

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

No. Labr/ 901 / (LC-IR)/22015(16)/57/2024

Date : 04.9.2024

ORDER

WHEREAS an industrial dispute existed between M/s. Bayeen Industries, Work Site – 137, Salkia School Road, Howrah – 711101 and Head Office – Chatterjee International Centre, 33A, Chowringee Road, 5th Floor, Room No. 3 & 4, Kolkata - 700071 their workman Sri Madhab Poddar, 78/2, Baishanabpara, 2nd Lane Mahesh, Hooghly - 712202 regarding the issues, being a matter specified in the second schedule to the Industrial Dispute Act, 1947 (14 of 1947) ;

AND WHEREAS the parties have filed an application under section 10(2A) of the Industrial Dispute Act, 1947 (14 of 1947) to the Second Industrial Tribunal, Kolkata specified for this purpose under this Deptt.'s Notification No. 1085-IR/12L-9/95 dated 21.07.1997 ;

AND WHEREAS the said Second Industrial Tribunal, Kolkata has submitted to the State Government its Award dated 21.08.2024 in case No. VIII-20/2024 under section 10(2A) of the I.D. Act, 1947 (14 of 1947) on the said Industrial Dispute vide Memo No. Dte/2nd I.T./086/2024 dated 22.08.2024 ;

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 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/ 901 /1(6)/(LC-IR)/22015(16)/57/2024

Date : 04.9.2024

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

1. M/s. Bayeen Industries, Work Site – 137, Salkia School Road, Howrah – 711101.
2. M/s. Bayeen Industries, Head Office – Chatterjee International Centre, 33A, Chowringee Road, 5th Floor, Room No. 3 & 4, Kolkata - 700071.
3. Sri Madhab Poddar, 78/2, Baishanabpara, 2nd Lane Mahesh, Hooghly – 712202.
4. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
5. The OSD & EO Labour Commissioner, W.B., New Secretariat Building, 11th Floor, 1, Kiran Sankar Roy Road, Kolkata – 700001.
- ✓ 6. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.

Assistant Secretary

No. Labr/ 901 /1(3)/(LC-IR)/22015(16)/57/2024

Date : 04.9.2024

Copy forwarded for information to :-

1. The Judge, Second Industrial Tribunal, N. S. Building, 3rd Floor, 1, K.S. Roy Road, Kolkata - 700001 with respect to his Memo No. Dte/2nd I.T./086/2024 dated 22.08.2024.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.
3. Office Copy.

Assistant Secretary

04.9.2024 / 17 / Pandeep Satta
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Before the 2nd Industrial Tribunal, Kolkata

Present : Shri Partha Sarathi Mukhopadhyay, Judge

2nd Industrial Tribunal, Kolkata

Case No.VIII-20/2024

Under Section 10(2A) of The Industrial Disputes Act, 1947

Sri Madhab Poddar

Petitioner

Vs.

M/s. Bayeen Industries

Opposite Party

Date: 21.08.2024

J U D G E M E N T

This case has been received from the Labour Department, West Bengal on reference for disposal of the Industrial Disputes between the parties of this case and the Labour Department, W.B. framed following two issues for disposal of this case: -

1. Whether the termination of service of the petitioner by the OP company w.e.f. 10.10.2019 is justified
2. What relief, if any, is he entitled to?

After receiving this record from the Labour Department, notices were issued to both sides by speed post and both sides attended this Tribunal but on 03.07.2024 the OP company did not attend

and on the next date the petitioner filed written statement and as the OP company did not attend after appearing on the earlier occasions and did not file the written statement, the case was taken up for exparte hearing against the OP company.

The petitioner has filed one written statement under Section 10(2A) of The Industrial Disputes Act, 1947 in this case and submitted that he used to work in the OP company as the field worker since 01.04.2009 and he was terminated on 21.10.2019 from his service and his salary was Rs. 7900/- and on 20.07.2019 he received the salary for the last time and thereafter the OP company did not pay salary to him and thereafter he referred the dispute to the Deputy Labour Commissioner, W.B. but the OP company refused to pay his salary and then this case was referred to this Tribunal for adjudication and the petitioner was retrenched without any prior notice and salary and he has been suffering financially to maintain his family and accordingly he has prayed for payment of dues, bonus, gratuity and compensation against the OP company in this case and he has filed copies of some documents alongwith this written statement.

Record shows that 09.08.2024 was fixed for exparte hearing against the OP company and on that date the OP company did not attend the Tribunal and the petitioner alongwith his representative were present and on being asked to examine witness on behalf of the petitioner and file affidavit in chief of the petitioner, the representative of the petitioner submitted that he had filed written statement of the petitioner with documents earlier and at present he will not examine any witness on behalf of the petitioner and as the said representative did not examine any witness for the petitioner, the evidence of the petitioner was closed and 14.08.2024 was fixed

for hearing argument and on 14.08.2024 the representative of the petitioner made submission regarding argument and 21.08.2024 was fixed for passing judgement.

In this case the petitioner has filed his written statement and copies of some documents but the representative of the petitioner, on being asked by the Tribunal, did not submit affidavit in chief of the petitioner and examine the petitioner of this case and also did not prove the copies of documents submitted by the petitioner. On the contrary, he submitted that he had filed written statement with documents earlier and at present he would not examine any witness on behalf of the petitioner.

Though the case has been fixed for ex parte hearing, the petitioner has to prove his case by producing oral and documentary evidences but surprisingly he has not produced any type of evidences in this case and **without evidence**, the written statement and the copies of the documents submitted by the petitioner cannot be considered legally to hold any legal view.

Moreover, according to the Indian Evidence Act, pleadings without evidence and unproved documents are not the evidences of any party of a case **if witnesses are not examined to make substantive evidence regarding the contents of his pleadings and documents.**

So considering the entire materials on record, I find that the petitioner has not produced any oral and documentary evidence in respect of his written statement and accordingly I hold that the said written statement of the petitioner cannot be given any legal value

and I hold that the petitioner has failed to prove his case and he is not entitled to get any relief in this case.

Hence it is,

ORDERED

that the case no. VIII- 20/2024 under Section 10 (2A) of The Industrial Disputes Act, 1947 is dismissed exparte against the OP company.

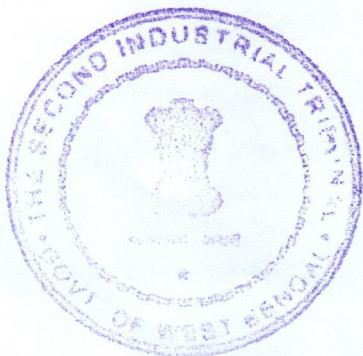
Let this judgement and order be treated as an Award.

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
2nd Industrial Tribunal
Kolkata

Judge
2nd Industrial Tribunal
West Bengal