

I/58929/2019

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

No. Labr/ 795 / (LC-IR) /Date: 27-08-2019ORDER

WHEREAS under the Government of West Bengal, Labour Department Order No. 287-IR dated 20.03.2013 the Industrial Dispute between M/s Angerlehner Composites Pvt. Ltd., Unit 101-102, Plot No. 45, 10B, East Topsia Road, Kolkata-46 and their workmen represented by , Howrah District Chemical and Pharmaceutical Workers' Union, 11, , Dharmatala Lane, Howrah-711102 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, Second Industrial Tribunal, West Bengal.

AND WHEREAS the Judge of the said 2nd Industrial Tribunal, West Bengal, 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

No. Labr/795/1(5)/(LC-IR)Date: 27-08-2019

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

1. M/s . s Angerlehner Composites Pvt. Ltd., Unit 101-102, Plot No. 45, 10B, East Topsia Road, Kolkata-46 .
2. The Secretary, Howrah District Chemical and Pharmaceutical Workers' Union, 11, , Dharmatala Lane, Howrah-711102 .
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

File No. LABR-22015(16)/15/2019-IR SEC-Dept. of LABOUR

I/58929/2019

No. Labr/795/2(2)(LC-IR)

Date : 27-08-2019

Copy forwarded for information and necessary action to :

1. The Judge, 2nd Industrial Tribunal, West Bengal with reference to his Memo No.990-L.T. dated 23/07/2019.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata-700001.

Deputy Secretary
to the Govt. of West Bengal

In the matter of an industrial dispute between M/s. Angerlehner Composites Pvt. Ltd., formerly known as Angerlehner Hoch-und Tiefbau Ges-ellschaft mbH having office unit 101-102, in Plot No. 45, 10B, East Topsia Road, Kolkata-700046 with its factory at Sankrail Industrial Park, Bhagabatipur, Dhulagori, Howrah-711313 and their workers represented by union namely Howrah District Chemical and Pharmaceutical Workers' union, at 11, Dharmatala Lane, Howrah-711102. (Case No. VIII-11/2013)

BEFORE THE SECOND INDUSTRIAL TRIBUNAL: WEST BENGAL

PRESENT: SHRI SRIBASH CHANDRA DAS, JUDGE,

SECOND INDUSTRIAL TRIBUNAL, KOLKATA

Date of passing award – 28.06.2019

A W A R D

This case arose by way of order of reference vide No. 287-I.R./IR/11L-18/2013 dt. 20.03.2013 in the way that an industrial dispute exists between M/s Angerlehner Composites Pvt. Ltd., formerly known as M/s. Angerlehner Hoch-und Tiefbau Ges-ellschaft mbH having office unit 101-102, in Plot No. 45, 10B, East Topsia Road, Kolkata-700046 with its factory at Sankrail Industrial Park, Bhagabatipur, Dhulagori, Howrah-711313 and their workers represented by union namely Howrah District Chemical and Pharmaceutical Workers' union, at 11, Dharmatala Lane, Howrah-711102 involving issues as mentioned in the order of reference stated to be matters specified in the second schedule to the Industrial Disputes Act, 1947 mentioning 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 read with Section 2A of the Industrial Disputes Act, 1947, the Governor became pleased to refer this dispute to this Tribunal stated to have been constituted under Notification No. 803-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 date of receipt of this order of reference by this Tribunal in terms of sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 subject to other provisions of the Act, the issues being:

- 1) Whether the termination of service of 19 (nineteen) workers by way of refusal of employment by the management of M/s. Angerlehner Composites Pvt. Ltd. or not,
- 2) To what other relief, if any, are the workers entitled?

The case record shows that after having taken cognizance on the order of reference summons were issued to both sides and both of them entered into appearance on 04.06.2013 engaging Ld. Lawyers and then workman was directed to file written statement. Case record further shows that after that Ld. Lawyer for the workmen / union filed written statement on 19.09.2013. In the written statement the union has stated that the company is a big company and also earns huge profits but the company is not fair in making payments arising out of benefits to the workers and resorts to various unfair labour practices as per 5th schedule of Industrial

Disputes Act, 1947 and the company is a defaulter in respect of payment of a few statutory benefits to its workers who are entitled for the same by law. It is also stated that the workers namely Ajijul Mullick and 18 others namely Raju Sekh, Anisur Sekh, Gopinath Das, Monurul Molah, Sarfuddin Sekh, Debabrato Naskar, Mritunjoy Naskar, Kalipada Mondal, Pardip Malik, Supriyo Singha, Mantu Pramanik, Gobinda Singha, Manaj Nunia, Biswajit Ghuku, Ajoy Mallik, Biswajit Bar, Samir Adak and Sambhu Roy had been performing their duties under the company with unblemished record of service but the management of the company resorted to various unfair labour practices such as hire and fire from service and also applying force to them to work beyond eight hours without allowing any over time and also not allowing payment of other statutory dues and also deprived them from receiving legitimate statutory benefits and as a result, these workers formed an union under name and style of unit of Howrah District Chemical and Pharmaceutical Workmen's Union having registration No. 23218 and started ventilating the grievances against the management of the company by placing charter of demand and also started bargaining for solving various issues. It is also stated that all the workers whose names are mentioned in this written statement are members of the union and as they had taken active part in trade union activities, they all became eye-shore to the management of the company and the management of the company in an attempt to teach them a lesson for their trade union activities terminated them from service by refusal of employment on various dates falling between December, 2011 to April, 2012 and after that the union approached the management of the company to withdraw such illegal termination but to no effect. It is also stated that the union thereafter raised an industrial dispute before Labour Commissioner, Howrah and the Deputy Labour Commissioner, Howrah called for several joint conciliation but the management of the company avoided to participate the conciliation meeting and then Deputy Labour Commissioner after considering the reasonableness of the representation by the union referred the matter to this Tribunal for adjudication. It is also stated that the workers are poor and they have been victimized for their trade union activities and they have all remained unemployed till now and facing starvation with their family members. It is also stated that such termination from service is illegal, unjustified and thus a case of retrenchment without complying with the requirement of Section-25F of the Industrial Disputes Act, 1947 and also in violation of principles of natural justice. It is also stated that the union approached management of the company by writing letters for justice but the company did not do anything, and then the union raised the industrial dispute before Labour Directorate, Government of West Bengal and several conciliation meetings have also failed due to non-participation by management of the company and thus the matter came before this Court by way of order of reference for adjudication. It is the prayer of the union to hold that the action of the company is illegal, unjust and also to direct the company to reinstate all the workers in their service with full back-wages and consequential relief.

The case record further shows that after that the management of the company was directed to file written statement but the company did nothing. The case record shows that on 07.03.2014 Ld. Lawyer for the company appeared and submitted that the management of the

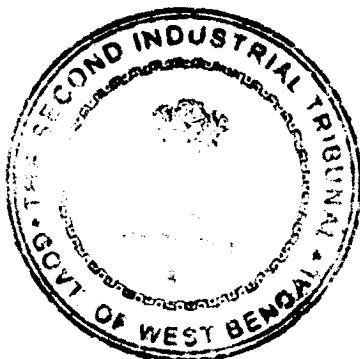
company did not make any contract with him and Ld. Lawyer also urged the Court for issuing show cause to the management of the company and accordingly show cause notice was issued to the company but the cover containing show cause was returned with endorsement by postal authority that the company left. The order dt. 31.10.2014 shows that on that day Ld. Lawyer for the union filed an application to add M/s. Gypsum Composite International as necessary party, and accordingly it was taken up for hearing by issuing show cause to the management of the company mentioning as to why M/s. Gypsum Composite International would not be made a party. Order dt. 19.07.2017 shows that the show cause notice that was issued to company could not be served as it was not available in the given address and then the show cause was issued to Superintendent of police, Howrah, who then reported that the company M/s. Gypsum Composite International had already shifted its office from the given address and the union was directed to take step, and the record further shows that after that Ld. Lawyer for the union took several adjournment on the ground of taking step but from 30.11.2017 the union started becoming absent without any step and by order dt. 09.08.2018 show cause notice was issued to union mentioning as to why necessary order would not be passed due to its absence for long without any step and from the report of the process server Sri Md. Osman dt. 10.04.2019 it is found that the show cause notice was served to the union, yet the union started remaining absent without any step from 20.09.2018 to till date. Thus, both sides i.e. union and the management of the company M/s. Angerlehner Composites Pvt. Ltd. have become absent without any step and due to absence of union for long without any step, no order could also be passed for addition of M/s. Gypsum Composite International, and as a consequence i.e. absence for long without any step by union, the case also could not be fixed for ex-party hearing. The union was given notice requiring their appearance as mentioned earlier, it got the notice but did not do anything in terms of the notice, and all these go to show that the union is no longer interested to proceed with the case any further and it appears to be useless to keep the case pending further. It is therefore,

ORDERED

that as without sufficient cause being shown both parties have failed to appear, the case be and the same is dismissed under Rule 22 of the West Bengal Industrial Disputes Rules, 1958 on the footing that the industrial dispute under reference is no longer in existence and this is to be treated as an Award of this Tribunal in view of the order of reference vide No. 287-I.R./IR/11L-18/2013 dt. 20.03.2013. Necessary number of copies of this Award be prepared and sent to the Ld. Additional chief secretary, to the Government of West Bengal, Labour Department, N.S. Buildings, 12th floor, 1, K.S. Roy Road, Kolkata – 1.

Dictated & corrected by me.

Judge



sd/

(S.C. Das)
Judge
2nd Industrial Tribunal
28.06.2019
Judge
2nd Industrial Tribunal
West Bengal