

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

No. Labr./ 621 /(LC-IR)/22015(16)/37/2024

Date : 27/6/24

ORDER

WHEREAS an industrial dispute existed between M/s Manpower Group Services India Pvt. Ltd., Block GP, Plot J-3, Sector V, Bidhannagar, Kolkata - 700091 and its workman Smt. Bachendri Ray, T/BP, 38, Lower Nishikanan, Teghoria, P.O.- Hatiara, P.S.- Baguiati, Kolkata - 700157 regarding the issues being a matter specified in the second schedule of the Industrial Dispute act, 1947 (14 of 1947);

AND WHEREAS the workman has filed an application directly under sub-section 2 of Section 2A of the Industrial Dispute act, 1947 (14 of 1947) to the First Industrial Tribunal specified for this purpose under this Department Notification No. 101- IR dated 2.2.12;

AND WHEREAS the said First Industrial Tribunal has submitted to the State Government its Award dated 15.05.2024 in Case No. 03 / 2024 on the said Dispute vide Memo No. Dte/1st I.T./014/2024 dated 21.06.2024.

NOW, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Disputes 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,

Assistant Secretary

to the Government of West Bengal

No. Labr/ 621 /1(5)/(LC-IR)

Date : 27/6/24

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

1. M/s Manpower Group Services India Pvt. Ltd., Block GP, Plot J-3, Sector V, Bidhannagar, Kolkata - 700091.
2. Smt. Bachendri Ray, T/BP, 38, Lower Nishikanan, Teghoria, P.O.- Hatiara, P.S.- Baguiati, Kolkata - 700157.
3. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The OSD & EO Labour Commissioner, W.B., New Secretariat Building, 11th Floor, 1, Kiran Sankar Roy Road, Kolkata – 700001.
- ✓ 5. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.

Assistant Secretary

Date : 27/6/24

No. Labr/ 621 /2(3)/(LC-IR)

Copy forwarded for information to :-

1. The Judge, Third Industrial Tribunal & i/c of First Industrial Tribunal, N. S. Building, 2nd Floor, 1, K. S. Roy Road, Kolkata - 700001 with reference to his Memo No. Dte/1st I.T./014/2024 dated 21.06.2024.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.
3. Office Copy.

Assistant Secretary

OSD (IT) /
28/06/24

In the matter of an Industrial Disputes exists between Bachendri Ray, residing at T/BP, 38, Lower Nishikanan, Teghoria, P.O. – Hatiara, P.S. – Baguiati, Kolkata – 700 157 against his employer, M/s Manpower Group Services India Pvt. Ltd, an Information Technology Outsourcing Services in Kolkata, having its Zonal Head Office at Block GP, Plot J-3, Sector V, Bidhannagar, Kolkata – 700 091.

FIRST INDUSTRIAL TRIBUNAL (JURISDICTION): NORTH 24 PARGANS

PRESENT:

**SHRI MIHIR KUMAR MONDAL, JUDGE, THIRD INDUSTRIAL TRIBUNAL
&
IN-CHARGE OF FIRST INDUSTRIAL TRIBUNAL, KOLKATA**

Date of Order: 15.05.2024

Case No.: 03/2024 u/s 2A(2)

The instant case is initiated on filing an application u/s 2A(2) of the Industrial Disputes Act 1947 as amended by the Workman Bachendri Ray, residing at T/BP, 38, Lower Nishikanan, Teghoria, P.O. – Hatiara, P.S. – Baguiati, Kolkata – 700 157 against her employer, M/s Manpower Group Services India Pvt. Ltd, an Information Technology Outsourcing Services in Kolkata, having its Zonal Head Office at Block GP, Plot J-3, Sector V, Bidhannagar, Kolkata – 700 091 for adjudicating the termination of service of the Workman w.e.f. 19.05.2023 after declaring the same was illegal and void ab-initio and to pass an order granting reinstatement in service with full back-wages and all other consequential benefits, cost of Rs. 5,00,000/- for the pain, mental agony and destitution suffered by the petitioner and pass any order/s as the Tribunal may deem fit and proper.

On scrutiny of the application u/s 2A(2) of the Industrial Disputes Act, 1947 along with enclosed documents it appears that the applicant has not filed any document to show that earlier she filed an application to the Conciliation Officer of the appropriate Government for conciliation of the dispute and such application was filed 45 days prior to filing of this application u/s 2A(2) of the Industrial Disputes Act as it is found mandatory according to the Sub Section 2 of Section 2A of the Industrial Disputes Act, 1947. It is seen that the applicant has enclosed a copy of "application" dated 21.09.2023 addressed to the three separate addressee in which State Labour Commissioner i.e. the Conciliation Officer of the appropriate Government is not found. It is seen that the applicant sent the application dated 21.09.2023 to the office of the Labour Commissioner, Kolkata, West Bengal at Nizam Palace, Kolkata – 700020, who is a Central Government Officer and the said 'Labour Commissioner' is not the State Labour Commissioner.

So, it is found that the applicant has failed to submit document which is required to be filed under the provision of 2A(2) of the Industrial Disputes Act, 1947 and thus this Tribunal is not inclined to issue notice upon the Opposite Party right now.

However, the applicant was given an opportunity to file copy of the appropriate application submitted to the State Labour Commissioner i.e. the Conciliation Officer of the appropriate Government, if he sent such application to such 'Commissioner' previously, before this Tribunal in connection with this case on the next date i.e. 15.04.2024.

On 15.04.2024 Ld. Advocate for the Workman/ applicant filed a petition with the prayer to allow the petitioner to withdraw "the title suit" with the liberty to file afresh after initiating the conciliation proceeding. The petition was not supported with affidavit.

On perusal of the petition it appeared that the Ld. Advocate for the Workman/applicant prayed for an order allowing the petitioner to withdraw 'the title suit' with the liberty to file afresh after initiating the conciliation proceeding.



The instant case is not a 'title suit' and the character/feather of this case is different from the character/feature of 'title suit' and as the petition dated 15.04.2024 has been filed with completely inappropriate prayer, the petition is not maintainable and the same is rejected and disposed of.

On 15.05.2024 Ld. Advocate for the workman filed a petition supported with an affidavit with the prayer for dismissal of the present case.

Ld. Advocate for the workman candidly submitted that no appropriate application was addressed to the State Labour Commissioner, i.e. the Conciliation of the Appropriate Government, was filed prior to filing the application under Section 2a(2) of the Industrial Disputes Act, 1947 and due to such defect the instant case became infructuous and prays for dismissal of the instant case.

On perusal of the materials on record it appears that this Tribunal on 22.03.2024 on receiving the application u/s 2A(2) of the Industrial Disputes Act, 1947 observed that no appropriate application addressed to the State Labour Commissioner i.e. the Conciliation Officer of the Appropriate Government was submitted prior to filing of the application u/s 2A(2) of the Industrial Disputes Act, 1947 and on 15.05.2024 Ld. Advocate for the Workman admitted that no appropriate application for conciliation was submitted before the State Labour Commissioner prior to filing the application u/s 2A(2) of the Industrial Disputes Act, 1947 and as such defect cannot be cured by any means he has prayed for dismissal of the instant case.

Considering the facts and circumstances of the instant case and in view of the petition dated 15.05.2024 filed by the Ld. Advocate for the workman supported with an affidavit, it is established that the defect is incurable and thus this application becomes infructuous.

Hence
it is

ORDERED

that the instant application being No. 03/2024 u/s 2A(2) of the Industrial Disputes Act, 1947 is dismissed.

This is my Award.

Let the Award be sent to the Government.

Dictated & corrected by me

Sd/-

(Mihir Kumar Mondal)
Judge

Sd/-

(Mihir Kumar Mondal)
Judge,
Third Industrial Tribunal,
& i/c of First Industrial Tribunal
Kolkata

