take any steps on the plea that.

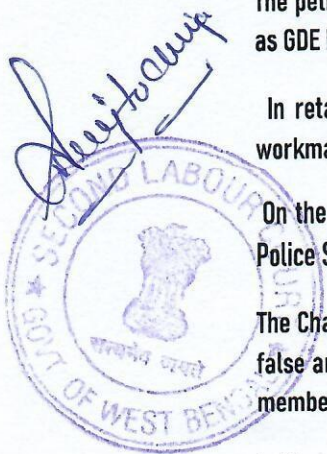
The petitioner/ workman also informed the matter to the local Regent Park Police Station and the same was recorded as GDE No. 123 dated 25th February, 1984.

In retaliating and to victimise the petitioner workman, the management lodged complaint against the petitioner workman being Regent Park Police Station Case No. 20 dated 29th February, 1984.

On the basis of the false and fabricated complaint, the investigation started jointly by the inspector of Regent Park Police Station and the officials deputed of investigation Bureau of enforcement Branch, Government of West Bengal.

The Charge Sheet was submitted against the petitioner workman u/s 406/465/420/468/471 of I.P.C. on the basis of the false and manufactured documents with support of 11(eleven) members witness from company personnel and 5 (five) members of police investigation personnel.

In the case, the prosecution failed to prove the allegations against the petitioner workman and the Ld. 6th Judicial Magistrate, Alipore acquitted the petitioner workman from the charges in case of BGR 4986 of 1984 vide the judgment dated 23rd May, 2011.



The management vide their letter dated 29th August, 2011 refused compensation. They also did not reinstate the petitioner workman in his service. The petitioner after receiving the said letter from the management issued another letter dated 14th October, 2011 and categorically stated that as the charges level against the workman has been not proved hence the dismissal order of the petitioner workman is bad in law and the petitioner workman is entitled to be reinstated with full back wages and all consequential benefits.

The management vide another letter dated 1st November, 2011 repeated the contents of the previous letter dated 29th August, 2011 and negated the claim of the petitioner workman.

The petitioner/workman having no other alternative submitted a letter dated 30th January, 2013 before the Labour Commissioner, Government of West Bengal and Mr. P.P. Das, Assistant Labour Commissioner, being the Conciliation officer tried his level best to make the conciliation between the parties but due to the adamant attitude on the part of the management no conciliation could be effected.

Ultimately the said dispute has been referred before the Learned 2nd Labour Court vide the Government Order Of Reference No. 1173-I.R/ 11L-124/2014 dated 28th august, 2014.

The action taken by the management is totally against the principle of natural justice and against the spirit of statute and is highly illegal and high handed.

The petitioner submits that due to personal malice and grudge of the management and to vindicate the petitioner that they most illegally and unlawfully dismissed the petitioner from the service w.e.f 15th February, 1984 and as such the petitioner is entitled for reinstatement in his former service with full back wages with all consequential benefits for the period of forced unemployment.

FACTS BY OP

The Opposite party denies and deprecates all the above. The opposite party divided their contention into part of maintainability and rebuttal of case facts.

The opposite party submits that the application is not maintainable in law since there does not exist any employer-employee relations between the applicant and the opposite party.

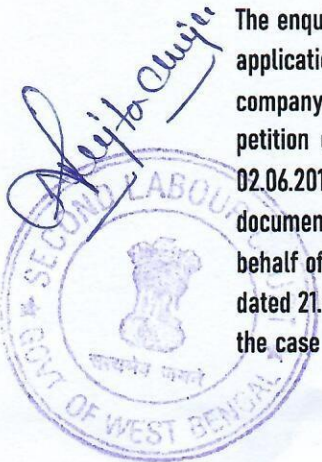
It is submitted that the said claim petition is not maintainable since the grounds on which the determination of the contract of employment was made ceased has to exist by and between the applicant and his ex employer establishment namely M/s Luthern World Service (India) (a Non-Government Organisation under Christian value based Organisation be a part of an Associated Programme of Luthern World Federation, A Department of World Service, Geneva).

It is further averred the applicant was a temporary project employee under L.W.S.I. and his employment has ceased on a charge of a theft / fraud and he accepted his omissions and/ or commission and misappropriation in writing and after receiving all this statutory dues preferred to raise an industrial dispute against the opposite party.

Luthern World Service India Trust is a new entity formed in 2008 and it does not have any bearing on the erstwhile Luthern World Service (India).

It is the plea of the op company that there is no basis of industrial dispute and the case is not maintainable elaborating allegations of his conduct, riotous behavior, indiscipline acts and conduct likely endanger safety of persons.

The enquiry held by the enquiry officer was in terms of Rules and principles of natural justice and legal and valid the application of the applicant is liable to dismissed. It seems from the record that the case is pending since 2014. The company entered their appearance on 12.11.2014 and the case proceeded thereafter on 27.03.2015, for hearing of the petition dated 21.01.2015 and was disposed of contest dated 20.04.2015 for exchange of documents and thereafter 02.06.2015 further hearing of the petition 02.06.2015 .Order No. 16 dated 27.11.2015 was fixed for filing necessary documents by OP company on 09.12.2015. Company filed some documents next date 15.01.2015 fixed for evidence on behalf of workman . Order No. 20 dated 09.03.2016, PW1 was examined in full and cross examined in part. Order No. 21 dated 21.4.16, 22.4.16 fixed the for further cross examination but the Government of West Bengal had declared holiday so the case was shifted to 23.5.2016 for further cross examination of PW1. From order 37 dated 26.10 2017, it appears that



same type of petition was filed by the OP and it was rejected . Now the OP filed the same self petition which does not bear any merit. Hence it is rejected in limine on 13.06.2018 and case was fixed for hearing or argument. It seems thereafter since the order No. 42 dated 13.06.2018 to till date 03.01.2025, the case was pending for argument. Thereafter on 03.01.2025 none appears on behalf of both the parties. No step was taken in spite of repeated calls . Hence S/C was issued upon the applicant, urging the applicant to show cause as to why no dispute award be passed it is at this stage that after so many occasions this court was constrained to fix for no dispute award.

It seems that the applicant has not made his presence even thereafter. The conduct of the parties suggests that they have abandoned the matter in dispute and thus invites the court to invoke Rule 22 of the West Bengal Industrial Dispute Rules, 1958.

IT IS ORDERED

That in terms of Rule 22 of the West Bengal Industrial Dispute Rules, 1958, as amended till date, the dispute in this case is no longer in existence.

Let necessary compliances be made in terms of service of the copies to concerned Government Authorities.

The case is hereby disposed off.

Note in the relevant register.

Dictated & Corrected by me

JUDGE

SREEJITA CHATTERJEE
JUDGE
SECOND LABOUR COURT
KOLKATA

Judge
Second Labour Court WB.

