

/61280/2019

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

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

No. Labr./ *854* (LC-IR)/22015(16)/663/2019

Date : *12-09-2019*

ORDER

WHEREAS an industrial dispute existed between M/s Stesalit Ltd., Park Plaza, 7th Floor, North Block, 71, Park Street, Kolkata – 700 016 and their workman Sri Subhajt Sengupta, 26/2, S.N. Chatterjee Road, Kolkata – 700 038 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 of 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,

Self

Deputy Secretary

to the Government of West Bengal

Date : *12-09-2019*

No. *Labr/854* /1(2) – IR

Copy forwarded for information to :

1. The Judge, Seventh Industrial Tribunal with reference to his Memo No. 1084 – L.T. dated 09.08.2019.
2. The Joint Labour Commissioner (Statistics), W.B., 6, Church Lane, Kolkata-700001.

No. *Labr/854* /2(5) – IR

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

1. M/s Stesalit Ltd., Park Plaza, 7th Floor, North Block, 71, Park Street, Kolkata – 700 016.
2. Sri Subhajt Sengupta, 26/2, S.N. Chatterjee Road, Kolkata – 700 038.
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.

Self
Deputy Secretary

Date : *12-09-2019*

Ro 12.9.19.
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. 11/2016

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

Sri Subhajt Sengupta,
26/2, S.N. Chatterjee Road, Kolkata-700 038.

...Applicant

-Versus-

M/s. Stesalit Ltd.,
Park Plaza, 7th floor, North Block,
71, Park Street, Kolkata – 700 016.

...OP/Company

A W A R D

Dated : 08-08-2019

Applicant is present through his Ld. Advocate.

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 dt. 26.02.2016 u/s. 2A(2) of the Industrial Disputes Act, 1947, as amended, from the applicant Sri Subhajt Sengupta against his employer M/s. Stesalit Ltd. in connection with termination of service of the applicant by his employer is unjustified and illegal as well as in violation of principle of natural justice seeking order that the same is illegal and unjustified, reinstatement in service with full back wages and consequential benefits.

OP/Company after service of notice, entered appearance and filed written statement on 01.03.2017. It appears from the record that the OP/Company stopped taking steps on and from 18.06.2018 and ultimately on 15.11.2018 the case was taken up for **ex-parte hearing**, in view of order No.24 dated 08.08.2018, so passed by this Tribunal.



FINDINGS

In order to prove his case, the applicant Sri Subhajit Sengupta has examined himself as PW-1 and proved some documents, which are marked as Exhibits-1 to 7 (collectively). PW-1 has adduced evidence corroborating his case. It is the case of the applicant that the OP/Company took resignation letter from him on 11.10.2014 forcefully with the assurance that they would clear up his all dues. Exbt.-4 is the said resignation letter, wherefrom it is seen that the applicant submitted that letter dated 10.09.2014 before the Director of the OP/Company stating that he is resigning from his duty and responsibility as a Senior Engineer (Electrical) from 11.10.2014, due to some personal reason and requesting him to accept his resignation and releasing from his duty and responsibility immediately, which has duly been accepted by the Director of the OP/Company. Had there been any such force been applied upon the applicant by the OP/Company for submitting the above resignation letter, as alleged by the applicant, the applicant would have certainly lodged FIR or diary against the OP/Company with the local P.S., which the applicant did not think it necessary. Therefore, non-lodging of any diary or FIR with the local P.S. by the applicant against the OP/Company with regard to the alleged fact of receiving forceful resignation letter from him brings doubt regarding the oral testimony of the applicant (PW-1) in this regard. Apart from that I find from Exbts.-6 & 7, which are e-mails dated 02.01.2015, 02.03.2015, 12.05.2015 and 29.06.2015 and one letter dated 08.09.2015 respectively, that the applicant sent those e-mails and letter to the OP/Company requesting them to settle his accounts / dues with the intimation that he has resigned from the OP/Company w.e.f. 11.10.2014. Had the OP/Company really forced the applicant to submit his resignation letter with the assurance that they would clear up his all dues and had the applicant under such assurance submitted his resignation letter, the applicant would have certainly lodged FIR / diary with the local P.S. and / or taken proper legal steps against the OP/Company when the OP/Company did not comply their such assurance instead of sending the OP/Company the above referred e-mails and letter repeatedly, but applicant also did not think it necessary. Moreover, no document, whatsoever, has been filed by the applicant to corroborate his oral testimony as well as his case with regard to such assurance, as alleged. According to the applicant, the OP/Company took the alleged forceful resignation letter from him on 10.09.2014. The applicant brought the matter



Contd....

to the notice of Labour Commissioner, Government of West Bengal on 08.10.2015 i.e. more than one year after submission of alleged letter of resignation. Applicant could have easily brought the alleged fact of receiving forceful resignation letter from him by the OP/Company to the notice of Learned Labour Commissioner immediately after submission of such resignation letter when the OP/Company did not comply their assurance of making full and final payment to him, which he also did not think it necessary. In the circumstances, suspicion not only arises with regard to the oral testimony of the applicant (PW-1) but also entire case of the applicant and for which reliance cannot be placed on such uncorroborated oral testimony of the applicant. Therefore, I have no other alternative but to hold that the applicant has miserably failed to prove his case. Consequently, I hold that the applicant is not entitled to get any relief as prayed for.

In the result, the case fails.

Hence, it is,

O r d e r e d

That the case being No. 11 of 2016 under Section 2A(2) of the Industrial Disputes Act, 1947 be and the same is dismissed ex parte without cost.

This is my Award.

Dictated & corrected by me

sd/-

Judge
Seventh Industrial Tribunal



sd/-

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