

147435/2019

**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/ 483/(LC-IR)/22015(12)/10/2019.

Date : 22.05.19. **ORDER**

WHEREAS under the Government of West Bengal, Labour Department Order No. Labr/1099/(LC-IR) dated 29/08/2018 the Industrial Dispute between M/s Hooghly Mills Ltd. 9, Garden Reach Road, Kolkata-43 and their workman Shri Birendra Rai, S/o. Chandrika Rai, Nimak Mahal Road, Arya Parishad Vidyalaya, South Eastern Railway, Kolkata-43 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, 7th Industrial Tribunal, West Bengal.

AND WHEREAS the Judge of the said 7th 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

*sd/*

Deputy Secretary.

to the Government of West  
Bengal.

No. 483/1(5)/22015(12)/10/2019-IR  
Date : 22.05.2019.

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

1. M/s . s Hooghly Mills Ltd. 9, Garden Reach Road, Kolkata-43 .
2. Shri Birendra Rai, S/o. Chandrika Rai, Nimak Mahal Road, Arya Parishad Vidyalaya, South Eastern Railway, Kolkata-43 .
3. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The Labour Commissioner, W.B. New Secretariate Buildings, 1, K. S. Roy Road, 11<sup>th</sup> Floor, Kolkata- 700001.
- ✓ 5. The O.S.D., IT Cell, Labour Department, with the request to cast the Award in the Department's website.

*sd/*  
Deputy Secretary

I/47435/2019

No. Labr./483/2(2)/22015(12)/10/2019-IR  
Date : 22.05.2019.

Copy forwarded for information to :

1. The Judge, 7th . Industrial Tribunal, West Bengal with reference to his Memo No. 1791-L.T. dated 29/08/2018..
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

Case No.VIII-24/2017

*Birendra Rai vs. M/s. Hooghly Mills Co. Ltd.*

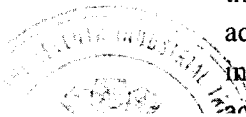
Order No. 09, dated 23-08-2018

Ld. Advocates for both parties are present on call. Today is fixed for passing necessary order(s) in connection with the hearing of the petition dated 08.03.2018 of the workman.

The petition dated 08.03.2018 was taken up for hearing, together with the written-objection thereto by the OP/Company, on 13.07.2018 and both parties were heard at length and in full, before the hearing closed. The sum and substance of the petition dated 08.03.2018 filed by the workman is that he could not attend to this case due to personal difficulty on the date(s) fixed, as a result of which this Tribunal was pleased to dismiss the instant case on 01.02.2018 for non-prosecution, and that the workman is interested in and willing to proceed with and contest the instant dispute and that there were no willful latches and/or negligence on his part and that he was a poor and illiterate man and accordingly the workman has prayed that the instant case be restored to its file for the ends of justice. Opposing such prayers of the workman, the OP/Company filed its written objection on 29.06.2018 and stated that the workman petitioner had deliberately refused to accept the notice, *issued by this Tribunal intimating therein the date of appearance of the parties in the case*, which had returned with the postal remark '**not claimed**' and that the workman had failed to give any explanation to that effect. Further, the OP/Company contended therein that this Tribunal had been set up to ensure justice to the parties and not to show sympathy to any party, for the reasons of their status, poverty or illiteracy, and hence the application of the workman deserved dismissal, *in-limine*.

The Ld. Advocates for both parties were heard at length on the issue. The records were also examined. It appears that, upon receipt of an Order of Reference dated 07.11.2017 from the Govt. of West Bengal, this Tribunal had registered the instant case on 22.11.2017 and thereafter notices were issued to both the parties, directing them to appear on 29.12.2017. It further appears that though the OP/Company appeared on 29.12.2017, the workman did not and neither was any S/R received, showing service of the notice upon the workman. On the next date ie: 01.02.2018, the S/R, in respect of notice issued to the workman, returned '**undelivered**' with a postal remark '**not claimed**' and since nobody appeared on behalf of the workman on repeated calls, the Court had proceeded to dismiss the case by way of the said 'No-Dispute Award'.

Having examined the records, the contention of the OP/Company that refusal to accept such notice by post, by the workman, was deliberate does not appear to be convincing, for the simple reason that, the proof of the workman having been diligent in this case lies in the very fact that, even though no notice was delivered to/received by him, he conducted enquiries and, having found out about such dismissal for his non-appearance, the workman has immediately come up with the instant petition praying for restoration of the case to its file. On the second line of argument that the Tribunal has been set up to do justice to the parties and not to show sympathy to any of them for reason of their status or poverty or illiteracy, this Tribunal accepts such argument and would like to elaborate that the instant case arose out of an Order of Reference sending an industrial dispute for adjudication by this Tribunal and passing of a 'No-Dispute Award' is not an adjudication in the eyes of law. It is precisely to serve such ends of justice, that the matter needs to be



Contd.....Order No.09, dated 23-08-2018

Under the circumstances aforesaid, and in terms of Rule 27 and such other Rules of the West Bengal Industrial Dispute Rules, 1958, this Tribunal is of the view that there are sufficient reasons for the case to be restored back to its file and accordingly the petition dated 08.03.2018 is allowed on contest.

Hence, it is ordered that the 'No-Dispute Award' dated 01.02.2018 be set-aside and the case be restored to its file. Information of restoration of the case be sent to all concerned authorities.

To **17-09-2018** for filing written statement along with list of documents by the workman.

Dictated & corrected by me

Sd/-  
Judge

Judge  
Seventh Industrial Tribunal



Sd/-  
Judge,  
Seventh Industrial Tribunal  
23/08/2018  
Judge  
Seventh Industrial Tribunal