

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

No.Labr/1024/(LC-IR)/22015(16)/295/2018

Date : 21/12/18

ORDER

WHEREAS an industrial dispute existed between M/S Howrah Saw Mill, Andul Bus Stand, Andul-Mouri, Howrah- 711302 and their workman Sri Chittaranjan Debnath, Vill&P.O.- Andul-Mouri, Andul Bus Stand, Howrah-711302 regarding the issue, being a matter specified in the second schedule to the Industrial Dispute Act, 1947 (14 of 1947);

AND WHEREAS the workman has filed an application under section 10(2A) of the Industrial Dispute Act, 1947 (14 of 1947) to the Judge, Second Industrial Tribunal, specified for this purpose under this Deptt.'s Notification No. 1085-IR/12L-9/95 dated 25.07.1997.

AND WHEREAS, the Judge of the said 2nd I.T. heard the parties under section 10(2A) of the I.D. Act, 1947 (14 of 1947) and framed the following issue dismissal of the workman as the "issue" of the dispute.

ISSUE

1. Whether termination of the service of the workman namely Chittaranjan Debnath by way of refusal of employment by M/s. Howrah Saw Mill, Andul Bus Stand, Andul-Mouri, Howrah-711302 w.e.f. 22.04.2012 is justified or not and,
2. To what relief, if any, the workman is entitled ?

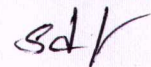
AND WHEREAS the said Judge Second Industrial Tribunal has submitted to the State Government its Award under section 10(2A) of the I.D. Act, 1947 (14 of 1947) on the said Industrial Dispute.

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,



Deputy Secretary
to the Government of West Bengal

No. Labr/1024/1(5)(LC-IR)

Date 2/12/19

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

1. M/s Howrah Saw Mill, Andul Bus Stand, Andul-Mouri, Howrah- 711302
2. Sri Chittaranjan Debnath, Vill&P.O.- Andul-Mouri, Andul Bus Stand, Howrah- 711302
3. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The O.S.D. & E.O. Labour Commissioner, W.B., New Secretariat Buildings, (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.

Mankar
Deputy Secretary

No. Labr/1024/2(2)(LC-IR)

Date 2/12/19

Copy forwarded for information to :-

1. The Judge, Second Industrial Tribunal, West Bengal, with respect to his Memo No. 1482 dated 18.11.2019
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata – 700001.

Deputy Secretary

In the matter of an industrial dispute between M/s. Howrah Saw Mill, Andul Bus Stand, Andul-Mouri, Howrah – 711302 and their workman Sri Chittaranjan Debnath, Vill& Post. – Andul-Mouri, Andul Bus Stand, Howrah – 711302. (Case No. VIII-18/2016)

(Case No. VIII-18/2016)

BEFORE THE SECOND INDUSTRIAL TRIBUNAL: WEST BENGAL

PRESENT: SHRI SRIBASHJ CHANDRA DAS, JUDGE,

SECOND INDUSTRIAL TRIBUNAL, KOLKATA

Date of passing award – 01.10.2019

A W A R D

This case arose by way of order of reference vide No. 282-I.R./IR/11L-122/15 dt. 30.03.2016 by order of the Governor signed by Deputy Secretary to the Government of West Bengal, Labour Department, I.R. Branch, Writers' Buildings, Kolkata – 1 mentioning that an industrial dispute exists between M/s. relating to the issues as mentioned later being stated to be matter / matters specified in the second schedule to the Industrial Disputes Act, 1947, adding further that it is expedient that the said dispute should be referred to an Industrial Tribunal constituted U/s. 7A of the Industrial Disputes Act, 1947, and then in exercise of power conferred by Section 10 of the Industrial Disputes Act, 1947 the Governor is pleased by this order of reference to refer this dispute to this Tribunal stated to be constituted under Notification No. 808-I.R./IR/3A-2/57 dt. 11.03.1957 for adjudication requiring this Tribunal to submit its award to the State Government within a period of three months from the receipt of this order by this Tribunal in terms of Section 2(A) of Section 10 of the Industrial Disputes Act, 1947 subject to other provision / provisions of the said Act, issues framed in the order of reference being:

- 1) Whether termination of the service of the workman namely Chittaranjan Debnath by way of refusal of employment by M/s. Howrah Saw Mill, Andul Bus Stand, Andul-Mouri, Howrah – 711302 w.e.f. 22.04.2012 is justified or not, and
- 2) To what relief, if any, the workman is entitled.

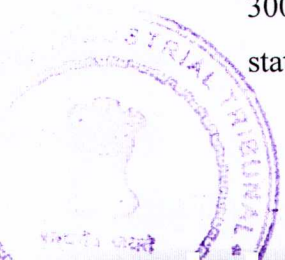
The case record shows that after receiving summons from this Court both sides entered into appearance and also engaged Ld. Lawyers by each of them. In the written statement filed by the Ld. Lawyer for the workman, it has been stated that the workman used to work in the O.P. Company i.e. M/s. Howrah Saw Mill and accordingly he had been working in the O.P. Company since 2005 and during the time of engagement of the workman by the O.P. Company, the salary of the workman was decided to be Rs. 11,000/- but during the time of payment of the salary the O.P. Company started giving Rs. 5,000/- instead of the fixed amount of Rs. 11,000/-. It is next stated that the workman then drew the attention of the management of the company over the matter of payment of his salary at reduced amount and then the



management of the company threatened the workman by saying that the workman could accept the salary at that reduced amount either, or he could give up his service. It is next stated that thus the management of the O.P. company resorted to unfair labour practices and the workman had to accept that money as salary considering the need of his family members but on 22.06.2012 the management of the company terminated his service arbitrarily without any notice and also without assigning any reason, and then the workman approached the management of the O.P. company repeatedly to get his dues but the management of the company did not do anything. It is next stated that due to wrong advice the workman approached Court of Authority appointed under Payment Of Wages Act, 1936 by filing PWA case No. 21/2012 but for want of jurisdiction it was not entertained. It is next stated that on 09.11.2014 the workman made a representation describing his grievances to the authority but no response was coming arising out of that representation and then by resorting to

The process of right to information act, 2005 workman came to know from Deputy Labour Commissioner, Howrah that his representation was not taken up and then workman filed writ petition vide No. W.P. 8377(W)/2005 before Hon'ble Calcutta High Court and arising out of order by Hon'ble Court in that writ petition, the concerned Labour Commissioner initiated conciliation proceeding. It mentioned next that joint conference was held on 11.08.2015 but due to non-compromising attitude on the part of the management of the company, the dispute could not be settled and after that the order of reference was made. It is next stated that the termination of service of the workman by management of the company w.e.f. 22.06.2012 by way of refusal of employment without assigning any reason is illegal and thus management of the O.P. company adopted hire and fire policy that amounted to unfair labour practices. It is the prayer by the workman that an award should be passed in favour of the workman re-instating him in his service with all back-wages and also for other.

The management of the company contested the case by filing one written statement, which shows that some legal technicalities such as case is not maintainable, applicant was never an employee of the O.P. Company, non-existence of employer-employee relationship between the workman and the O.P. Company, the case does not come under Industrial Disputes Act, 1947, limitation etc. have been taken to bar the proceeding of this case. The O.P. Company has further mentioned by way of specific case that the applicant had been running a business of supplying charaikat i.e. split wood in the Andul area upto 2006 and in this connection of his business, he used to meet the O.P. Company for his business purpose and as a result a friendly relation developed between them but the business of the applicant came to an end in 2008 and then applicant started working in different saw mills namely M/s. Mahabir Saw Mill, M/s. Computer Pandey Saw Mill, M/s. Rabibul Saw Mill. It is next stated that due to friendly relation with the workman / applicant, the applicant would come to sit in the office of the O.P. Company for taking rest and applicant would some time take loan of Rs. 300/- / 500/- from O.P. Company for help of his family suffering from starvation. It is next stated that the workman / applicant was never employed by the O.P. Company as workman.



Describing the O.P. Company to be a registered partnership firm having its office at Andul-Mouri and doing business of manufacturing wooden furniture, O.P. Company has further mentioned in the W.S. that the O.P. Company runs his business with only 3 / 4 workmen who used to be paid salary on daily basis and applicant was never a workman in the O.P. Company. Denying the contentions of para-1 to para-5 of the written statement filed by the workman and describing the same to be false, fabricated, the O.P. Company has stated that there was at all no employer employee relationship between O.P. Company and the workman and for that reason question of termination of the service of the workman does not arise and for that reason also the order of reference is unjust, improper, illegal and bad in law and again denying contentions of para-7 to para-12 of the written statement filed by the workman the management of the company has asserted that workman never made any representation before the management of the company, adding that the petition of the workman under the Payment Of Wages Act, 1936 was dismissed for want of jurisdiction and the writ petition No. W.P. 83377(W)/2015 was filed by the workman to challenge the dismissal order of the petition filed under payment of wages Act, 1936. Admitting receiving of a memo No. 1756/21/15/SR/DLC, Howrah dt. 04.08.2015 by Assistant Labour Commissioner, Government of West Bengal requiring appearance of the management of the company before Assistant Labour Commissioner, O.P. Company has stated that in compliance with the same the O.P. Company appeared before Assistant Labour Commissioner through Lawyer, adding that workman raised a dispute on 09.11.2014 as was received by the department on 17.08.2015 and against the same O.P. Company filed written comments on 01.09.2015 and after that the workman started seeking adjournment and all on a sudden after a lapse of few months the order of reference was made and thus there was no adamant attitude on the part of O.P. Company, and denying the rest contention of the written statement filed by the workman, the O.P. Company wanted that such contentions are to be proved strictly and last of all O.P. Company has prayed for passing necessary order showing that the case is not maintainable.

During hearing of the case on merit workman Chittaranjan Debnath examined himself as P.W.-1, he was also fully cross-examined by Ld. Lawyer for O.P. Company and he has also adduced documentary evidences which are,

- 1) Salary receipt dt. 08.04.2005 issued by O.P. Company (Ext. 1),
- 2) Salary receipt dt. 05.03.2005 issued by O.P. Company (Ext. 1/1),
- 3) Copy of order of reference of the present case (Ext. ½),
- 4) Copy of order-sheet of Court of Executive magistrate, Howrah in M.P. Case No. 1177/2012 U/s. 144 Criminal Procedure Code between Sri Khirod Ch. Saha Vs. Chitta Debnath, date of order-sheet being June, 2012 (Ext. 1/3),
- 5) Copy of application U/s. 144 of Criminal procedure Code filed by Sri Khirod Ch. Saha, Son of late Mr. SAha of Vill. Andul, Purbapara under P.S. – Sankrail in Howrah against Chittaranjan Debnath, son of (not known) of Vill. Andul, under



P.S. – Domjoor in Howrah of M.P. Case No. 1177/2012 of The Court of Executive Magistrate, 2nd Court, Howrah (Ext. 1/4)

6) Receipt of Labour Commissioner (Ext. 1/5),

7) A letter dt. 07.12.2015 addressed to Labour Commissioner, Government of West Bengal, Susma Mansion, 4th Floor, Kali Babur Bazar in Howrah by workman Chittaranjan Debnath (Ext. 1/6), along with copy of order-sheet dt. 29.06.2012 in M.P. case No. 1177/2012 between KhirodSaha Vs. Chitto Debnath accompanying with a letter addressed to Court of Executive Magistrate, 2nd Court, Howrah,

8) Copy of letter of Deputy Labour Commissioner, Howrah to Chittaranjan Debnath (Ext. 2) along with copy of order of reference as in this case, with copy of order dt. 01.06.2016 by this Tribunal, copy of letter dt. 24.07.2015 addressed to the secretary, Department of Labour, Government of West Bengal / Labour Commissioner, Government of West Bengal by advocate Rama prasad Sarkar with copy of Judgement of W.P. No. 8377(W)/2015.

O.P. Company examined Sri Sankar Saha as O.P.W.-1, he was also fully cross-examined by Ld. Lawyer for workman and also adduced documentary evidences which are:

1) copy of registrar of list of employees (Ext. 1),

2) Copy of muster roll (Ext. B),

3) copy of registrar of wages (Ext. C),

Ld. Lawyers of both sides have filed written notes of argument. In his written notes of argument Ld. Lawyer for the workman has stated that the workman was engaged by the O.P. Company in 2005 at a salary of Rs. 11,000/- but during payment of the salary to him, the company would give him only Rs. 5000/- instead of Rs. 11,000/- as was fixed as salary per month during the time of engagement of the workman by O.P. Company and after that the workman drew attention of the management of the company for giving the reduced amount of Rs. 5000/- instead of full salary of Rs. 11,000/- per month but then the management of the company threatened the workman by stating that he should accept whatever was paid to him by O.P. Company, otherwise he could give up his service, and then on 22.06.2012 the management of the company terminated the service of the workman without any notice and assigning any reason, the workman then approached the management of the company repeatedly to reinstate him but to no result and then being wrongly advised, the workman approached court of authority appointed under payment of Wages Act, 1936 by filing a PWA case No. 21.01.2012 and for want of jurisdiction that case was not entertained and then on 09.11.2014 he made a representation, but he was not getting any response and then by process of RTI he came to know from Deputy Labour Commissioner, Howrah that his representation was not taken up and then he filed W.P. No. 8377(W)/2015 for a direction for initiation of a conciliation proceeding on the Deputy Labour Commissioner, and then Deputy Labour



Commissioner called for a joint conference on 11.08.2015 but to no result due to non-compromising and mala fide attitude on the part of the O.P. Company. Ld. Lawyer for the workman has also mentioned in the argument that the workman was illegally terminated from service without any reason and also withholding arrear salary and thus management has taken up policy of hire and fire amounting to unfair labour practices. Against all these Ld. Lawyer for O.P. Company has raised in his written notes of argument that case is not maintainable, and the applicant was never an employee of the O.P. Company and workman has also failed to produce any document in support of his assertion that he was appointed by the O.P. Company for work therein. Ld. Lawyer has also raised that the O.P. Company has filed documentary evidences which are attendance register, wages register, etc. and none of them contains name of the workman. Ld. Lawyer has added in his argument that appointment letter, salary voucher, slip are important document to show that he was a workman in the O.P. Company but he filed nothing but he filed only copy of a proceeding under Section 144 (2) CR.P.C. along with an inspection report of Sankrail Police Station, his case before Authority of Recovery of Wages was rejected. Ld. Lawyer has raised that management of the company never received any representation from workman but workman wrote a letter on 09.11.2014 to Labour Commissioner at Howrah and O.P. Company received the same on 18.08.2015 and also submitted comments but suddenly labour commissioner made a failure report but as no dispute was raised by the employer the appropriate government would not make the order of reference and accordingly Labour Commissioner could not proceed with the conciliation proceeding. Ld. Lawyer for company also mentioned that the workman was at all not a workman engaged by the company and the workman has not become able to prove his such assertion with cogent evidence. Ld. Lawyer for company concluded his argument by raising that the company is a partnership business manufacturing wooden furniture and distributing the same with the help of $\frac{3}{4}$ daily labourers and the intention of the workman is only to harass the management of the company.

Thus, the workman has claimed that he was engaged by the O.P. Company to work in the company involving preparing split wood at a monthly salary of Rs. 11,000/- yet during the time of payment of salary the O.P. Company gave him only Rs. 5000/- and when he raised protest the management of the company terminated his service on 22.06.2012 without any reason and illegally, against which the management of the company has raised that the workman was doing business of distributing split wood (chraicat) and at that time he would come to the company and thus a good relation was established between them and the company but that business of workman became stopped within a period of 2 / 3 years and then he faced starvation and to save his family he would take loan in small amounts of Rs. 200/- / 300/- from the O.P. Company and now by filing this case he is trying to harass the O.P. Company and Ld. Lawyer for O.P. Company also raised in his argument that the O.P. Company has produced the attendance register etc. and name of workman is not there.



Now the evidences are to be scrutinized. Workman as P.W.-1 deposed that he had been working in the O.P. Company from 2005 to June, 2012 and during his engagement the O.P. Company the salary was fixed at Rs. 11,000/- but during payment of salary by O.P. Company to him, O.P. Company started giving him Rs. 5000/- instead of agreed amount of Rs. 11,000/- and when the workman demanded the rest money the management of the company raised with him that either he should accept Rs. 5000/- per month or he was at liberty to leave the service and the company terminated his service on 22.06.2012 without any reason and without paying rest money. P.W.-1 also deposed that the he verbally requested the O.P. Company to give him the arrear money but nothing was done by O.P. Company, and then being advised wrongly he filed PWA case before authority under Payment of Wages Act, 1936 but it was of no use for want of jurisdiction, and then he made a representation before Deputy Labour Commissioner, Howrah but Deputy Labour Commissioner, Howrah was not taking any step and after filing W.P. No. 8377(W)/2015 he got a direction from Hon'ble High Court, after which Deputy Labour Commissioner, Howrah initiated conciliation proceeding but due to adamant attitude of company the dispute was not settled. As P.W.-1 he produced some documents and all these were marked Ext. 1 series without any objection from the side of O.P. Company. In cross-examination P.W.-1 also deposed repeatedly that his monthly salary was Rs. 11,000/- but O.P. Company would give him only Rs. 5000/-, P.W.-1 also stated that he filed complained before the Labour Commissioner and also appeared during conciliation, P.W.-1 also stated in cross that during the time of his working in the O.P. Company there were four other workman working there and his name was recorded in the muster role of the company and when Ld. Lawyer for company produced the muster role (Ext. A) before P.W.-1, P.W.-1 stated that it (Ext. A) was part of the muster role and in this part (Ext. A) his name is not mentioned. P.W.-1 also stated in cross that relating to his retrenchment by the company, P.W.-1 has filed documents obtaining from Sankrail Police Station. The witness of the O.P. Company Mr. Sankar Saha, son of K.C. Saha deposed that the workman was never engaged by O.P. Company and the company does not have any relation with the workman, workman used to come to the O.P. Company arising out of his business and thus a good relation developed between them but in 2008 business of the workman came to an end and then he would demand money as loan to save his family from starvation. Explaining business of O.P. Company as partnership one having his father K.C. Saha as another partner, O.P.W.-1 deposed that the company manufactures furniture and it is a registered business. O.P.W.-1 admitted that the O.P. Company received Memo No. 1756/1/15/SR/DLC/Howrah dt. 04.08.2015 from Assistant Labour Commissioner, Howrah requiring O.P. Company to appear before Assistant Labour Commissioner, Howrah on 11.08.2015 and then O.P. Company appeared before him through lawyer and then O.P. Company submitted its comment on 01.09.2015 but suddenly the order of reference was made. In cross-examination, O.P.W.-1 Mr. Saha, son of Mr. Khirod Ch. Saha admitted that his partner is his father Mr. Khirod Ch. Saha and denied that the workman was engaged in the O.p. Company for working there and also denied terminating his service on 22.06.2012. during further cross-examination O.P.W.-1 admitted that workman



Chittaranjan Debnath filed written complaint in Sankrail P.S. in the capacity of being an employee of the O.P. Company and also admitted that a report by A.S.I. Prabal Kr. Ghosh of Sankrail P.S. was submitted before executive magistrate, Howrah having reference of M.P. Case No. 1177/12 u/s. 144 CR.P.C., O.P.W.-1 further admitted that fact that his father (Mr. Khirod Ch. Saha) filed one complaint in the Police Station, P.W.-1 also admitted in cross that company would give him money time to time amounting to Rs. 300/- / 400/- but stated that O.P.W.-1 cannot say the reason for such payment to the workman. O.P.W.- 1 also admitted that workman used to come to the company and the company would allow him to sit in the office of the company, O.P.W.-1 also admitted that his father is alive and he comes to the company, O.P.W.-1 also admitted that his father who is also a partner of the O.P. Company filed a case in Howrah Police Station against workman Chittaranjan Debnath alleging that he tried to attack the company, O.P.W.-1 also admitted in cross that on 09.08.2012 his father Mr. Khirod Ch. Saha lodged a complaint with the officer-in-charge of SANKrail Police Station but he cannot say if on the basis of that company a case was started before executive magistrate, 2nd Court, O.P.W.- 1 also admitted that his father is his partner, also stated that it is not within his knowledge if his father as his partner filed the complaint before that executive magistrate or not and if that case No. is M.P. No. 1177/12 as Khirod Ch. Saha Vs. workman Chittaranjan Debnath, O.P.W.-1 then stated his father lodged that complaint, O.P.W.- 1 also stated in cross that it is wrong to say that if in the complaint his father mentioned that workman Chittaranjan Debnath was a workman under O.p.W.-1 in his company at that time and if before 12 days of the filing of that M.P. Case the workman Chittaranjan Debnath was suspended from his service in the factory of P.W.-1, O.P.W.- 1 also stated in cross if on 24.06.2012 workman came to see his father to raise protest against termination of his service and then if his father threatened the workman by stating that his father would commit murder of the workman , P.W.-1 also admitted that his factory / business is within the jurisdiction of Sankrail police Station has been continuing.

It is the argument by Ld. Lawyer for workman that all the documents such as attendance register relating to service of workman in the O.P. Company are lying with O.P. Company but the workman has become able to collect some documents i.e. Ext. 1 series in which the partner of O.P.W.- 1 i.e. Mr. Khirod Ch. Saha admitted the workman Chittaranjan Debnath as workman in the factory of the O.p. Company and all such documents (Ext. 1 series) are unchallenged and the same have clearly proved that the O.P.W.- 1 has stated all lies in his written statement and also as P.W.-1, excepting clearly admitting all those documents i.e. Ext. 1 series. Ext. 1 is found to be a receipt dt. 08.04.2005 having the name of the O.P. Company which contains that workman received Rs. 11,000/- as salary for the month of March, 2005 from the O.p. Company, no question was raised by Ld. Lawyer for company against this documentary evidences (Ext. 1), Ext. 1/1 is also a receipt dt. 05.03.2005 mentioning that workman received Rs. 11,000/- as salary for the month of February, 2005 and I find that no question was also raised against this document, Ext. 1/3 which is admitted by O.P.W.-1 is a copy of order-sheet of executive magistrate, 2nd Court, Howrah in M.P. Case



No. 1177/2012 in Sri Khirod Ch. Saha Vs. Chitta Debnath and the order shows that Ld. Executive Magistrate called for a report from O.C. Sankrail police Station on the complaint by petitioner Khirod Ch. Saha, admittedly a partner/ father of O.p.W.-1, Ext. ¼ is the complaint before that Ld. Executive Magistrate filed by Mr. Khirod Ch. Saha against Chitta Debnath U/s. 144 Cr.P.C., which contains that Saw Mill under name and style of Howrah Saw Mill is owned by petitioner i.e. Khirod Ch. Saha and there is an admission in the contention of this document i.e. Ext. ¼ that O.p. i.e. Chittaranjan Debnath was an employee under the son of the partner i.e. Khirod Ch. Saha and son being O.P.W.- 1 and O.p. left his service 12 days before from the date of that complaint i.e. 29.06.2012, it also contains that on 26.06.2012 in morning that O.P. i.e. workman came to the house of the partner i.e. Khirod Ch. Saha and abused him with filthy language over the matter of salary, it also contains that he i.e. Khirod Ch. Saha was then a senior citizen having aged about 73 years and then he i.e. Khirod Ch. Saha approached the O.C. of Domjoor P.S. but O.C. did not do anything and thus he i.e. Khirod Ch. Saha apprehended breach of piece and prayed for an order U/s. 144 Cr.p.C. Ext. 1/6 is a letter addressed to Labour Commissioner, Government of West Bengal, Howrah, it was submitted by workman Chittaranjan Debnath on 07.12.2015 mentioning that he was wrongfully dismissed from service by O.p.. Company and also did not pay him full salary and mentioning order of Hon'ble Court in W.P. No. 8377 (W)/2015, he i.e. workman requested Ld. Labour Commissioner for taking action accordingly and requested Labour Commissioner, Howrah for taking action, about which O.p.W.-1 admitted that this matter of representation (Ext. 1/6) was informed to O.P.W.-1 by Assistant Labour Commissioner, Howrah, it is also pertained with report of ASI Mr. Prabal Kumar which shows that during enquiry ASI Mr. Prabal Kumar found that workman Chittaranjan Debnath was an employee of the O.P. Company, Ext. 2 is the notice by Assistant Labour Commissioner to workman and also to O.p. Company requiring their appearance for joint conference on alleged matter of dismissal of service of workman. all the documents i.e. Ext. 1 series was proved by P.W.-1 and I find that at that time no question was raised to the P.W.-1 challenging any of them by Ld. Lawyer for O.P. Company and at the same time O.P.W.- 1 in his cross-examination is found to have admitted them both directly and tacitly. Therefore by all these documents (Ext. 1 series) that were created by the partner/ father of O.P.W.- 1, and these are (Ext. 1 series) admittedly have clearly proved that the workman Chittaranjan Debnath was engaged by the O.p. Company for work in the factory of the company involving making split wood and his monthly salary was fixed at Rs. 11,000/- but the management of the company would pay him Rs. 5000/- instead of full salary of Rs. 11000/-, over which workman Chittaranjan Debnath raised protest and on 22.07.2012 he was terminated from service without assigning any reason which is found to be in violation of principles of natural justice and also in violation of fundamental requirement of law. O.p. Company in its written statement has clearly admitted that after the business of split wood (cheraikat) workman came to an end, a workman faced starvation with his family and O.p. Company would give him money to save his family. Thus, admittedly the case as raised by workman has been clearly proved (Ext. 1 series) and at the same time by way of admission by



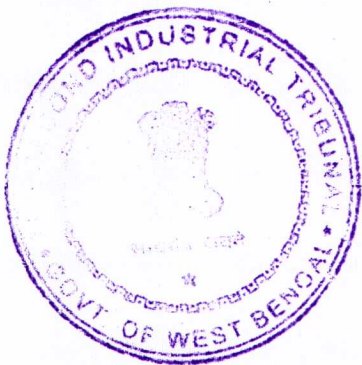
the O.P. Company in those documents (Ext. 1 series) and thus the issues are to be decided in favour of the workman. it is therefore,

ORDERED

that the issues as mentioned in the order of reference vide No. 282-I.R./IR/11L-122/15 dt. 30.03.2016 i.e. whether the termination of the service of the workman namely Sri Chittaranjan Debnath by way of refusal of employment by the management of M/s. Howrah Saw Mill, Andul Bus Stand, Andul-mouri, Howrah-711302 w.e.f 22.06.2012 is justified or not and to what relief, if any the workman is entitled – are decided in favour workman Chittaranjan Debnath, Vill. + Post – Andul-Mouri, Andul Bus Stand, Howrah -711302 and it is held that the termination of workman by the management of M/s. Howrah Saw Mill w.e.f. 22.06.2012 by way of refusal of employment is illegal, void ab initio and not justified and the same is quashed and the workman is entitled to get reinstatement in his service w.e.f. the date of his termination and considering the gravity of the matter with full back wages and the management of the company as mentioned above is directed to reinstate him in service immediately and also pay the entire amount of arrear salary immediately, and this is to be treated as an award of this Tribunal on contest but without any cost and it is directed that necessary number of copies of this judgement and award be prepared and sent to the Ld. Additional Chief Secretary to the Government of West Bengal, Labour Department, N.s. buildings, 12 Floor, 1, K.S. Roy Road, Kolkata-700001.

Dictated & corrected by me.

sd/r
Judge



sd/r
(Sribash Chandra Das)
Judge
Second Industrial Tribunal
26.09.2019
01-10-2019