

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

No. Labr/ 703 / (LC-IR)/ 22015(16)/71/2024

Date : 19-06-2025

ORDER

WHEREAS an industrial dispute existed between Bose Institute, Block EN-80, Sector- V, Salt Lake, Bidhannagar, Kolkata- 700091 and their workman Sri Sunil Hela, 1/1/A, Kali Krishna Tagore Road, Kolkata- 700035, 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 16.06.2025 in Case No. 43 of 2022 on the said Industrial Dispute Vide e-mail dated 17.06.2025 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/ 703 / 1(5)/(LC-IR)/ 22015(16)/71/2024

Date : 19-06-2025

Copy forwarded for information and necessary action to :-

1. Bose Institute, Block EN-80, Sector- V, Salt Lake, Bidhannagar, Kolkata- 700091.
2. Sri Sunil Hela, 1/1/A, Kali Krishna Tagore Road, Kolkata- 700035.
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 request to cast the Award in the Department's website.


Assistant Secretary

to the Government of West Bengal

No. Labr/ 703 / 2(3)/(LC-IR)/ 22015(16)/71/2024

Date : 19-06-2025

Copy forwarded for information to :-

1. The Judge, 7th Industrial Tribunal, N. S. Building, 1, K.S. Roy Road, Kolkata - 700001 with reference to her e-mail dated 17.06.2025.
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 SEVENTH INDUSTRIAL TRIBUNAL, KOLKATA,
WEST BENGAL**

New Secretariat Buildings, Kolkata

Present :

Miss Yogita Gaurisaria,

Judge, Seventh Industrial Tribunal, Kolkata, West Bengal

Case No. 43 of 2022

Under Section 10(1B)(d) of the Industrial Disputes Act, 1947

Sri Sunil Hela

1/1/A, Kali Krishna Tagore Road,

Kolkata- 700035

.... Applicant

---versus---

Bose Institute,

Block EN-80, Sector- V, Salt Lake,

Bidhannagar, Kolkata- 700091

..... Opposite Party

This Award delivered on Monday, the 16th Day of June, 2025

AWARD

Today is fixed for passing of order in respect of petition dated 11.09.2023 filed by the Bose Institute, hereinafter referred to as opposite party/OP, on the point of jurisdiction of this Tribunal to adjudicate the instant case.

I have heard the Ld. Advocates for both the sides. Considered.

Perused the said petition filed by OP/Bose Institute, written objection filed by the applicant Sunil Hela and the materials on record.

The applicant has filed the present application before this Tribunal under Section 10(1B)(d) of the Industrial Disputes Act, 1947 (West Bengal Amendment) challenging the termination of his service by the opposite party with a prayer to reinstate him with full back wages and consequential reliefs thereto.

The applicant raised the dispute before the Assistant Labour Commissioner, Govt. of West Bengal who dealt with the same and started conciliation proceedings but nothing could be achieved and under the said circumstances, the applicant made an application dated 27.04.2022 in prescribed Form P-4 before the said conciliation officer praying for issuance of certificate regarding the pendency of the conciliation proceedings and the said officer issued a Certificate in the prescribed form “S” u/sec. 10(1-B) of the Industrial Disputes Act, 1947. The applicant filed the instant case before this Tribunal on the strength of the said certificate u/sec. 10(1B)(d) of the Industrial Disputes Act, 1947.

The OP filed written statement interalia stating that this Tribunal has no jurisdiction to decide the instant dispute. The OP also filed a separate application on 11.09.2023 on the point of jurisdiction of this Tribunal to adjudicate the instant case. The applicant filed written objection against the said petition.

Considering the main application , written statement, the petition dated 11.09.2023, written objection thereto, the point “Whether this Tribunal has jurisdiction to adjudicate the matter in dispute” is taken up for adjudication as preliminary issue since the same, as transpiring from pleadings, the petition and written objection, appears to be purely question of law and could be disposed without taking any evidences thereto.

The Ld. Advocate for the OP/Bose Institute submitted that this Tribunal does not have jurisdiction to adjudicate the instant dispute. The Ld. Advocate for the OP further submitted that the definition of “appropriate government” in Section 2(1)(a) of The Contract Labour (Regulation & Abolition) Act, 1970 is the same as in the Industrial Disputes Act, 1947 and that from the date of amendment of the definition of appropriate government

in the Industrial Disputes Act, 1947 i.e. 15.09.2010, the Central Government is the “appropriate government” for the purpose of The Contract Labour (Regulation & Abolition) Act, 1970 as well as the Industrial Disputes Act, 1947 in relation to the establishment of the OP/Bose Institute and that the State Government could not be the appropriate government. The Ld. Advocate for the OP/Bose Institute further submitted that the applicant has already raised the issue before the Deputy Labour Commissioner (Central), Kolkata as would appear from the letter dated 21.11.2024 issued by the said authority stating the same to be in response to the representation dated 10.11.2024 received from the applicant Sri Sunil Hela calling both sides to his office for amicable settlement.

The Ld. Advocate for the OP/Bose Institute relied on the following judgments in support of his version-

- (i) Order dated 02.08.2022 passed by the Hon’ble High Court at Calcutta in the case being FMA no. 474 of 2021 (Dr. Chaitali Roy –vs—Union of India & Ors) (Division Bench)
- (ii) Order dated 28.02.2023 passed by the Hon’ble Supreme Court of India in the case being S.L.P.(C) No. 4430/4431 of 2023 (Union of India –vs Ramapada Manna & Ors.)

Per contra, the Ld. Advocate for the applicant submitted that this Tribunal has jurisdiction to adjudicate the matter in dispute and submitted that the point of maintainability may be decided alongwith the entire case. He further submitted that the order of the Hon’ble Apex Court as to “appropriate government” came only in 2023 and he was not aware of the same. The Ld. Advocate for the applicant relied on—

- (i) the order dated 13.12.2021 passed by the Hon’ble High Court at Calcutta in RVW No181 of 2015 (Division Bench) (Bose Institute & Ors –vs- Ramapada Manna & Ors.).

DECISION WITH REASONS

“Whether this Tribunal has jurisdiction to adjudicate the matter in dispute”

The Hon’ble High Court at Calcutta in the order dated 02.08.2022 passed in the case being FMA no. 474 of 2021 (Dr. Chaitali Roy –vs— Union of India & Ors) (Division Bench) interalia observed—

“...The respondents are ‘State’ within the meaning of Article 12 of the Constitution of India being governed by the policies framed by the Department of Science and Technology, Government of India”

The above has been held in respect of Bose Institute itself who is the Opposite Party in the present case before this Tribunal.

The **Hon’ble Supreme Court of India** in the order dated 28.02.2023 passed in the case being **S.L.P.(C) No. 4430-4431 of 2023 (Union of India –vs Ramapada Manna & Ors.)** (arising out of impugned final judgment and order dated 27.11.2014 in FMA no. 541/2009 and dated 13.12.2021 in RVW No. 181/2015) interalia held—

“After two rounds of litigation, still the respondents are harping on the issue as to who is their appropriate government, the Central Government or the State Government who is competent to make reference under Section 10(1) of Industrial Disputes Act, 1947 to resolve the industrial dispute.”

“After we have heard learned counsel for the parties and taking into consideration the material on record, consider appropriate to observe let the Central Government who claim itself to be an appropriate government shall make a reference to the concerned Industrial Tribunal/ Labour Court, as the case may be, in terms of the Section 10(1) of the Industrial Disputes Act, 1947 within a period of two months from today.”

The above SLP was in connection with the Bose Institute being the OP in the instant case before this Tribunal.

Section 2(a)(i) of the Industrial Disputes Act, 1947 is reproduced hereinbelow for easy reference and better appreciation--

“ appropriate Government” means -

- (i) in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government, or by a railway company or concerning any such controlled industry as may be specified in this behalf by the Central Government or in relation to an industrial dispute concerning a Dock Labour Board established under section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), or the Industrial Finance Corporation of India Limited formed and registered under the Companies Act, 1956 (1 of 1956)], or the Employees' State Insurance Corporation established under section 3 of the Employees' State Insurance Act, 1948 (34 of 1948), or the Board of Trustees constituted under section 3A of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), or the Central Board of Trustees and the State Boards of Trustees constituted under section 5A and section 5B, respectively, of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), or the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956), or the Oil and Natural Gas Corporation Limited registered under the Companies Act, 1956 (1 of 1956)], or the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), or the Central Warehousing Corporation established under section 3 of the Warehousing Corporations Act, 1962 (58 of 1962), or the Unit Trust of India

established under section 3 of the Unit Trust of India Act, 1963 (52 of 1963), or the Food Corporation of India established under section 3 or a Board of Management established for two or more contiguous States under section 16 of the Food Corporations Act, 1964 (37 of 1964), or 1[the Airports Authority of India constituted under section 3 of the Airports Authority of India Act, 1994 (55 of 1994)], or a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976 (21 of 1976), or the Export Credit and Guarantee Corporation Limited or the Industrial Reconstruction Bank of India Limited, the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987)], or an air transport service, or a banking or an insurance company, a mine, an oil-field, a Cantonment Board, or a major port, any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, or any corporation, not being a corporation referred to in this clause, established by or under any law made by Parliament, or the Central public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the Central Government, the Central Government, ..

- (ii) in relation to any other industrial dispute, including the State public sector undertaking, subsidiary, companies set up by the principal undertaking and autonomous bodies owned or controlled by the State Government, the State Government.

Provided that in case of dispute between a contractor labour employed through the contractor in any industrial establishment where such dispute first arose, the appropriate Government shall be

the Central Government or the State Government, as the case may, which has control over such industrial establishment.....”

Whether the Central Government is the appropriate government for Bose Institute , the Opposite Party herein, is no longer *res integra*. The same has been put to rest by the Hon’ble Apex Court in the order dated 28.02.2023 passed in the case being S.L.P.(C) No. 4430-4431 of 2023 (Union of India –vs Ramapada Manna & Ors.) (arising out of impugned final judgment and order dated 27.11.2014 in FMA no. 541/2009 and dated 13.12.2021 in RVW No. 181/2015) wherein the Hon’ble Apex Court held that Central Government is the “appropriate government” for the Bose Institute (being the OP herein).

In case of application under section 10(1B)(d) of the Industrial Disputes Act, 1947, this Tribunal has jurisdiction where the appropriate Government is the State Government.

It is also necessary to dwell upon Section 7A of the Industrial Disputes Act, 1947 which speaks as to constitution of the Industrial Tribunals. Sec. 7A(1) of the said Act lays down as under-

“7A. Tribunals-- (1) The appropriate Government may, by notification, in the Official Gazette, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second Schedule or the Third Schedule and for performing such other functions as may be assigned to them under this Act.”

The Hon’ble High Court of Judicature at Patna in the judgment delivered in the case of State Bank of India – vs – The Union of India decided on 07.09.2018 (in Civil Writ Case no. 14583 of 2016) interalia relied on its earlier judgment delivered by the said Hon’ble Court in CWJ Case no. 2053 of 2016 and interalia reiterated and held as under –

“Similarly, the “appropriate Government” as defined under Section 2(a)(i) of the I.D. Act has been empowered by Section 7-A(i) of the I.D. Act to constitute one or more Industrial Tribunals for adjudication of industrial disputes relating to any matter whether specified in the Second Schedule or the Third Schedule and for performing such other functions as may be assigned to them under the I.D. Act.

Thus., it would be evident that the Central Government can appoint Tribunals for any State for adjudication of the industrial disputes in relation to which it is the “appropriate Government” whereas the State Government may constitute one or more Tribunals in its territory for adjudicating the matter in respect to which it is the “appropriate Government”.

From perusal of the aforesaid provisions prescribed under Sections 7(1) and 7-A(1) of the I.D. Act, it would be manifest that the intent of the legislature is that the dispute should be adjudicated by the concerned Labour Courts/ Tribunals constituted by the ‘appropriate Government’ only.”

“The provision prescribed under Section 2-A(2) of the I.D. Act cannot be interpreted to mean that it gives a discretion to a workman engaged in a Public Sector Undertaking Bank to approach directly to an industrial Tribunal or Labour Court constituted by the State Government rather the workman in the given circumstances may directly invoke jurisdiction of the appropriate Labour Court/ Tribunal.”

“ Since this case is squarely covered by the judgment of this Court in The Chief General Manager, State Bank of India vs. Union of India (Supra) in which after elaborately dealing with the provisions prescribed under Sections 2(a)(i) , 2-A(2) , 7, 7-A(1) and 10(1)(d) of the Act, this Court held that as far as Section 2- A(2) of the Act is concerned , it was incorporated in Section 2-A by virtue of Amendment Act, 24 of 2010, which came into force

with effect from 15-09-2010 and the provision prescribed under Section 2-A(2) of the Act cannot be interpreted to mean that it gives a discretion to a workman engaged in a Public Sector Undertaking Bank to approach directly to an industrial Tribunal or Labour Court constituted by the State Government rather the workman in the given circumstance may directly invoke jurisdiction of the appropriate Labour Court/ Tribunal.”

In view of the discussions hereinabove and the settled position of law as laid down by the Apex Court, this Tribunal holds that the Central Government is the “appropriate Government” under Section 2(a)(i) of the Industrial Disputes Act, 1947 in relation to the OP/Bose Institute. This Tribunal further holds that this Tribunal has no jurisdiction to adjudicate the instant application filed by the applicant under Section 10(1B)(d) of the Industrial Disputes Act, 1947. As such, the instant case being 43/2022 under Section 10(1B)(d) of the Industrial Disputes Act, 1947 is not maintainable before this Tribunal, this Tribunal having no jurisdiction to adjudicate the same.

The preliminary issue stands decided accordingly.

Since the adjudication of the above being purely question of law herein on the point of jurisdiction and disposes of the instant case, this Tribunal hastens to add that this Tribunal has not dealt with any other factual aspects of this case.

Hence, it is

ORDERED

that the instant case being No. 43/2022 u/s. 10(1B)(d) of the Industrial Disputes Act, 1947 be and the same is dismissed on contest

without any order as to costs for want of jurisdiction as this Tribunal has no jurisdiction to adjudicate the instant application.

Be it noted that this Tribunal has not gone into the factual merits of the instant case and has restricted itself to adjudication on the point of jurisdiction of this Tribunal only. The applicant is at liberty to take appropriate step(s) before the appropriate authority(ies)/forum/Tribunal/Court if any and this Award shall not be an impediment in respect of the same.

The aforesaid is the Award of this Tribunal passed in this instant case being no. 43/2022 u/sec. 10(1B)(d) of the Industrial Disputes Act, 1947.

Let copy of this Award be sent to the appropriate authority(ies) as envisaged under the law.

Dictated & Corrected by me

Judge

(Yogita Gaurisaria)
Judge
Seventh Industrial Tribunal
Kolkata
16.06.2025