

I/70281/2019

Government of West Bengal
Labour Department, I.R. Branch

N.S.Buildings, 12th Floor
1, K.S. Roy Road, Kolkata - 700001

No. Labr./1008/(LC-IR)/22015(16)/669/2019

Date : 22/11/19

ORDER

WHEREAS an industrial dispute existed between M/s Reliance SMSL Ltd. (former Strategic Manpower Ltd.), Godrej Waterside, Tower – II, 18th Floor, Salt Lake, Sector – V, Kolkata – 700 091 and their workman Sri Aniruddha Ghosh, S/o Sri Tapan Kumar Ghosh Simantapally, Santiniketan, Birbhum – 731 235 regarding the issues being a matter specified in the second schedule of the Industrial Dispute act, 1947 (14 of 1947);

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

AND WHEREAS the said Judge, Seventh Industrial Tribunal has submitted to the State Government its Award on the said Dispute.

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,

Sd/-

Deputy Secretary

to the Government of West Bengal

No. Labr./1008/1(2) – IR

Date : 22/11/19

Copy forwarded for information to :

1. The Judge, Seventh Industrial Tribunal with reference to his Memo No. 1353 – L.T dated 26.09.2019.

2. The Joint Labour Commissioner (Statistics), W.B., 6, Church Lane, Kolkata-700001.

Sd/-

Deputy Secretary

No. Labr./1008/2(5) – IR

Date : 22/11/19

Copy with a copy of the Award is forwarded for information & necessary action to:

1. M/s Reliance SMSL Ltd. (formerly Strategic Manpower Ltd.), Godrej Waterside Tower – II, 18th Floor, Salt Lake, Sector – V, Kolkata – 700 091.

2. Sri Aniruddha Ghosh, S/o Sri Tapan Kumar Ghosh, Simantapally, Santiniketan Birbhum, Pin – 731 235.

3. The Assistant Labour Commissioner, W.B., In-Charge of 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 O.S.D., IT Cell, Labour Department, with the request to cast the Award in the Department's website.

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Deputy Secretary

In the Seventh Industrial Tribunal, West Bengal
New Secretariat Buildings, Kolkata

Present : Sri Ashis Kumar Das, Judge,
Seventh Industrial Tribunal, Kolkata,
West Bengal.

Case No.24 of 2018

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

Aniruddha Ghosh

... Applicant

vs.

M/s. Reliance SMSL Ltd. (formerly Strategic Manpower Ltd.)

... OP/Company.

Order No.14, dated 18-09-2019.

Both the parties are present through their Ld. Advocates.

Today is fixed for passing order in respect of verified petition dated 08.02.2019, filed on behalf of OP/Company, challenging the jurisdictional point.

Case record is taken up for passing order.

By filing the present petition, the OP/Company has prayed for an order holding that the State Government is not the Appropriate Government in view of Notification dated 04.11.2004, issued by the Government of India as well as Section 2(A) of the Industrial Disputes Act, 1947, read with Section 2(a)(i) of the Contract Labour (Regulation & Abolition) Act, 1970, with regard to the OP/Company and to pass necessary order/orders as this Tribunal may deem fit and proper mainly on the ground that the OP/Company namely, M/s. Reliance SMSL Ltd. has got a business agreement with the Reliance Corporation IT Park Limited (in short the IT Park) having its principal place of business at 73, Saturday Building, Wood Street, Kolkata-700016 and said IT Park has been granted license under Section 4 of the Indian Telegraph Act, 1885 by the Department of Telecommunications, Ministry of Communications & IT, Government of India; that by Notification No. S.O.1233(E) dated 04.11.2004 issued by Joint Secretary, Ministry of Labour & Employment, New Delhi, Government of India, it has been decided by the Central Government that in respect of industries engaged in the telegraph service, Central Government will be the Appropriate Government under Section 2(a)(i) of the Industrial Disputes Act, 1947 ; that the Licence under the Contract Labour (Regulation & Abolition) Act, 1970 has been granted in respect of OP/Company by the Assistant Labour Commissioner (Central) being the Licensing Authority under the said Act of 1970 for carrying on activities mentioned therein ; that so far as the present dispute is concerned, by a letter dated 20.08.2018, the management of the OP/Company has contended before the Assistant Labour Commissioner, Government of West Bengal, that the State Government is not the Appropriate Government ; that admittedly the IT Park being a controlled industry as specified by the Central Government vide the Notification dated 04.11.2004 issued by the Government of India and as such as per the said Notification, the Central Government is the Appropriate Government in terms of proviso to Section 2(a)(ii) of the Industrial Disputes Act, 1947 ; that undisputedly the OP/Company has got the statutory licence under the Contract Labour (Regulation abolition Abolition) Act, 1970 from the Licensing Officer of the Central Government. The word "appropriate government" as has been defined under Section 2(a) of the Act, 1970 leaves no room for any doubt that it has got similar connotation as would appear from the definition of the "appropriate government" under

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Contd... Order No.14, dated 18-09-2019

the Industrial Disputes Act, 1947 ; that since the Government of West Bengal cannot be regarded as the Appropriate Government under Section 2(a) of the Industrial Disputes Act, 1947 as well as under Section 2(a)(i) under the Contract Labour (Regulation and Abolition) Act, 1970, this Tribunal being a creature of the said statute has got no jurisdiction to proceed with the matter any further in respect of the OP/Company.

The applicant has contested the above application by filing a written objection on 11.06.2019 wherein it has been stated that the present application of the OP/Company is baseless, concocted and does not bear any merit ; that on 07.05.2018 he filed a complaint before the Regional Labour Commissioner, Kolkata-20, who on 28.05.2018 replied in writing that the Central Government is not the Appropriate Government in respect of Strategic Manpower Solutions Ltd. and so, it is not maintainable before the said Regional Labour Commissioner and thereafter, on 31.05.2018 he preferred a complaint before the Labour Commissioner, N.S. Buildings, Kolkata-1 and subsequently, the Assistant Labour Commissioner called for a meeting on 25.07.2018 for settlement of the dispute, but the OP had refused to come to any settlement ; that all the incidents occurred within the office premises of the OP/Company at Kolkata as departmental proceedings and as such this Tribunal has every jurisdiction to hear and try the case. In the circumstances, the applicant has prayed for an order holding that this Tribunal has ample jurisdiction to try the case.

In view of the present petition filed by the OP/Company, this Tribunal took up the said petition, along with its written objection for hearing on 02.08.2019 and concluded the hearing on 02.09.2019, to consider the **jurisdictional point** as raised by the opposite party as a preliminary issue and heard both sides at length over the said matter.

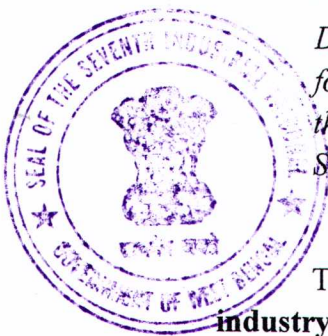
Now, let us consider as to whether this Tribunal has jurisdiction to adjudicate the matter in dispute or not ?

This case has been filed by the applicant under Section 2A (2) of the Industrial Disputes Act, 1947 (as amended) against his employer OP/Company, engaged in telecommunication industry, named as M/s. Reliance SMSL Ltd. (formerly Strategic Manpower Ltd.) situated at Godrej Waterside, Tower-II, 18th Floor, Salt Lake, Sector-V, Kolkata-700091, in connection with termination of his service by his employer w.e.f. 22.03.2018.

Perused the present petition dated 08.02.2019 along with its written objection dated 11.06.2019. According to the OP/Company, Central Government is the appropriate government to adjudicate the matter, as the OP/Company deals with the business of telegraph service, which has been declared as controlled industry vide Gazette Notification S.O.1233(E) dated 04.11.2004.

Annexure-A of the present petition filed by the OP/Company is a photocopy of **Notification S.O.1233(E) dated 04.11.2004**, issued by Ministry of Labour & Employment, New Delhi, Government of India, which runs as follows :-

"In pursuance of sub-clause (i) of clause (a) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby specifies, for the purposes of the said sub-clause, the controlled industry engaged in the telegraph service which is controlled by the Central Government under Section 4 of the Indian Telegraph Act, 1885 (13 of 1885)".



Therefore, it is clear that **telegraph service** has been declared as **controlled industry** vide Gazette Notification S.O.1233(E) dated 04.11.2004 as per the provision of

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Contd... Order No.14, dated 18-09-2019

the Industrial Disputes Act, 1947 and according to Section 2(a)(i) of the Central Labour (Regulation and Abolition) Act, 1970, the Central Government is the appropriate government in relation to an establishment in respect of which the appropriate government under the Industrial Disputes Act, 1947 is the Central Government.

There is no dispute that the OP/Company namely, Reliance SMSL Ltd. has got a business agreement with the Reliance Corporation IT Park Ltd. and said IT Park has been granted licence under Section 4 of the Indian Telegraph Act, 1885 by the Department of Telecommunications, Ministry of Communications & IT, Government of India. I find from the licence dated 16.03.2016 (Annexure-B) and the renewal letter of licence dated 13.03.2018 (Annexure-C) that both were issued by the Assistant Labour Commissioner (Central) – I, Kolkata and Licensing Officer, in favour of OP/Company for doing the work viz. all types of Telecommunication Services / Facilities. So, it is clear that the OP/Company deals with the business of 'telegraph service' on the strength of a business agreement with the Reliance Corporation IT Park Ltd., which has been declared as controlled industry by the above referred Gazette Notification and provisions of law. Therefore, in view of above referred Gazette Notification and laws and also considering the nature of business of the OP/Company with the Reliance Corporation IT Park Ltd., I hold that since Reliance Corporation IT Park Ltd., under whom the OP/Company namely, M/s. Reliance SMSL Ltd. carries on its business, deals with the business of 'telegraph service', which has been declared as controlled industry, the Central Government is the appropriate government to adjudicate the matter in dispute as per the provision of the Industrial Disputes Act, 1947 and Section 2(a)(i) of the Contract Labour (Regulation and Abolition) Act, 1970, not the State Government.

Consequently, I further hold that this Tribunal has no power and jurisdiction to adjudicate the matter in dispute. Therefore, this case is not maintainable in law and thus, liable to be dismissed for want of jurisdiction.

Hence, it is,

O R D E R E D

that the case being No. 24 of 2018 under Section 2A(2) of the Industrial Disputes Act, 1947 be and the same is dismissed on contest without any order as to costs.

The applicant Sri Aniruddha Ghosh is given liberty to raise the dispute before the appropriate forum.

This is my Award.

Dictated & corrected by me

sd/-

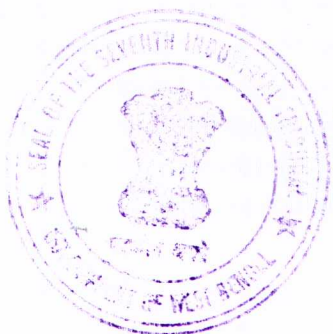
Judge

Judge
Seventh Industrial Tribunal

sd/-

(ASHIS KUMAR DAS)
Judge,
Seventh Industrial Tribunal,
Kolkata
18/09/2019

Judge
Seventh Industrial Tribunal



MEMORANDUM OF SETTLEMENT

- 1) Name and address of the Parties :
 - (a) M/s. The Calcutta Stock Exchange Ltd.
7, Lyons Range
Kolkata – 700 001
 - (b) Sri Rajendra Kumar Thakur
16, Mitra Lane
Kolkata – 700 007.
- 2) Name of the person representing the employer : Mr. Prosenjit Dutta, Chief Financial Officer
- 3) Name of the person representing the workman : The workman Sri Rajendra Kumar Thakur
- 4) Short recital of the case :

The workman Sri Rajendra Kumar Thakur was a habitual absentee for which he was dismissed from the service of the company on and from 27.07.2011 for his above misconducts. The workman raised an industrial dispute before the Labour Directorate, Govt. of West Bengal and ultimately the workman filed the case before the learned Seventh Industrial Tribunal under section 10(1B)(d) of the Industrial Disputes Act, 1947 and the said case registered as case No. 32 /10(1B)(d) of 2014. During the course of the proceedings the workman and his union approached the management for an amicable settlement of the dispute. Both the parties started negotiation at bi-partite level and after protracted negotiation the matter has been settled

THE CALCUTTA STOCK EXCHANGE LTD.

Prosenjit Dutta

Chief Financial Officer

Rajendra Kumar Thakur

amicably by and between the parties on the following terms and conditions :-

5) Terms of settlement :

- (a) It is agreed by and between the parties that the workman will be reinstated in his service with effect from October, 2019 without any back wages or any other incidental benefits. His service would be considered as continuity from the date of first joining till the date of retirement for gratuity purpose only.
- (b) It is also agreed by and between the parties that the management will pay a sum of Rs. 46,749/- per month to the workman as gross salary including PF and Group superannuation scheme (GSS). The detail of salary is annexed herein.
- (c) The workman after joining shall be bound by the Rules and Regulations of The Calcutta Stock Exchange Limited as applicable to his Scale and Post as also the Agreement between the Management and unionized employees of The Calcutta Stock Exchange Limited.
- (d) It is agreed by the workman that he will devote his sincere services during his duty hours and he shall not do anything which will be detrimental to the interest of the company.
- (e) It is further agreed that by the aforesaid terms of settlement the dispute is fully and finally settled and the workman concerned shall not claim any further or other

FOR THE CALCUTTA STOCK EXCHANGE LTD.

Pranay Mondal

Chief Financial Officer

Reshmi Kumar Halder

monetary benefits from the employer in future in any form or manner of whatsoever in nature for the period from 27.07.2011 to till his joining in service.

- (f) The detailed terms of the employment shall be set out in the reinstatement letter.
- (g) The workman shall withdraw all complaints and legal cases filed by him against the employer in any forum whatsoever unconditionally after the Settlement is executed.

FOR THE CALCUTTA STOCK EXCHANGE LTD.

Roneyp 246
17/9/19
Chief Financial Officer

For the company

Jeender Kumar Thakur
12/9/19
For the workman

Witnesses :

- (1) *Suman Sen*
12/9/19
- (2) *Shirij Chubut*
12/9/19

Copy to :

- (1) Assistant Secretary to the Government of west Bengal, Labour Department, Writers' Buildings, Kolkata - 700 001,
- (2) Conciliation Officer, Labour Department, New Secretariat Buildings, 11th floor, Kolkata - 700 001.
- (3) Labour Commission, Govt. of West Bengal, New Secretariat Buildings, 11th floor, Kolkata - 700 001,

SALARY FOR THE MONTH OF JUNE-2011 (LAST DRAWN SALARY)

SL NO	P.CODE	EMP NAME	CATE	BASIC	ADJ	FDA	DA	HRA	CCA	TRANS	TIFFIN	EDU	WASH	SPECIAL	GROSS SALARY	PF	GSS	TOTAL
1	ER0002	RAJENDRA KUMAR THAKUR	SUB STAFF	2,925	-	-	9,229	1,823	1,250	1,300	1,500	-	925	1,634	20,586	1,458	729	22,773
		TOTAL		2,925	-	-	9,229	1,823	1,250	1,300	1,500	-	925	1,634	20,586	1,458	729	22,773

PRESENT SALARY (BASIC CONSIDER FOR APRIL-2011)

SL NO	P.CODE	EMP NAME	CATE	BASIC	ADJ	FDA	VDA@ 395.28	HRA	CCA	TRANS	TIFFIN	EDU	WASH	SPECIAL	GROSS SALARY	PF	GSS	TOTAL
1	ER0002	RAJENDRA KUMAR THAKUR	SUB STAFF	5,675	66	700	21,959	4,155	2,750	1,300	1,500	-	925	1,634	40,664	4,381	1,704	46,749
		TOTAL		5,675	66	700	21,959	4,155	2,750	1,300	1,500	-	925	1,634	40,664	4,381	1,704	46,749

FOR THE CALCUTTA STOCK EXCHANGE LTD.

Rajendra Kumar Thakur

Chief Financial Officer