

1/330718/2022

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

No. Labrl. ⁹¹⁶...../(LC-IR)/22015(16)/7/2022

Date: ^{17/10}...../2022

ORDER

WHEREAS an industrial dispute existed between M/s. Gloster Limited, Post office – Fort Gloster, Distt. – Howrah - 711310 and Sri Bimal Kumar Shaw, Fort Gloster, Line No., Block-E, Room No., P.O.- Fort Gloster, Distt. – Howrah - 711310 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 (14of 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 Second Industrial Tribunal heard the parties under section 10(1b) (d) of the I.D. Act, 1947 (14of 1947) and framed the following issue dismissal of the workman as the "issue" of the dispute.

AND WHEREAS the Second Industrial Tribunal has submitted to the State Government its Award dated 12/09/2022 under section 10(1B) (d) of the I.D. Act, 1947 (14of 1947) on the said Industrial Dispute vide memo no. 1417 – L. T. dated 13/09/2022.

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,

Sdt
Joint Secretary

to the Government of West Bengal

I/330718/2022

: 2 :

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

Date : 17/10/2022

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

1. M/s. Gloster Limited, Post office – Fort Gloster, Distt. – Howrah - 711310.

2. Sri Bimal Kumar Shaw, Fort Gloster, Line No., Block-E, Room No., P.O.- Fort Gloster, Distt. – Howrah - 711310.

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.


Joint Secretary

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

Date/2022

Copy forwarded for information to:-

1. The Judge, Second Industrial Tribunal West Bengal, with respect to his Memo No. 1417 – L. T. dated 13/09/2022.

2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata – 700001.

Joint Secretary

Before the Judge, Second Industrial Tribunal, West Bengal
Present: Shri Partha Sarathi Mukhopadhyay, Judge,
Second Industrial Tribunal

Case No. 21/2020

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

Sri Bimal Kumar Shaw- - - - -Applicant

Fort Gloster, Line No., Block-E, Room No., P.O.-Fort Gloster, Distt.-Howrah-711310.

-Vs-

M/s. Gloster Limited- - - - -Opposite Party

Post Office – Fort Gloster, Distt.-Howrah, Pin-711310.

Order No. 23 dt. 12.09.2022

The petitioner and his Ld. Lawyer are present.

The Ld. Lawyer for the O.P. company is present.

The interim relief petition filed by the petitioner is rejected today as it has been not pressed by the petitioner today.

The petitioner has filed this case with the allegation that he was terminated by way of refusal by the O.P. company with effect from 08.08.2020 and for this reason he has filed this case praying for declaration that the order of termination of service by way of refusal dt. 08.08.2020 is illegal, and he has prayed for reinstatement in his service with full back wages and all other consequential benefits.

The O.P. company has contested this case by filing one written statement but in para-23 of the written statement the O.P. company has submitted that the company has no objection to employ the petitioner if at all he is interested and the petitioner can report for his duty on any day and the O.P. company will provide him service.

Then the petitioner has filed a petition on 06.09.21 stating therein that as the O.P. company advised him to join in his duty in the written statement, he wants to join his service in the O.P. company and then the petition was heard and on consent of both sides the prayer of the petitioner was allowed and he was directed to join the O.P. company as Badli worker in the same previous salary and he was directed to submit one joining report in this matter and today he has filed one verified petition stating therein that according to the order passed by this Tribunal, on 27.08.2022 he has joined in his service in the O.P. company and he has been working there as Sewing Operator in the Finishing Department.

Heard both sides and the petitioner also and on being asked the petitioner himself submitted today that he has been working in the O.P. company since 27.08.2022 and there is no dispute at present in his service.

So according to the above circumstances, with consent of the O.P. company and being advised by the O.P. company the petitioner has joined in his service in the O.P. company since 27.08.2022 and so he has been reinstated in his service in the previous scale as on ~~08.08.20~~^{07/08/20} and as he has joined again in his service, there is no **legal necessity** to continue with this case further and there is also no **legal necessity** to declare whether the order of termination by way of refusal of the service of the petitioner by the O.P. company is legal or illegal because the matter has been compromised and with his consent the petitioner has joined in his service and he has already been reinstated in his service but the O.P. company has to pay the full back wages with all other consequential benefits to the petitioner since 08.08.20 till the date of reinstatement because from that date his service has been discontinued, and as the matter has been compromised and as the O.P. company itself has allowed the petitioner to join his service, there is no necessity to determine as to whether the order of termination by way of refusal dt. 08.08.2020, if any, is legal or illegal because by rejoining his service in the O.P. company on 27.08.2022, the petitioner himself has **waived** or **abandoned** his main claim in this case to the point that the order of termination dt. 08.08.2020 by way of refusal by the O.P. company is illegal.

As the O.P. company, during pendency of this case, admitted in its written statement that the company has no objection if the petitioner joins his service, it is proved that the company impliedly admitted in writing that the petitioner was a worker of the company till 07.08.2020 and he is not a stranger to the company, and as the company itself advised him to join in his service and he joined on 27.08.2022 accordingly, the O.P. company is now **legally** bound to give him full back wages as per his previous scale as on 07.08.2020 with consequential benefits, if any, from 08.08.20 to 26.08.22,

and as the present dispute has been compromised between both sides and the petitioner has been reinstated in his service on consent of both sides, there is no **legal scope** at present to contest further the problems regarding the order of termination dt. 08.08.20 and payment of full back wages with consequential reliefs from 08.08.20 to the petitioner by the O.P. company.

So considering the above materials on record, I hold that the case should be disposed of today as the petitioner has already been reinstated in his service in the O.P. company with the consent of the O.P. company.

Hence, it is

ORDERED

that the Case No. 21 of 2020 under Section 10(1B)(d) of The Industrial Disputes Act, 1947 is disposed of on compromise with the O.P. company as the petitioner has already been reinstated in his service, and the O.P. company is directed to pay the entire back wages with all other consequential benefits from 08.08.20 till 26.08.22 as per his previous scale as on 07.08.2020 to the petitioner within one month from this date of order.

Let this judgement and order be treated as an Award.

According to Section 17AA of The Industrial Disputes Act, 1947, let a certified copy of this award be sent to the Principal Secretary to the Government of West Bengal, Labour Department, New Secretariat Buildings, 1, K.S. Roy Road, Kolkata 700 001 for information, and let a certified copy of this award be supplied to each of both the parties of this case, free of cost, forthwith for information.

The case is disposed of today.

Dictated & corrected by me.


Judge


(P.S. Mukhopadhyay)
Judge
2nd Industrial Tribunal

Judge
2nd Industrial Tribunal
West Bengal