

157639/2019

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

No. Labr/7.63/(LC-IR)/22015(18)/1/2018

Date: 16.08.2019

ORDER

WHEREAS under the Government of West Bengal, Labour Department Order No. Labr/590/(LC-IR)/13L-01/17 dated 01.06.17 the Industrial Dispute between M/s The Statesman Ltd., 4, Chowringhee Square, Kolkata - 700 001 and its workman Sri Ganesh Prosad Singh, 95/4, Kabi Sukanta Sarani, Kolkata - 700 085 regarding the issue mentioned in the said order, being a matter specified in the Second Schedule to the Industrial Dispute Act, 1947 (14 of 1947), was referred for adjudication to the Judge, Seventh Industrial Tribunal, Kolkata.

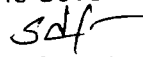
AND WHEREAS the Judge of the said Seventh Industrial Tribunal, Kolkata, has submitted to the State Government its award on the said Industrial Dispute.

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

Date: 16.08.2019

No. Labr/7.63/(LC-IR)¹⁽⁵⁾

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

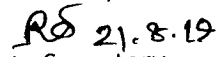
1. M/s The Statesman Ltd., 4, Chowringhee Square, Kolkata - 700 001.

2. Sri Ganesh Prosad Singh, 95/4, Kabi Sukanta Sarani, Kolkata - 700 085.

3. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.

4. The O.S.D. & E.O. Labour Commissioner, W.B. New Secretariat Buildings, 1, K. S. Roy Road, 11th Floor, Kolkata- 700001.

✓ 5. The O.S.D., IT Cell, Labour Department, with the request to cast the Award in the Department's website.


Deputy Secretary

No. Labr/7.63/2(2)/(LC-IR)

Date: 16.08.2019

Copy forwarded for information to :

1. The Judge, Seventh Industrial Tribunal, Kolkata with reference to his Memo No. 1006-L.T. dated 26.07.2019.

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

Deputy Secretary

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

Present: Shri Ashis Kumar Das, Judge,
Seventh Industrial Tribunal, Kolkata.

CASE NO.VIII-07/2017

Shri Ganesh Prosad Singh,
95/4, Kabi Sukanta Sarani, Kolkata-700085.

...**Workman**

-Versus-

M/s. The Statesman Ltd.,
4, Chowringhee Square, Kolkata-700001

...**OP/Company**

A W A R D

Dated : 25-07-2019

Workman is present.

Today is fixed for passing ex-parte order / Award.

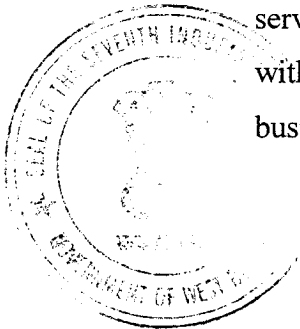
Case record is taken up for passing ex-parte order / Award.

This case has been referred to this Tribunal by the Government of West Bengal, in its Labour Department, vide Order of Reference No. Labr./590/(LC-IR)/IR/13L-01/17 dated 01.06.2017 relating to an industrial dispute between M/s. The Statesman Ltd., 4, Chowringhee Square, Kolkata-700001 and their workman Shri Ganesh Prosad Singh, 95/4, Kabi Sukanta Sarani, Kolkata-700085 for adjudication on the following issues :

I S S U E (S)

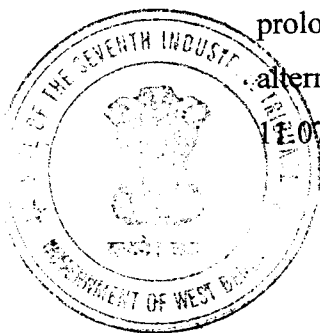
1. Whether the refusal of employment of Shri Ganesh Prosad Singh by the management of M/s. The Statesman Ltd. w.e.f. 20.02.2001 by way of prolonged suspension is justified?
2. To what relief, if any, is he entitled to?

The specific case of the workman, as made out from his written statement, is that he joined in the OP/Company under reference as a 'peon' in Type Department w.e.f. 1974 in the Head Office of the Company, 4, Chowringhee Square, Kolkata-700001. The OP/Company confirmed his service w.e.f. 1981. The OP/Company illegally transferred his service in the year 2001 from Head Office at Kolkata to Siliguri Branch and he complied with the said illegal transfer order for the interest of the development of the Company's business. Thereafter, on 20.02.2001 the OP/Company issued a false and fabricated charge-



Contd....

sheet against him and framed charge under the Certified Standing Order known as Service Rule. The OP/Company asked him to give reply to the charge within 48 hours and accordingly, he replied by his letter dated 23.02.2001 with a request to withdraw the alleged charge-sheet dated 20.02.2001 and to permit him to join in the duties immediately, but the OP/Company did not consider his prayer and decided to institute an enquiry in the charge-sheet. Said enquiry was kept pending upto prolonged period without paying subsistence allowance in proper time. Thereafter, OP/Company issued him a letter dated 03.12.2001 with the intimation that one Mr. Arun Kanti Mitra, Advocate was appointed as Enquiry Officer and schedule of enquiry was fixed on 08.12.2001 at 10:30 a.m. He appeared before the Enquiry Officer and submitted two letters dated 08.12.2001 praying for allowing him to appoint co-workers namely, Sri Santosh Kumar Das and another Sri Aarani Mukhopadhyay, of his own choice, but his said prayer was refused by the Enquiry Officer and thereafter, he went out of the office premises to search out other co-workers and after some time he returned back to the office, but the security-guard did not allow him to enter into the office by the order of the higher managerial staff Sri K.K. Chowdhury. Ultimately, the OP/Company did not allow him to join in any proceedings of the domestic enquiry. Thereafter, he received enquiry report by letter dated 20.04.2002. According to him, the enquiry report is false and fabricated. He gave reply to the second show-cause notice of the OP/Company dated 20.04.2002 by his letter dated 30.04.2002 sending by fax and under registered post to Sri K.K. Chowdhury, the Branch Manager and informed him that the enquiry report was fabricated one and prayed for reconsideration and review of entire situation of the alleged charge-sheet and to withdraw and revoke such suspension order and to allow him to resume his duties. The OP/Company received his reply letter dated 30.04.2002, but did not consider his prayer and also did not pay any subsistence allowance as per West Bengal Subsistence Allowance Act, 1969. Since he had been suffering financial hardship, he filed an application in Form-A before the Assistant Labour Commissioner under sub-Section 1 of Section 4 of the West Bengal Subsistence Allowance Act, 1969 for recovery of money due from the employer and after hearing both the parties, he received the subsistence allowance upto the month of July, 2005, but the OP/Company did not pay him his subsistence allowance for the month of January, 2003 and August, 2003 and after December, 2005 to till date, which is gross violation of the Act. After receiving his reply letter dated 30.04.2002 of second show-cause notice, the OP/Company did not issue any letter of dismissal against him and the settled position of law is that the prolonged suspension amounting to termination of service and so, having no other alternative he filed an industrial dispute before the Labour Commissioner by letter dated 11.07.2011 and Conciliation Officer issued notice to the OP/Company to file their



comments in the matter and the OP/Company appeared, but did not file any written comments and several dates of hearing were fixed by the Conciliation Officer, but did not arrive any settlement between the parties and ultimately the Conciliation Officer submitted his report before the Labour Secretary, Department of Labour, Government of West Bengal and then after considering the facts and circumstances, the Labour Department referred the matter to this Tribunal for adjudication framing the above referred 2 (two) issues. Now, he has prayed for an order of his reinstatement in service with full back wages and other consequential reliefs.

On the other hand, the OP - M/s. The Statesman Ltd. after service of notice, entered appearance and filed written reply of the written statement, so filed by the workman. It appears from the record that the OP/Company stopped taking steps on and from 19.07.2018 and considering all aspects, this Tribunal by his order dated 20.07.2018 fixed the case on 13.09.2018 for **ex-parte hearing** / evidence of workman.

FINDINGS

In order to prove his case, the applicant / workman Sri Ganesh Prosad Singh has examined himself as PW-1 and proved photocopies of some documents, which are marked as Exhibits - 1 to 24. PW-1 has adduced evidence corroborating his case. On perusal of the unchallenged oral testimony of PW-1 and the exhibited documents, I am of the view that the workman's case has been proved by his ex-parte evidence. There is nothing to disbelieve the unchallenged oral testimony of the workman (PW-1), which has duly been corroborated by the exhibited documents. Therefore, I have no other alternative but to hold that the refusal of employment of workman Sri Ganesh Prosad Singh by the management of M/s. The Statesman Ltd. w.e.f. 20.02.2001 by way of prolonged suspension is unjustified and against the principles of natural justice. I further find from the evidence of the workman (PW-1) that he has already covered the age of superannuation i.e. sixty (60) years and he has also proved the letter of retirement dated 20.03.2018 (Exhibit-22), issued by the OP/Company, wherefrom it is seen that he has retired from the service of the OP/Company w.e.f. 10.05.2018. So, question of his reinstatement in service, as prayed for, does not arise at all, but since he has proved his case successfully, he is entitled to get back wages with effect from the date of his suspension i.e. on and from 20.02.2001 to 10.05.2018, which is the date of his retirement and other consequential benefits accrued by this time, if any.

In the result, the case succeeds ex-parte.

Hence, it is,

ORDERED

That the case being No. VIII-07/2017 under Section 10 of the Industrial Disputes Act, 1947 be and the same is allowed ex parte against the OP - M/s. The Statesman Ltd. without cost.

The Opposite Party namely, M/s. The Statesman Ltd. is hereby directed to pay 50 per cent back wages along with all consequential benefits from the date of suspension with effect from 20.02.2001 till the date of retirement i.e. 10.05.2018 to the workman Sri Ganesh Prosad Singh. The OP/Company is further directed to comply with the Award within a period of 90 days from the date of this Award, in default, the OP/Company has to pay interest at the rate of 10% till the realization of the entire due amount, failing which the workman will be at liberty to put the Award in execution as per law.

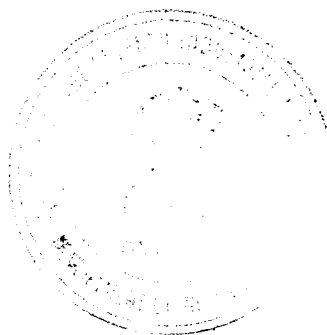
This is my Award.

Dictated & corrected by me

sd/-

Judge

Judge
Seventh Industrial Tribunal



sd/-

(ASHIS KUMAR DAS)
Judge,
Seventh Industrial Tribunal,
Kolkata
25/07/2019

Judge
Seventh Industrial Tribunal