

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./ 739 /(LC-IR)/22015(16)/37/2024

Date : 31-07-2024

**ORDER**

WHEREAS an industrial dispute existed between M/s. Advanced Medicare & Research Institute Limited (AMRI Hospitals Limited), P-4 & 5, C.I.T. Scheme – LXXII, Block – A, Gariahat Road, Kol -700029 and its workman Smt. Monidipa Basu, 4F, Panchanantola Road , Kolkata – 700029 regarding the issues being a matter specified in the second schedule of the Industrial Dispute act, 1947 (14of 1947);

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

AND WHEREAS the said Second Industrial Tribunal has submitted to the State Government its Award dated 24.07.2024 in Case No. VIII-14 / 2008 on the said Dispute vide Memo No. Dte/2<sup>nd</sup> I.T./076/2024 dated 25.07.2024.

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,

*Sdt.*

Assistant Secretary

to the Government of West Bengal

No. Labr/ 739 /1(5)/(LC-IR)

Date : 31-07-2024

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

1. M/s. Advanced Medicare & Research Institute Limited (AMRI Hospitals Limited), P-4 & 5, C.I.T. Scheme – LXXII, Block – A, Gariahat Road, Kol -700029.
2. Smt. Monidipa Basu, 4F, Panchanantola Road , Kolkata – 700029.
3. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The OSD & EO Labour Commissioner, W.B., New Secretariat Building, 11<sup>th</sup> 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.

*Bm*

Assistant Secretary

No. Labr/ 739 /2(3)/(LC-IR)

Date : 31-07-2024

Copy forwarded for information to :-

1. The Judge, Second Industrial Tribunal & i/c of Second Industrial Tribunal, N. S. Building, 3<sup>rd</sup> Floor, 1, K. S. Roy Road, Kolkata - 700001 with reference to his Memo No. Dte/2<sup>nd</sup> I.T./076/2024 dated 25.07.2024.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.
3. Office Copy.

Assistant Secretary

*Dep. Secy / Sandeep Datta (SSP)*  
*31/8/24*



**Case No. VIII-14/2008**

M/s. Advanced Medicare & Research Institute Limited  
(AMRI Hospitals Limited)

Vs.

Smt. Monidipa Basu

Order No. 188

Date: 24.07.2024

Both parties are present.

The petitioner filed this case against the Opposite Party praying for a declaration that the order of dismissal dated 09.01.2003 issued by the Opposite Party is arbitrary and illegal and prayed for reinstatement alongwith full back wages and consequential relief and the Opposite Party contested this case and the case is pending for evidence of the petitioner.

In its Written Statement the Opposite Party has taken a plea that this Tribunal has no jurisdiction to try this case and the case is not maintainable in law.



It is true that the case is pending for evidence of the petitioner but according to Order 14 Rule 2(2) of the CPC, before discussing all other issues the Court has power to dispose of any issue as preliminary issue if the allegation is related to the jurisdiction of the Court and any matter barred by law.

It is not legally necessary that the Opposite Party has to take any plea regarding non-maintainability of the case on the point of law or jurisdiction of the Court.

The Court suo motto can decide at any stage of the case or even at the time of filing of the case, as to whether the case is barred by law or by jurisdiction of the Court.

Accordingly one issue as preliminary issue was framed on 18.06.2024 to the point "Is the AMRI Hospital Limited an industry according to The Industrial Disputes Act, 1947 and is the case maintainable in law?" and on 10.07.2024 both sides were heard on this preliminary issue.

The Ld. Advocate for the petitioner submitted that Act 46 of 1982 has not yet been given effect and this case is pending for a long time and accordingly the AMRI



Hospitals Limited is an industry under The Industrial Disputes Act, 1947

The Ld. Advocate for the Opposite Party raised strong objection because the case is not maintainable in law and the Opposite Party is not an industry under The Industrial Disputes Act, 1947.

The book namely The Industrial Disputes Act, 1947, 2020 Edition at page 13 mentions that on the enforcement of Clause (c) of Section 2 of Act 46 of 1982, Clause (j) of The Industrial Disputes Act, 1947 shall stand substituted as under and the page no. 12 of the said book mentions at the bottom of the page that Section 2 of the Act 46 of 1982 has been inserted w.e.f. 21.08.1984. So it means that since 21.08.1984, Section 2 of said Act 46 of 1982, has become effective and Clause (j) shall stand substituted.

According to the said substituted definition of Industry w.e.f. **21.08.1984**, hospitals are not industries according to The Industrial Disputes Act, 1947.

Admittedly M/s. Advanced Medicare & Research Institute Limited is known as AMRI Hospitals Limited.



Accordingly, I hold that the Opposite Party of this case is not an industry and there cannot be any relationship of employer and employee between the petitioner and the Opposite Party of this case and as the Opposite Party is not an industry, the case is not maintainable **legally** against the Opposite Party and there is no legal justification to proceed further with this case.

So in view of the above position of the record and definition of the term 'industry' as per The Industrial Disputes Act, 1947, I hold that this case is not maintainable in law as the Opposite Party is not an industry and I also hold that the petitioner is not entitled to get any relief in this case as the Opposite party is not an industry.

Hence it is

### **ORDERED**

that the Case No. VIII -14/2008 under Section 10(2A) of The Industrial Disputes Act, 1947 is dismissed on contest against the Opposite Party as the case is not legally maintainable according to The Industrial Disputes Act, 1947.

Let this Order 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

(Shri P.S. Mukhopadhyay)  
Judge  
2<sup>nd</sup> Industrial Tribunal  
Kolkata



Judge  
2<sup>nd</sup> Industrial Tribunal  
West Bengal