

I/415434/2023

Government of West Bengal  
Labour Department, I. R. Branch N.S. Building, 12<sup>th</sup> Floor  
1, K.S. Roy Road, Kolkata - 700001

No. Labr/. 596 ./(LC-IR)/

Date: 17/07/2023

**ORDER**

WHEREAS an industrial dispute existed between 1. M/s. D. Engineering, K. K. Ray Lane, P.O - Dulmi - Nadiha, Dist. - Purulia - 723102, 2) Divisional Engineer and Divisional Manager, Purulia Division, West Bengal Electricity, Development Corporation, New Administration Bhavan, Purulia Zilla Parishad Bhavan, 5<sup>th</sup> floor Sahib Bandh Road, Dist. - Purulia - 722102, 3) Regional Manager, Purulia Region, WBSEDCL, New Zilla Parishad Bhavan, 4<sup>th</sup> floor, Dist. - Purulia - 723101 and Mr. Dibakar Mahato, S/o Sahadeb Mahato, Vill. - Vhomragora, P.O. Kuchia, P. S. Bandwan, Dist. - Purulia, Pin - 723129 regarding the issue, being a matter specified in the Second schedule to the Industrial Dispute Act, 1947 (14 of 1947);

AND WHEREAS the workman has filed an application under section 10(1B) (d) of the Industrial Dispute Act, 1947 (14 of 1947) to the Ninth Industrial Tribunal specified for this purpose under this Deptt.'s Notification No. 1085-IR/12L-9/95 dated 25.07.1997.

AND WHEREAS, the Ninth Industrial Tribunal heard the parties under section 10(1B) (d) of the I.D. Act, 1947 (14 of 1947) and framed the following issue dismissal of the workman as the "issue" of the dispute.

AND WHEREAS the Ninth Industrial Tribunal has submitted to the State Government its Award dated 26/06/2023 under section 10(1B) (d) of the I.D. Act, 1947 (14 of 1947) on the said Industrial Dispute vide memo no. 94- I.T. dated 27/06/2023.

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 as shown in the Annexure hereto.

**ANNEXURE**

(Attached herewith)

By order of the Governor,

*Sd/-*

Assistant Secretary  
to the Government of West Bengal



I/415434/2023

No. Labr/. 596 . . 1/(7)/(LC-IR)

Date: 17/07/2023

Copy with a copy of the Award forwarded for information and necessary action to:-

1. M/s. D. Engineering, K. K. Ray Lane, P.O – Dulmi - Nadiha, Dist. – Purulia – 723102.
2. Divisional Engineer and Divisional Manager, Purulia Division, West Bengal Electricity, Development Corporation, New Administration Bhavan, Purulia Zilla Parishad Bhavan, 5<sup>th</sup> floor Sahib Bandh Road, Dist. – Purulia – 722102.
3. Regional Manager, Purulia Region, WBSEDCL, New Zilla Parishad Bhavan, 4<sup>th</sup> floor, Dist. – Purulia – 723101.
4. Mr. Dibakar Mahato, S/o Sahadeb Mahato, Vill. – Vhomragora, P.O. Kuchia, P. S. Bandwan, Dist. – Purulia, Pin - 723129.
5. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
6. The O.S.D. & E.O. Labour Commissioner, W.B., New Secretariat Building, (11<sup>th</sup> Floor), 1, Kiran Sankar Roy Road, Kolkata – 700001.
7. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.



Assistant Secretary

No. Labr/. 596 / .2/(2)/(LC-IR)

Date 17/06/2023

Copy forwarded for information to:-

1. The Judge, Ninth Industrial Tribunal West Bengal, Durgapur, Administrative Building, City Centre, Pin – 713216 with respect to his Memo No. 94 - I.T. dated 27/06/2023.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata – 700001.

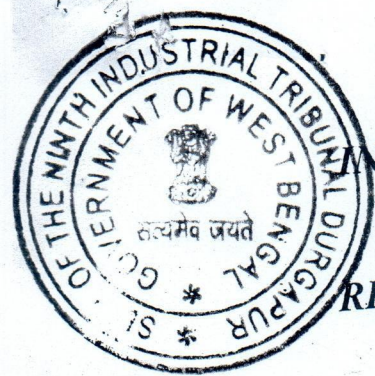
Assistant Secretary

H.A.(IT)

18/07/2023

Dibakar





THE MATTER OF INDUSTRIAL DISPUTES BETWEEN  
MR. DIBAKAR MAHATO, S/O. SAHADEB MAHATO,  
RESIDENT OF VILL.- VHOMRAGORA, P.O.-KUCHIA, P.S -  
BANDWAN, DIST.-PURULIA -723129 AND M/S.  
D.ENGINEERING, HAVING ITS OFFIE AT K.K.RAY LANE,  
P.O- DULMI-NADIHA, DIST.-PURULIA-723102, DIVISIONAL  
ENGINEER AND DIVISIONAL MANAGER, PURULIA  
DIVISION, WEST BENGAL ELECTRICITY DEVELOPMENT  
CORPORATION, NEW ADMINISTRATIVE BHAVAN,  
PURULIA ZILLA PAISHAD BHAVAN, 5<sup>TH</sup> FLOOR, SAHIB  
BANDH ROAD, DIST.- PURULIA- 722102 AND REGIONAL  
MANAGER, PURULIA REGION, WBSEDCL, NEW ZILLA  
PARISD BHAVAN, 4<sup>TH</sup> FLOOR, DIST.- PURULIA – 723101.  
Ld. Lawyer for the work applicant/workman/employee .....

Mr.S. K.Panda & Smt.Anima Maji,

Ld. Lawyer for the employer/Contractor of the Industrial  
Establishment .....

Mr. Debashis Mondal & Mr. Gagan Ch.Ghosh,

Ld. Lawyer for the W B S E D C L .... Mr. Mani Padma Banerjee  
and Mr. Pradip Sadhu .

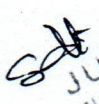
Case No. 01/2019 U/s 10(1B) (d) of Industrial Disputes Act, 1947.  
BEFORE THE JUDGE, NINTH INDUSTRIAL TRIBUNAL,  
DURGAPUR.

PRESENT

SRI SUJIT KUMAR MEHROTRA,  
JUDGE, 9<sup>TH</sup> INDUSTRIAL TRIBUNAL, DURGAPUR.

Date of Award : 26.06.2023

The above- named applicant by filing an application  
alongwith Form- S issued by the Asstt. Labour Commissioner and  
Conciliation Officer, Purulia Sadar (East), Govt. of West Bengal

  
JUDGE  
NINTH INDUSTRIAL TRIBUNAL DURGAPUR  
GOVT. OF WEST BENGAL



invoke jurisdiction of this Tribunal for adjudication of Industrial disputes between him and the employer.

At the very outset it must be mentioned herein that for the sake of convenience workman as applicant, contractor M/S. D. Engineering has been arrayed as employer/contractor and WBSEDCL as principal employer in this award.

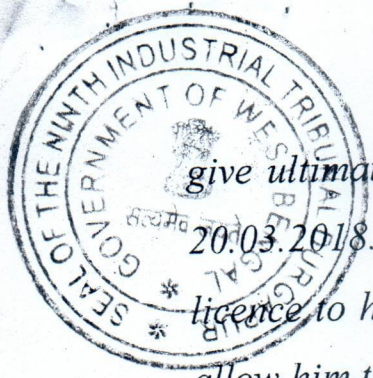
After filing of the application by the applicant/workman this Tribunal issued notices upon the O.Ps and in consequence thereof both the O.Ps appeared through their ld. lawyers and filed their statements in written form and similarly, the applicant also filed his detailed statement by way of WS.

The epitome of the applicant's pleading case is that O.P.No.1 is the enlisted labour contractor of the principal employer i.e O.P.No.2. He was employed by the employer/O.P.No.1 as electrician on the basis of his electrician licence which he obtained from Govt. of West Bengal in the month of Nov., 2011. He further averred that he was posted at Bandwan sub-station, Madhupur within Purulia District under the Principal Employer that since the time of his joining he used to discharge his unblemished service towards the principal employer through the employer/contractor.

It has further been averred by the applicant that his electrical licence/permit was issued on 29.11.2011 and the same was renewed on 29.11.2014 and was valid till the period 27.11.2017 that he used to work under the contractor till 28.11.2017 on the basis of his said valid licence.

Applicant in his pleading further stated that he submitted his licence before the licensing authority, Purulia for renewal but due to some unavoidable circumstances the authority concerned failed to renew the said licence and he reported the said matter to both the O.Ps. But the employer contractor did not consider said aspect and





give ultimatum to him for production of the renewed licence within 20.03.2018. As the licensing authority failed to give the renewed licence to him within the said period the employer/contractor did not allow him to join his duty on and from 01.04.2018.

It has further been averred by the applicant that there after he made several appeal to the employer and principal employer for his reinstatement and as the same yielded no result he ultimately raised the Industrial Dispute before the Asstt. Labour Commissioner, Purulia for conciliation. However, as the conciliation proceedings failed to achieve any result he further obtained pending certificate in the prescribed Form 'S' and filed the instant case praying for his reinstatement in the service alongwith full back wages.

The employer/contractor in his WS admitted the employment of the applicant/workman as an electrician in its concern but deny all other allegations of the applicant/workman.

It is the positive case of the employer/contractor that his establishment is an enlisted labour contractor of the WBSEDCL for providing skilled and unskilled labours as per the tender job. Accordingly, in terms of the Work Order of the WBSEDCL he supplied 5 nos. of skilled and 7 nos. of unskilled and 3 nos. of driver for performing the job of the principal employer which includes employment of the applicant as skilled electrician with valid license/permit.

It is further the pleading case of the employer/contractor that during the course of engagement it was found that the electrical license of the applicant/workman had expired on 28.11.2017 and accordingly, the applicant / workman was repeatedly asked to get his license renewed but he did not pay any heed to the same. However, in spite of the said fact the applicant/workman was allowed to continue with his job till March, 2018.



The employer /contractor further stated that as per the work order the skilled electrician must have valid electrician license/permit issued from the concerned authority of Govt. of West Bengal and accordingly, after coming into know about the fact of the applicant's failure to get his license renewed for further period on and from 28.11.2017 the principal employer gave ultimatum to him to produce the renewed license of the applicant/workman immediately for continuing engagement of the applicant/workman by issuing new further order with effect from April, 2018. Accordingly, on 07.03.2011 he sent last reminder notice to workman/applicant to produce his renewed / valid electrical license for forwarding the same to the respective offices of the principal employer, but he failed to produce the same.

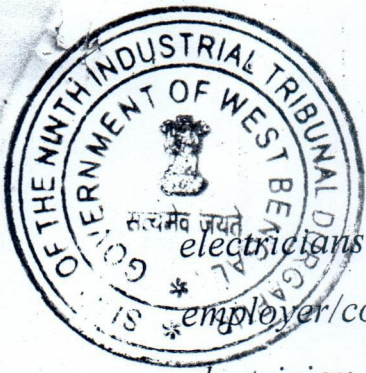
The employer further stated that on 19.12.2018 he informed the applicant/employer that the principal employer terminated his job.

It has been stated by the employer that the action of termination order was issued by the principal employer for want of valid electrical license of the applicant/employee and it cannot be said that the service of the applicant/employee was terminated illegally.

On the other hand, principal employer/contractor in its WS simply took the plea that it has got nothing to do with the employment of the applicant/workman as he was employed by contractor for executing its work in terms of the work order.

It is the specific pleading case of the principal employer that as per W B S E D C L norms annual job contract orders are given to the agency for supply of specific number of skilled and unskilled labour with valid work permits/license and accordingly, the O.P. No.1 was awarded with the contract for supply of skilled





electricians and unskilled labours and in consequence thereof the employer/contractor employed the applicant/workman to work as electrician with valid work permit/license in its establishment. But, since the applicant /workman did not get his electrical license / permit renewed after its expiry on 28.11.2017 for his negligence, so he was not allowed to continue his job by the employer/contractor.

The principal employer in its WS also stated that as the applicant/workman did not have the requisite license / work permit to work as an electrician as per the Rules of Electricity Act, 2003, after 28.11.2017, so it cannot be said that his service has been terminated illegally and accordingly, prayed for dismissal of the instant case against it.

CR further reveals that on the basis of the pleading of the parties the then Ld. Judge of this Tribunal vide his order no 4 dated 22.04.2019 framed the following issues for proper and effective adjudication of the Industrial disputes between the parties:-

- 1) Whether the termination of service due to refusal of work/employment since 01.04.2018 of the applicant's Sri Dibakar Mahato is legal and proper?
- 2) Is the applicant entitled to get relief under the Industrial Disputes Act?

After framing of the issues the parties were provided with opportunity to examine witness and produce documentary evidence from their side by passing various orders. Accordingly, to establish his pleading case the applicant /workman examined herself as P.W-1 in this case. He has been cross-examined extensively both the O.Ps. He also produced the following documents which have been marked as Exbt. from his side without objection :-

- 1) Identity Cards – Exbt. 1, 2, & 3,



- 2) Receipt copy of the letter dated 21.08.2018 submitted by the applicant with the office of the ALC, Purulia ---Exbt..4,
- 3) Details of the workers engaged by the O.P.No.1 -Exbt.-5,
- 4) Permit to work ..... dated 08.10.2015----Exbt.-6,
- 5) Payment sheet for the month of August, 2015 ---Exbt.7.

Similarly, employer/contractor examined himself as O.P.W-1 and following documents have been admitted in evidence from his side on consent.

Sl.No.	Exbt. No.	Details of Documents
1.	A	Photocopy of circular of W B S E D C L dated 06.04.2016.
2.	B	Work Order No. PRLD/R & M/HT/08/5548 dated 15.03.2017
3	C	Labour license dated 19.11.2010
4	D	Note Sheet of Asst. Engineer dated 30.12.2016
5	E	Extension of Work Order dated 18.05.2016
6	F	Consent letter dated 10.01.2018
7	G	Proposal for placement of extension order for the period from 01.04.2018 to 31.03.2019
8	H	Consent letter dated 15.02.2019
9	I	Letter dated 07.03.2018 issued to Dibakar Mahato
10	J	Disengagement letter dated 24.03.2018
11	K	Letter dated 19.02.2018 addressed to Dibakar Mahato alongwith Track Report.
12	L	Extension of contract (draft copy) issued by the WBSEDCL dated 31.03.2018
13	M	Workman permit of Dibakar Mahato dated 29.11.2011
14	N	Payment voucher for the month of March, 2018 alongwith attendance sheets
15	O	Letter dated 04.04.2018 relating to submission of ECR





		& payment confirmation
16	P	Memo. No.DM/PRLD/196 dated 27.04.2018
17	Q	Letter dated 01.10.2018 sent to the ALC, Purulia Sadar (East)
18	R	Letter of the workman dated 29.06.2018 and envelope
19	S	Letter of workman dated 28.02.2017

On the other hand, the principal employer although cross-examined P.W-1 and O.P.W-1 but it did not examine any witness from its side.

**Argument from the parties**

Ld. Sr. Lawyer from the side of the applicant argued that from the pleading of the parties it is the undisputed fact that the applicant / employer was employed by the O.P.No.1 / contractor for execution of the work of the principal employer/WBSEDCL as an electrician and he has requisite license/permit at the time of his employment.

The ld. lawyer by taking recourse to the oral evidence of P.W-1 and O.P.W-1 further contended that the applicant/workman since the date of his appointment in the month of Nov., 2011 used to discharge his duty diligently and sincerely but despite thereof his service has been illegally terminated by the employer at the instance of the principal employer.

He further submitted that applicant/workman submitted his electrical license with the concerned authority for renewal but as the concerned authority did not renew the same for want of its engagement in election and other reasons, so it cannot be said that there was any laches on the part of the applicant / workman to produce his electrical license before the employer prior to the date of his termination of his service.



It was also argued by the ld. Sr. lawyer that power of renewal of license vested with the principal employer and accordingly, it is duty of the principal employer to get it renewed. But, as the principal employer failed to do the same accordingly it cannot be said that there was any negligence on the part of the applicant/workman to get the license renewed within the stipulated period.

Ld. Sr. Lawyer in its memorandum of argument further stated that the applicant/workman had valid license but he was victimised by the employer/contractor and the principal employer by illegally terminated his service.

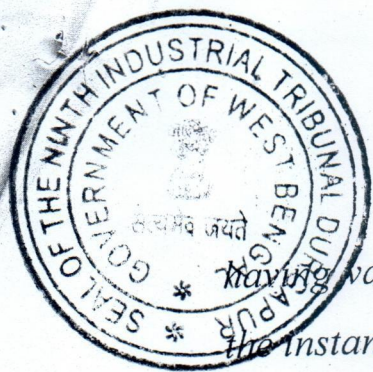
Accordingly, he prayed for an order of the reinstatement of the applicant/workman in his service alongwith full back wages.

In refuting such argument it was argued from the side of the employer/contractor that as the applicant /workman failed to get his electrical license / permit renewed after its expiry on 28.11.2017 even after repeated reminder issued from the end of the employer/contractor, so in terms of the work order and as per the concerned rules of Electricity Act, the applicant/workman was not allowed to continue with his service on and from 01.04.2018.

Ld. lawyer further argued that from the documentary evidence as well as evidence as evolved from the cross-examination of P.W-1, it is crystal clear that the electrician license of the applicant workman expired on 27.11.2017 but he was allowed to work till 31.03.2018 by the employer and the principal employer out of sympathy.

The ld. lawyer submitted that since it is the mandatory requirement of law for a skilled worker to work as an electrician to have requisite license /permit under the concerned provision of law, so it cannot be said that the employer could have continued with the job of the electrician of and under the principal employer without





having valid license/permit. Accordingly, he prayed for dismissal of the instant case against it.

Similarly, it was also argued from the side of the principal employer that as per rule of Electricity Act, 2003 it is the mandatory on the part of the workman to have requisite license / permit issued by the District licensing authority to work as an electrician and as the applicant /workman failed to get his license renewed, so the principal employer was left with no other alternative but not to allow the employer to allow the applicant / workman to work in its establishment in terms of the job contract.

Besides that, it was also argued from the side of the principal employer that as the applicant/workman was an employee of its contractor i.e. O.P.No.1, so it has nothing to do with the service matters of the applicant/workman and accordingly, he also prayed for dismissal of the instant case against it.

### Decision with Reasons

#### Issue No.1 :

This issue is the crux of the industrial disputes between the parties applicant/workman his service was terminated by way of refusal as per of employment since 01.04.2018 by the employer and principal employer in illegal manner and as per pleadings of employer and principal employer the applicant/workman was not allowed to join his duty since 01.04.2018 as he failed to produce his renewed electrical license / permit till 20.03.2018 despite of repeated reminder to him.

I have meticulously gone through the entire materials of this case and therefrom the following undisputed facts could be ascertained :-

*Sd/-*  
JUDGE  
NINTH INDUSTRIAL TRIBUNAL DURGAPUR  
GOVT. OF WEST BENGAL



1. That employer/M/S. D. Engineering is the enlisted contractor of the principal employer, W B S E D C L,

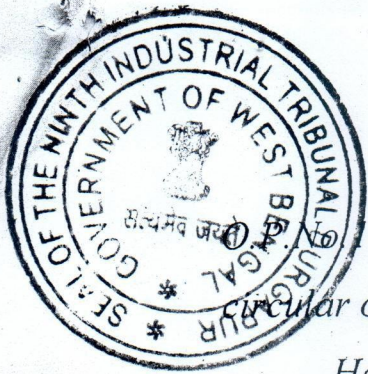
2. That in terms of Exbt.A & Exbt.B the employer was awarded with the job of repair and maintenance of HT Fiddler Lines emanated from Bandwan 33/11 KV sub-station on contract basis with effect from 01.04.2017 to 31.03.2018 by employing 5 skilled labour and 7 unskilled labours subject to the terms and conditions, as provided in Exbt.B. As per terms and conditions no. 2 the skilled labours to be employed should possessed requisite workmen's permit.

3. That in terms of said work order and further extension work order of similar nature the employer employed applicant/workman as a skilled labour / electrician in the establishment of the principal employer.

Now, let us discuss the evidence of the parties on this issue. Applicant in his examination-in-chief stated that he was employed in the month of November, 2011 as an electrician by the employer and he worked till the date of his illegal termination on 01.04.2018. Employer i.e. O.P.W-1 Mr. Ashis Roy in his examination -in-chief also admitted the same. He in his further evidence -in -chief categorically stated that in terms of the job order of the principal employer he engaged the applicant/workman to work as skilled electrician with valid permit.

P.W-1 in his cross-examination also admitted the same by stating that "It is a fact in terms of work order dated 15.03.2017 of the O.P.No.2, the O.P.No.1 engaged me for conducting the said work on its behalf. Besides me, the O.P.No.1 also employed other 2(two) skilled workmen for the said work. The period for said work was 01.04.2017 to 31.03.2018. For the said work I had to deposit my licence with the O.P.No.1 also submitted my Bio-data with the





I submitted both the documents in compliance with the Circular of the O.P.No.2".

He in his further cross-examination by the principal employer categorically stated that he used to work as an electrician and he was appointed by the contractor/ Ashis Roy/employer.

It is evident from Exbt. N that the employer / contractor used to pay wages on regular basis to the applicant/workman. That apart, Exbt. O i.e. the Employees' Provident Fund, Confirmation slip for the month of March, 2018 also reveals that the employer/contractor used to deposit the same with the concerned Govt. Authority. From those documentary evidence and above discussed oral evidence it is crystal clear that the applicant/workman was employed by the employer / contractor for conducting the job of maintenance of HT Fidler Line of the principal employer of the region, as mentioned in the Work order.

From the Exbt.2 i.e extension of work order it is evident that the skilled labours to be deployed by the employer/contractor should have requisite workmen's permit. In other words, as the applicant/workman has been engaged as skilled labour in the cadre electrician, so in terms of Indian Electricity Rules he should have requisite work permit /license. As per applicant he had the requisite work permit/license. Exbt.1 i.e the electrical workman's permit was initially issued on 29.11.2011 and the same was renewed on 29.11.2014 till the period 28.11.2017 and subsequently, it was again renewed for the period 29.11.2017 till 28.11.2020.

At this juncture it is pertinent to mention herein that the Exbt.1 was produced before this Tribunal on 04.03.2020.

P.W-1 in his further evidence -in -chief also stated that his said licence was issued by the District Licensing Board on 20.11.2011 for the period of 3 years and thereafter it was renewed on 29.11.2014



having validity till 27.01.2017. He in Para 10 of his evidence-in-chief stated that he submitted his said license before the licensing Board, Purulia for renewal and the said authority received the same but it failed to renew the said license due to Panchayet election and he reported the said matter to the employer/contractor.

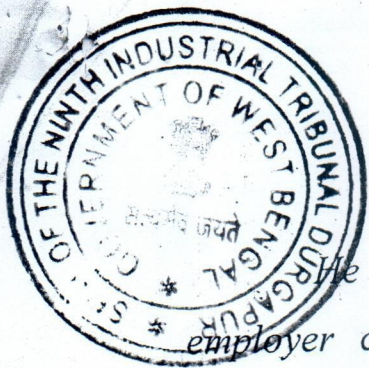
However, he neither in the WS nor in his evidence-in-chief in affidavit anywhere stated about the date on which he submitted his said license / permit with the District Licensing Board, Purulia for its renewal. Besides that, he did not produce the receipt copy of the District Licensing Board, Purulia to substantiate his such claim.

In my considered view, the burden of proof lies upon the applicant/workman to prove that he submitted his work permit /license with the concerned Govt. Authority for renewal prior to its expiry and the same cannot be shifted either upon the employer/contractor or principal employer.

At this juncture it is pertinent to mention herein that the employer produced copy of the work permit of the applicant/workman which has been marked as Exbt. M in this case and it is evident therefrom that the said license was renewed only once i.e. on 29.11.2014 for 3 years and the validity expired on 28.11.2017.

At this juncture, the evidence in cross-examination of the P.W-1 is very much relevant. As he in his cross-examination by the employer/workman categorically submitted that his license expired on 28.11.2017 and thereafter the same was renewed on 29.11.2017. However, he failed to produce any document to establish that his license was renewed on 29.11.2017 which he could have easily proved. His failure to produce any documentary evidence to substantiate his such oral evidence compels this Tribunal to draw adverse presumption U/S 114-(g) of the Indian Evidence Act, 1972.





He in his further cross-examination by the principal employer clearly admitted that he submitted his license after 28.11.2017 but stated that it could not remember the exact date of his such submission. Not only that, from his further cross-examination by the principal employer it is further evident that he was well aware about publication of advertisement in the local newspaper namely, Purulia Darpan dated 09.07.2018 regarding process of renewed electricians license from 09.07.2018 to 09.08.2018. His such evidence clearly established that he was well aware about the process of renewal of license taken up by the District Licensing Board, Purulia.

Applicant's/workman's further pleading case is that he has been illegally terminated from his service on and from 01.04.2018 by the employer for no fault on his part as his license was submitted with the licensing authority for renewal. However, considering the above discussed evidence from the side of the applicant/workman, I am of the view that his such case does not inspire confidence in me to rely upon the same. On the contrary, above discussed evidence clearly proved that the applicant/workman did not have any valid electrician licence/permit on and after 29.11.2018.

On the other hand, it is the specific pleading case of the employer and principal employer "as in spite of repeated request the applicant/workman failed to get his work permit /license renewed, this left with no other option but not to allow the applicant/workman to continue with his work on and from 01.04.2018 as an electrician".

Contractor/employer in his pleading categorically asserted that even after expiry of the work permit /license of the applicant/workman he allowed him to work for some more period but, ultimately finding no other alternative, as per direction of the principal employer, he sent a last reminder on 07.03.2011 to the



applicant/workman to produce his work permit/license for forwarding the same to the principal employer but as he failed to produce the same the workman was not allowed to join his duty on and from 01.04.2018 as the same would amounts to violation of Indian Electricity Rules.

O.P.W-1/ employer in para nos. 12 to 14 clearly stated about the same. He in his cross-examination by the applicant/workman also stated that the electrical license of the applicant/workman as submitted with him was valid till November, 2017 and he also stated in his cross-examination that the applicant/workman did not show any receipt regarding his submission of license with the concerned authority for renewal.

In my considered view, had it been a fact that the applicant/workman submitted his work permit/license with the concerned Govt. authority before expiry of its validity or any date immediately thereafter, then he should have confronted O.P.W-1 with the copy of the same. But, in the instant case the applicant/workman failed to produce any such document. His such conduct compels me to draw an inference that he tried to build up a case of submission of his work permit/license with the concerned authority within the stipulated period to justify his alleged illegal termination but he miserably failed to establish the same.

Furthermore, employer/contractor/O.P.W-1 produced his letter dated 07.03.2018 addressed to the applicant/workman having signature of the applicant/workman regarding received of the same. The said document has been marked as Exbt.1 and it is evident therefrom that the applicant/workman was given a last reminder for submission of his renewed / valid electrical workmen's permit within 20.03.2018 and it has clearly been stated therein, that failing which



Before parting with this judgement I must mention herein that during the course of argument the ld. lawyer for the workman tried to convince the Tribunal by submitting that in terms of Gazette notification of Govt. of West Bengal dated 02.11.2017 work permit is not valid for 10 years but considering the fact that the same notification does not give any retrospective effect, I find no merit in such argument of the ld. lawyer for the applicant/workman. At the same time, his such argument is beyond the pleading case of the applicant/workman.

Considering the nature of the skilled work of the applicant/workman as well as the mandatory requirement of law for having requisite license and failure on the part of the applicant/workman to possess the same on the relevant date it cannot be said that refusal of work on and from 01.04.18 by the employer amounts to retrenchment in terms of Sec. 2(oo) of the I.D. Act, 1947.

Employer's refusal to continue with the job of a workman who lost his requisite and mandatory qualification to work as a skilled labour in terms of laws of country cannot be termed as unjustified refusal or termination. To continue with the work as a skilled labour which requires mandatory work permit/license liability lies upon the applicant/workman to keep his all the documents enabling him to work as a skilled worker in a specific post. Failure on his part to maintain all requisite documents to work as a particular nature of skilled worker does not confer any right to him to continue with his job in violation provision of other laws.

Reverting back to the fact of the instant case it is pertinent to mention herein that it is the specific case of the employer and the principal employer that the applicant/workman was not allowed to join his duty on and from 01.04.2018 as he failed to produce his requisite mandatory work permit/electrician license renewed by the





*District authority Govt. of West Bengal, so, it is not simplicitor the case of either termination of service or retrenchment of service of a workman by the employer as produced in Sec.2(oo) of the Industrial Disputes Act, 1947.*

*From my above discussion it is crystal clear that the service of the applicant/workman has not actually either been terminated or retrenched by the employer or the principal employer, but he loses his job to work as an electrician on account of his failure to get his electrician license / permit renewed in terms of the Rules of Indian Electricity Act, 2003.*

*Having regard to my above discussion, I am of the view that the applicant/workman miserably failed to prove the instant issue in his favour.*

**Issue No.2 :**

*In view of my above findings, regarding the Issue No.1 against the applicant/workman the instant issue do not warrant any discussion. Thus, the same is disposed of accordingly,*

*To put rest to my discussion, I am of the view that the applicant/workman miserably failed to prove his case in terms of the provisions of the Industrial Disputes Act, 1947.*

*Thus, the instant case fails on merit.*

*Hence, it is*

**ORDERED**

*that the instant case U/S 10(1B)(d) of the Industrial Disputes Act, 1947 be and the same is dismissed against both the O.Ps. namely, M/S. D Engineering and W B S E D C L, Purulia Division, but without cost.*

*28/6*  
JUDGE  
NINTH INDUSTRIAL TRIBUNAL PURULIA  
GOVT. OF WEST BENGAL





Let a copy of this award be forwarded to the Additional Chief Secretary, Labour Department, Govt. of West Bengal - for information and doing needful as per provisions of the law.

Sd/- Sejit Kumar Melwatra  
Judge 26.06.23.

JUDGE

NINTH INDUSTRIAL TRIBUNAL DURGAPUR  
GOVT. OF WEST BENGAL

Sd/- Sejit Kumar Melwatra  
Judge, 26.06.2023.

9<sup>th</sup> Industrial Tribunal,

Durgapur.

JUDGE

NINTH INDUSTRIAL TRIBUNAL DURGAPUR  
GOVT. OF WEST BENGAL