

I/426379/2023

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

No. Labr/. 732 / (LC-IR)/22015(16)/41/2023 Date: 14/08/2023

ORDER

WHEREAS an industrial dispute existed between M/s. Sanjay Steel Traders and Others, 10/15, Guha Road, P.O. Ghusuri, P.S. Belurmah, Dist. Howrah, Pin - 711107 and their workman Md. Zeaul Hassan, 21 & 21/2. Guha road, P.O. - Ghusuri, P.S. - Belur, Dist. - Howrah, Pin - 711107 regarding the issue, being a matter specified in the second schedule to the Industrial Dispute Act, 1947 (14 of 1947);

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

AND WHEREAS, Second Industrial Tribunal, Kolkata heard the parties under section 10(1B) (d)of the I.D. Act, 1947 (14of 1947).

AND WHEREAS Second Industrial Tribunal, Kolkata has submitted to the State Government its Award under section 10(1B) (d)of the I.D. Act, 1947 (14of 1947) on the said Industrial Dispute.

Now, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Dispute Act, 1947 (14of 1947), the Governor is pleased hereby to publish the said Award dated 03/08/2023 in case No. 09 of 2022 as shown in the Annexure hereto vide memo no. 1007- L.T. dated - 08/08/2023.

ANNEXURE

(Attached herewith)

By order of the Governor,

Sd/-
Assistant Secretary
to the Government of West Bengal

1/426379/2023

:2:

No. Labr/. . 732/1(5) / (LC-IR) & Encls. Date: ... 14/08/2023

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

1. M/s. Sanjay Steel Traders and Others, 10/15, Guha Road, P.O. Ghusuri, P.S. Belurmah, Dist. Howrah, Pin - 711107.
2. Md. Zeaul Hassan, 21 & 21/2. Guha road, P.O. - Ghusuri, P.S. - Belur, Dist. - Howrah, Pin - 711107.
3. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The O.S.D. & E.O. 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.



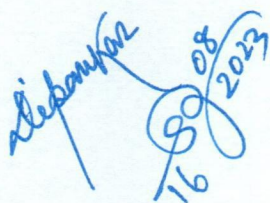
Assistant Secretary

No. Labr/. . 732/2(2) (LC-IR) Date : ... 14/08/2023

Copy forwarded for information to: -

1. The Judge, Second Industrial Tribunal, West Bengal, with respect to his Memo No. 1007- L.T. dated - 08/08/2023.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.

Assistant Secretary



Before the 2nd Industrial Tribunal, Kolkata

Present : Shri Partha Sarathi Mukhopadhyay, Judge

2nd Industrial Tribunal, Kolkata

Case No. 09 of 2022

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

Md. Zeaul Hassan- - - - -Applicant

of 21 and 21/2, Guha Road,
P.O. Ghusuri, P.S. Belur,
Dist. Howrah, PIN -711107

-Vs-

1) M/S. Sanjay Steel Traders

10/15, Guha Road, P.O. Ghusuri,
P.S. Belurmah, Dist. Howrah, PIN - 711107

2) Sanjay Kumar Shaw

Subhas Ram Shaw

Proprietors of
Sanjay Steel Traders of
135/116, Girish Ghosh Road, P.O. Belur,
District-Howrah.

Residential Address:-
24D, Guha Road, Ghusuri, P.S. Belur,
District – Howrah.

- - - - -Opposite Parties.

Date: 03.08.2023

J U D G E M E N T

The case of the petitioner as per his written statement is that since more than

30 years he used to work in the Opposite Party Company as Supervisor and his last pay was Rs.10,000/- per month and he used to pray to the Opposite Party Company for availing the ESL benefit and Provident Fund Scheme but the Opposite Party Company used to threaten him to remove him from his service and then in May, 2021 the Opposite Party illegally terminated his service without making any domestic enquiry and then the petitioner raised the disputes before the Deputy Labour Commissioner, Howrah on 16.08.2021 but no order was passed by the said office and at present the petitioner has no source of income and on these grounds the petitioner has filed this case praying for his reinstatement in his service in Opposite Party Company alongwith full back wages and other consequential benefits.

The Opposite Party Company has contested this case by filing written statement but thereafter the Opposite Party Company has not proceeded with this case in spite of repeated orders and earlier due to non-appearance of the Opposite Party Company the case was fixed for exparte hearing on 25.04.2022 and then on 17.05.2022 according to the prayer of the Opposite Party Company, the said order of exparte hearing was vacated by this Tribunal but again the Opposite Party Company has not proceeded with this case and for this reason the case has been heard exparte against the Opposite Party Company.

DECISION WITH REASONS

In order to prove his case the petitioner has examined himself as the P.W.-1 and he has proved some documents.

On going through the Affidavit-in-Chief by the petitioner, I find that the contents of the Affidavit-in-Chief have similarity with the contents of the written statement filed by the petitioner and as the said oral evidence of the petitioner is remaining unchallenged by the Opposite Party Company, it is accepted and it can be considered legally.

Now the question is whether the petitioner was a workman under the Opposite Party Company according to The Industrial Disputes Act, 1947.

The petitioner has proved some documents as Exbt.2 series and on perusing these exhibited documents, I find that by virtue of Special Power of Attorney, the owner of the Opposite Party Company, S.K. Shaw nominated, authorized and appointed the petitioner to receive all the things, goods and articles from the Controller of Stores, Eastern Railways on his behalf, which were purchased by the said owner on auction sale and in the said documents, the said owner of the Opposite Party Company agreed that all acts, deeds and things done by the petitioner shall be construed as acts, deeds and things done by him (owner) and all these documents show the signatures of the petitioner and the owner of the Opposite Party Company.

So, the above mentioned documents legally prove that the said owner of the Opposite Party Company appointed the petitioner to work for him for the above mentioned works and there is nothing on the record to prove that the said Exbt.2 series have been forged or manufactured for the purpose of this case.

Accordingly in view of Section 2(s) of The Industrial Disputes Act, 1947, I hold that the petitioner has proved legally that he used to work in the Opposite

Party Company as workman and ^{there}~~then~~ was relation between him and the
Opposite Party Company as employer and employee.

So considering the above mentioned unchallenged oral evidence and documents produced by the petitioner in this case, I hold that the petitioner has been able to prove his case legally and accordingly I hold that he is entitled to get relief in this case as he was dismissed illegally by the Opposite Party Company without following the principles of natural justice.

Hence, it is

ORDERED

that the Case No. 09/2022 under Section 10(1B)(d) of The Industrial Disputes Act, 1947 is allowed exparte against the Opposite Party Company with a cost of Rs.30,000/-, which is to be paid by the OP company to the petitioner within one month from the date of this award.

It is hereby declared that the petitioner is entitled to be reinstated in his previous service under the Opposite Party Company and he is entitled to get the entire full back wages alongwith other consequential benefits from the next date of the date of his dismissal from his service and the Opposite Party Company is directed to reinstate the petitioner in his previous service immediately and pay the entire full back wages alongwith other consequential benefits from the next date of the date of his dismissal from his service within one month from this date of order.

Let this order and judgement be treated as an award.

According to Section 17AA of The Industrial Disputes Act, 1947, let a certified copy of this Award be sent to the Principal Secretary to the Government of West Bengal, Labour Department, New Secretariat Buildings, 1, K.S. Roy Road, Kolkata 700 001 for information, and let a certified copy of this Award be supplied to each of both the parties of this case, free of cost, forthwith for information.

The case is disposed of today.

Dictated & corrected by me.


Judge


Judge
2nd Industrial Tribunal
03.08.2023

Judge
2nd Industrial Tribunal
West Bengal