

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

No. Labr/853/(LC-IR)/22015(16)/662/2019

Date : 12-09-2019

**ORDER**

WHEREAS an industrial dispute existed between M/s Govind Ram Kayan & Co. alias Govind Ram Kaya & Co., C/o – Sweta Syntex, 193/2, Mahatma Gandhi Road, 1<sup>st</sup> Floor, Kolkata – 700 007 and Sri Sintu Bairagi, C/o – B.P. Singh, 91, Netaji Subhas Road, Kolkata – 700 001 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 filled an application under section 10(1B)(d) of the Industrial Dispute Act, 1947 (14of 1947) to the Judge, Seventh Industrial Tribunal, Kolkata 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 Seventh Industrial Tribunal, Kolkata heard the parties under section 10(1B)(d) of the I.D. Act, 1947 (14of 1947).

AND WHEREAS the said Judge Second Labour Court, Kolkata has submitted to the State Government its Award under section 10(1B)(d) of the I.D. Act, 1947 (14of 1947) on the said Industrial Dispute.

Now, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Dispute Act, 1947 (14of 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

61281/2019

: 2 :

No. Labr/853/1(5)/(LC-IR)Date 12-09-2019

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

1. M/s Govind Ram Kayan & Co. alias Govind Ram Kaya & Co., C/o - Sweta Syntex, 193/2, Mahatma Gandhi Road, 1<sup>st</sup> Floor, Kolkata - 700 007.
2. Sri Sintu Bairagi, C/o - B.P. Singh, 91, Netaji Subhas Road, Kolkata - 700 001.
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, (11<sup>th</sup> 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.

RS 12.9.19.  
Deputy Secretary

No. Labr/853/2(2)/(LC-IR)Date 12-09-2019

Copy forwarded for information to :-

1. The Judge, Seventh Industrial Tribunal, West Bengal, with respect to his Memo No. 1170 - LT dated 29.08.2019.
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. 02/2015**

**Under Section 10(1B)(d) of the Industrial Disputes Act, 1947**

**Shri Sintu Bairagi**

C/o. B. P. Singh,  
91, Netaji Subhas Road,  
Calcutta – 700001.

...Applicant

*-Versus-*

**M/s. Govind Ram Kayan & Co. alias Govind Ram Kaya & Co.**

C/o. Sweta Syntex,  
193/2, Mahatma Gandhi Road, 1<sup>st</sup> Floor,  
Kolkata-700007.

...OP/Company

**A W A R D**

Dated : 28-08-2019.

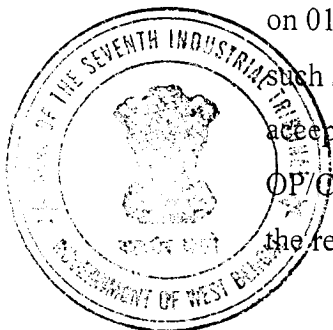
Applicant/workman is present through his Ld. Representative.

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

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

This case has been initiated on receiving of an application dated 16.01.2015 under Section 10(1B)(d) of the Industrial Disputes Act, 1947, as amended, from the applicant Shri Sintu Bairagi against his employer M/s. Govindram Kayan & Co. in connection with termination of his service by his Employer w.e.f. 18.09.2012 seeking declaration that such termination is *void ab initio*, with a further prayer for passing an Award directing his employer to reinstate him in his service maintaining previous continuity without any break alongwith full back wages and consequential benefits accrued thereto together with cost of litigation and/or any other relief/reliefs.

OP/Company, after service of notice, entered appearance on 19.06.2015, but no written statement was filed and thereafter, the OP/Company was directed to show-cause on 01.10.2015 as to why this case would not be heard ex-parte fixing 19.11.2015 for filing such show-cause and thereafter, OP/Company filed show-cause on 28.12.2015, which was accepted fixing 29.01.2016 for filing written statement by the OP/Company, but the OP/Company neither filed written statement nor took any steps. It further appears from the record that again on 24.06.2016, notice was issued against the OP/Company directing



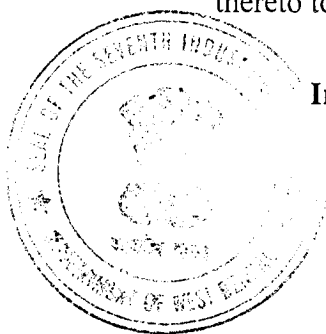
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them to file show-cause as to why this case shall not be heard ex-parte and thereafter, on 06.12.2016 again show-cause notice was sent to the OP/Company through process server fixing 29.12.2016 for filing show-cause. Thereafter, on 09.03.2017 on the prayer of the applicant / workman the cause title with regard to the address of OP/Company was amended and fresh show-cause notice was issued against the OP/Company in its amended address fixing 13.04.2017 as to why the case shall not be heard ex-parte. This Tribunal received process server's report on 06.06.2017 with regard to service of show-cause notice issued on 08.05.2017 against OP/Company and thereafter, since OP/Company did not appear or took any step, this Tribunal fixed 18.07.2017 for ex-parte hearing and ultimately the case was taken up for **ex-parte hearing** on 16.05.2018 and thereafter, on 29.08.2018 on the prayer of applicant, Cause Title with regard to name of the OP/Company was again amended and this Tribunal fixed ex-parte hearing of argument of this case on 28.09.2018. Thereafter, on the prayer of applicant, he (PW-1) was examined on recall on 27.03.2019 and 27.05.2019 and ultimately hearing of ex-parte argument was concluded on 19.08.2019.

### FINDINGS

In order to prove his case, the applicant Shri Sintu Bairagi has examined himself as PW-1 and proved photocopies of some documents, which are marked as Exhibits - 1 to 8/1. 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 applicant's case has been proved by his ex-parte evidence. There is nothing to disbelieve the unchallenged oral testimony of the applicant (PW-1), which has duly been corroborated by the exhibited documents. Therefore, I have no other alternative but to hold that the applicant namely, Shri Sintu Bairagi is a workman in terms of Section 2(s) of the Industrial Disputes Act, 1947 and the termination of his service by the management of M/s. Govindram Kayan & Co. alias Govindaram Kaya & Co. w.e.f. 18.09.2012 is illegal, unjustified, *void ab initio* and against the principles of natural justice. Consequently, the applicant/workman is entitled to get an order of reinstatement of his service, as prayed for. With regard to the prayer of back wages along with all consequential benefits accrued, considering the unchallenged oral testimony of applicant / workman (PW-1) that he is fully unemployed since the date of termination of his service and passing hard days as well as considering all other aspects, I am of the view that if the OP/Company is directed to pay 50 per cent back wages w.e.f. 18.09.2012 along with all consequential benefits accrued thereto to the applicant/workman, that would be justified.

**In the result, the case succeeds ex-parte.**



Hence, it is,

**Ordered**

that the case being No. 02 of 2015 under Section 10(1B)(d) of the Industrial Disputes Act, 1947 be and the same is allowed ex-parte against O.P. – M/s. Govind Ram Kayan & Co. alias Govind Ram Kaya & Co. without cost.

The OP/Company namely, M/s. Govind Ram Kayan & Co. alias Govind Ram Kaya & Co. is hereby directed to reinstate the applicant / workman namely, Shri Sintu Bairagi immediately and is also directed to pay him 50 per cent back wages along with all consequential benefits from the date of termination of service i.e. with effect from 18.09.2012 till today.

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 applicant/workman will be at liberty to put the Award in execution as per law.

This is my Award.

Dictated & corrected by me

sd/-

Judge



sd/-

(ASHIS KUMAR DAS)  
Judge,  
Seventh Industrial Tribunal,  
Kolkata  
28/08/2019