

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

No. Labr/. 129 ./ (LC-IR)/22015(16)/7/2023

Date: 17/09/2023

ORDER

WHEREAS an industrial dispute existed between M/s. Jyoti Structures Ltd., Plot & Holding No. 1030, opposite Dist. Science Centre, North Lake Road, Purulia - 723101 and Sri Dipak Kumar Mahapatra, S/o - Surendra Mahapatra, Kashipur, P.O & P.S - Nirakarpur, Dist - Khurda, Odisha - 752019 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(1B) (d) of the Industrial Dispute Act, 1947 (14 of 1947) to the 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 Ninth Industrial Tribunal heard the parties under section 10(1B) (d) of the I.D. Act, 1947 (14 of 1947) and framed the following issue dismissal of the workman as the "issue" of the dispute.

AND WHEREAS the Ninth Industrial Tribunal has submitted to the State Government its Award dated 30/01/2023 under section 10(1B) (d) of the I.D. Act, 1947 (14 of 1947) on the said Industrial Dispute vide memo no. 10- I.T. dated 30/01/2023.

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,

sdt
Special Secretary
to the Government of West Bengal

: 2 :

No. Labr/. 1.29 . 1/(5)/(LC-IR)

Date: 17/02/2023

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

1. M/s. Jyoti Structures Ltd., Plot & Holding No. 1030, opposite Dist. Science Centre, North Lake Road, Purulia - 723101.
2. Sri Dipak Kumar Mahapatra, S/o – Surendra Mahapatra, Kashipur, P.O & P.S – Nirakarpur, Dist – Khurda, Odisha - 752019.
3. The Asstt. Labour Commissioner, W.B. In-Charge, 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 Sr. Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.


Special Secretary

No. Labr/. 1.29 . 2/(2)/(LC-IR)

Date 17/02/2023

Copy forwarded for information to:-

1. The Judge, Ninth Industrial Tribunal West Bengal, Durgapur, Administrative Building, City Centre, Pin – 713216 with respect to his Memo No. 10 - I.T. dated 30/01/2023.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata – 700001.

Special Secretary

IA IT W
16/2/23

Dipankar
17/02/2023

In the matter of an application under Section 10(1B)(d) of the Industrial Disputes Act, 1947 filed by Dipak Kumar Mahapatra, S/O Surendra Mahapatra, Kashipur, P.O. & P.S. Nirakarpur, Dist. Khurda, Odisha-752019 and M/S Jyoti Structures Ltd. having offices at Plot & Holding No.1030, Opposite Dist. Science Centre, North Lake Road, Purulia -723101 and Valencha Chambers, 5th/6th Floor, New Link Road, Andheri(West), Mumbai-400053.

Case No.45/2022, U/S 10(1B)(d) of the ID Act, 1947.

BEFORE THE 9TH INDUSTRIAL TRIBUNAL, WEST BENGAL,
KOLKATA.

PRESENT : SHRI SUJIT KUMAR MEHROTRA,
JUDGE, 9th INDUSTRIAL TRIBUNAL,
DURGAPUR.

Dated – 30th day of January, 2023

A W A R D

The CR is taken up for passing order regarding the workman's petition dated 18.01.2023 whereby he prays for dropping the instant proceeding on the ground that the O.P establishment has already been referred to the insolvency proceeding.

During the course of hearing it was submitted by the ld. lawyer for the workman that from the copy of notice published in prescribed Form A, the workman came to know that the O.P concerned M/S Jyoti Structures Ltd. has already been submitted to insolvency proceeding on and from 04.07.2022 and accordingly the workman's petition U/S 10(1B)(d) of the I.D. Act, 1947 be dropped.

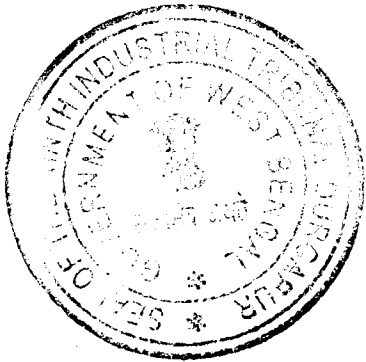
Perused the entire CR as well as copy of the notification. Considered.

CR reveals that the instant case has been initiated on the basis of an application U/S 10(1B)(d) of the I.D. Act, 1947 filed by the workman – Dipak Kumar Mahapatra praying for adjudication of the Industrial Disputes between him and his employer i.e. M/S Jyoti Structures Ltd.

It further reveals from the workman's petition that he made a representation on 17.08.2016 with the Assistant Labour Commissioner raising Industrial disputes between him and his said employer and the conciliation proceeding could not be completed till 22.07.2022 he obtained prescribed certificate in Form 'S' from the Asstt. Labour Commissioner, Purulia and thereafter filed this case.

(Contd.)

CR further reveals that after filing of the impugned petition this tribunal registered the instant case under the I.D. Act, 1947 and issued notice upon the O.P/employer on both the addresses, as mentioned by the workman in his



impugned petition and that the notice to the O.P's address situated at Purulia returned unserved with the postal remark "Addressee cannot to be located". After received of the same this tribunal directed the workman to furnish better particulars of his employer's address for issuance of notice afresh upon it. But the workman failed to provide the same and ultimately on 18.01.2023 filed the instant petition alongwith the copy of the published notice.

From the copy of the public announcement published in Form A under Regulations VI of the Insolvency and Bankruptcy Board of India (Insolvency Resolutions and Process for corporate persons) Regulations, 2016 it is evident that the same was published for inviting claims of the financial creditors of the employer M/S Jyoti Structures Ltd. including workmen/employees. It further directed the workmen/employees to submit their proofs of claim by electronic means with the authority i.e Interim Resolutions Professional within 26.07.2017.

In view of above facts and circumstances it is crystal clear that the O.P establishment, which is a corporate body was/is under the insolvency process under the Hon'ble National Company Law Tribunal, Mumbai Bench/ appropriate authority at the time of filing of the instant petition U/S 10(1B)(d) of the I.D.Act,1947 by the above named workman.

That apart, in terms of the Sec. 14 of the IBC the Board has also passed the moratorium of prohibiting all types of suits, recovery, actions against corporate debtor i.e.O.P with effect from 04.07.2017 till completion of the insolvency process.

Having regard to the above facts and circumstances as well as the fact the workman does not want to proceed further with the instant case, this tribunal is of the view that there exists no Industrial disputes between the above-named workman and M/S Jyoti Structures Ltd.

Hence, it is,

Ordered

that the application under Section 10(1B)(d) of the Industrial Disputes Act, 1947, is dismissed for non prosecution but without cost.

This is my award.

D/C by me
- Sujit Kumar Mehrotra,
Judge 30.01.2023,

Sd/-
Sujit Kumar Mehrotra

Judge, 9th Industrial Tribunal,

Durgapur.

30.01.2023.

JUDGE

NINTH INDUSTRIAL TRIBUNAL DURGAPUR