

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

No.Labr/.⁷³⁸ / (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 Sankar Jadav, 32/2, Girish Ghosh Lane, Belurmah, Dist. - Howrah, Pin - 711202 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. 10 of 2022 as shown in the Annexure hereto vide memo no. 1006- L.T. dated - 08/08/2023.

ANNEXURE

(Attached herewith)

By order of the Governor,

Sd/-
Assistant Secretary
to the Government of West Bengal

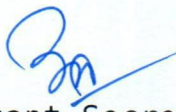
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No. Labr/. 738/1(S) / (LC-IR)

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. Belurmamh, Dist. Howrah, Pin - 711107.
2. Sankar Jadav, 32/2, Girish Ghosh Lane, Belurmamh, Dist. - Howrah, Pin - 711202.
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/. 738/2(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. 1006- L.T. dated - 08/08/2023.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.

Assistant Secretary


16/08/2023

Before the 2nd Industrial Tribunal, Kolkata

Present : Shri Partha Sarathi Mukhopadhyay, Judge

2nd Industrial Tribunal, Kolkata

Case No. 10 of 2022

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

Sankar Jadav- - - - -Applicant

of 32/2, Girish Ghosh Lane, Belurmath,
Dist. Howrah, PIN -711202

-Vs-

1) M/S. Sanjay Steel Traders

10/15, Guha Road, P.O. Ghusuri,
P.S. Belurmath, 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 last 19

years he used to work in the Opposite Party Company as Watchman 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 on 01.08.2021 the Opposite Party Company illegally terminated his service without making any domestic enquiry and then the petitioner raised the industrial dispute before the Labour Commissioner and at present the petitioner has no source of income and on these grounds he has filed this case prying for his reinstatement in his service in the Opposite Party Company alongwith full back wages and other consequential reliefs.

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 one letter dated 24.05.2020 issued by the owner of the Opposite Party Company, S.K. Shaw, as the Exbt.3 and on perusing this Exbt.3, I find that the said owner has written this letter to the Officer-in-Charge, Belur Police Station, Howrah and in that letter the said owner mentioned a list of employees and workers under his company and the name of this petitioner is found in serial No.10 of this letter.

So, this Exbt.3 legally proves that this petitioner was a worker or employee under the said owner of the said company and this letter (Exbt.3) mentions the original signature of the said owner and there is nothing on record to prove that the said Exbt.3 has 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 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. 10/2022 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