

I/26093/2018

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

No. Labor/668/ (LE-IR)

Date07-09-18

ORDER

WHEREAS an industrial dispute existed between M/S : Innovsource Pvt. Ltd., Gitanjali Building, 1st Floor, Flat No. 3, @16/3A, A.J.C. Bose Road, Kolkata-17 and their workman Miss Moumita Das nee Bhattacharjee, Vill, Puiliya- Palpara, Unsani , P.S.: Jagacha, Dist.: Howrah regarding the issues being a matter specified in the second schedule of the Industrial Dispute act, 1947 (14of 1947);

AND WHEREAS the workman has filed an application directly under sub-section 2 of Section 2A of the Industrial Dispute act, 1947 (14of 1947) to the Judge, Second Industrial Tribunal Specified for this purpose under this Department Notification No. 101-IR dated 2.2.12;

AND WHEREAS the said Judge, Second 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,



Deputy Secretary
to the Government of West Bengal

13/2018

(2)

No.Labn.1668/1(2) - (LC-IR)

Dated07.09.18

Copy forwarded for information to :

1. The Judge, Second Industrial Tribunal with reference to his Memo No. 1267-LT dated 22/06/2018.
2. The Joint Labour Commissioner (Statics), W.B., 6, Church Lane, Kolkata-700001.



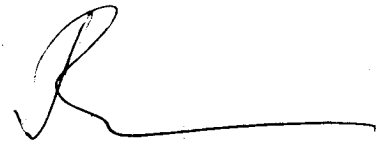
Deputy Secretary

No.Labn.1668/2(4) - (LC-IR)

Dated07.09.18

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

1. M/S : Innovsource Pvt. Ltd., Gitanjali Building, 1st Floor, Flat No. 3, @16/3A, A.J.C. Bose Road, Kolkata-17 .
2. Miss Moumita Das nee Bhattacharjee, Vill, Puiliya- Palpara, Unsani , P.S.: Jagacha, Dist.: Howrah .
3. The Assistant Labour Commissioner, W.B., In-Charge of Labour Gazette.
4. The 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.



Deputy Secretary

In the matter of an industrial dispute exists between Miss Moumita Das nee Bhattacharjee of vill. Puiliya – Palpara, Unsani under P.S. Jagacha, Dist. Howrah and M/s. Innovsource Pvt. Ltd., Gitanjali Building, 1st. Floor, Flat No. 3, 216/3A, A.J.C. Bose Road, Kolkata-17. (Case No.02/2015 U/s. 2A(2)).

Present: Shri Sribash Chandra Das,

Judge

Second Industrial Tribunal,

Kolkata

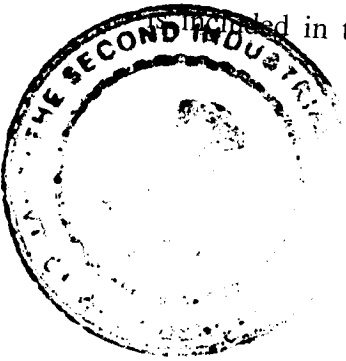
Date of passing award – 22.06.2018

AWARD

The applicant / workman Miss Moumita Das nee Bhattacharjee is absent without any step. The company M/s. Innovsource Pvt. Ltd., formerly Global innovsource Solution Pvt. Ltd. is also absent without any step. Today is fixed for passing necessary order as both parties have become absent without any step. On repeated calls up to 01.30 p.m. none also appeared on behalf of any of the parties.

The applicant / workman Miss Moumita Das nee Bhattacharjee of vill. Puiliya – Palpara, Unsani under P.S. Jagacha, Dist. Howrah filed the case U/s. 2A(2) of the Industrial Disputes Act, 1947 against the company M/s. Innovsource Pvt. Ltd., Gitanjali Building, 1st. Floor, Flat No. 3, 216/3A, A.J.C. Bose Road, Kolkata-17 for an award that refusal of employment to the workman Miss Moumita Das nee Bhattacharjee with effect from 08.04.2015 by the management of the company is illegal and unjustified and also for reinstatement of the workman in her service with full backwages and consequential relief.

The background basing which the workman prayed for grant of abovementioned relief is that the company appointed her in the service of the company by issuing one appointment letter dt. 07.04.2014 and accordingly she started working under the company as a data entry operator and she had been continuing with her service performing duties seriously. In para-10 of her application the workman has stated that she filed one written complaint before the officer-in-charge of Sankrail police station on 10.04.2015 against one Mr. Binayak Narayan Barkur who happens to be the senior executive production officer of the company and her complaint was registered as FIR and accordingly Sankrail police station case No. 253/15 dt. 10.04.2015 U/s. 341/555 IPC was started against that senior executive production officer. I find that a copy of that written complaint the workman filed before officer-in-charge of Sankrail P.S. on 10.04.2015 is included in the list of documents, and it shows that the accused Binayak Narayan Barkur



targeted that young workman from the very beginning of her joining the service and at first he tried to become a friend and then only the workman understood that he had started become her friend with a ill motive and then she tried to avoid him. But that accused Mr. Binayak Narayan Barkur then become ferocious and on 16.01.2015 and again on 21.02.2015 the accused Binayak Narayan Barkur caught hold over physically in an attempt to commit sexual offence with her but any how the workman was able to remove herself from the clutch of this accused and then immediately she filed the written compliant as mentioned above. It is specially mentioned that the accused being the production manager of the company got the opportunity to target the workman and outraged her modesty and subjected her to sexual harassment easily. She also mentioned that in the company there is no internal complaint committee in line with the judgement by Hon'ble Supreme Court of India in Bisakha guidelines case regarding sexual harassment in working place. There are also other grounds in the application. It is further stated by the workman that due to filing of the FIR against the senior manager of the company under 354 of IPC the company dismissed her from service without following legal requirement.

After receiving this application from the workman necessary order was passed and notice was issued to management of the company. The management of the company entered into appearance and also filed written statement admitting that the workman was appointed in the company as data entry operator but the company denied the other allegations as has been raised by workman against accused Binayak Narayan Barkur, production manager of the company and prayed for disposal of the case.

After considering the materials in the case record the following issues are framed:

- 1) Whether the applicant was a workman U/s. 2S of the Industrial Disputes Act, 1947?
- 2) Whether the refusal of employment of Mrs. Mounita Das nee Bhattacharya with effect from 08.04.2015 by the management of the O.P. Company is legal and justified?
- 3) Whether the applicant is entitled to get reinstatement of service and back wages as prayed for?
- 4) To what relief or reliefs if any, the applicant is entitled?

The case became ripe for hearing on merit on and from 24.06.2016. But after that the Court became vacant. The case record shows that on 12.05.2017 order was passed by fixing consecutive dates for quick disposal of the case but from that time only, as the case record shows both parties started becoming absent without any step. The case record further shows that on 03.11.2017 the workman Miss Mounita Das nee Bhatteejee also became absent without any step and an order was passed directing her to show cause mentioning as to why necessary order as



per law would not be passed due to her long absence without any step. The case record further shows that the workman Miss Moumita Das nee Bhattacharjee received the written show cause notice, yet she did not appear. From order dt. 08.02.2018 it is found that on that day Ld. Lawyer for the workman appeared and submitted that there was no instruction from the workman and thus Ld. Lawyer declined to proceed with the case and also to take any step.

Thus it is coming out from the case record that both parties have become absent without any step for long. Rule 22 of West Bengal Industrial Disputes Rules, 1958 provides procedure when both parties failed to appear mentioning that in such a case the Tribunal may submit an award to the State Government on the footing that the industrial dispute does not exist. I think this Rule of West Bengal Industrial Disputes Rule, 1958 has become applicable here.

Accordingly it is held that without sufficient cause being shown both parties have failed to appear before this Tribunal and accordingly this Tribunal is required to submit a suitable report to the State Government and it is held that the Industrial Dispute U/s. 2A(2) of the Industrial Disputes Act, 1947 is no longer in existence and therefore it is awarded accordingly by this Tribunal and this award be submitted to the State Government as required by law immediately.

Dictated & corrected by me.

sd/-
Judge

sd/-
(S. C. Das)
Judge
Second Industrial Tribunal
22.06.2018

