

**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,
ASANSOL.**

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 27 OF 2022

PARTIES: Jahar Mitra
Vs.
Management of M/s. Welkin Telecom Infra Private Limited

REPRESENTATIVES:

For the Union/Workman: Jahar Mitra, workman (in person).

For the Management: Mr. Rajen Nayek, Management Representative of
M/s. Welkin Telecom Infra Private Limited.

INDUSTRY: Telecommunications.

STATE: West Bengal.

Dated: 11.10.2023

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A W A R D

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-40012/2/2022-IR(DU)** dated 26.05.2022 has been pleased to refer the following dispute between the employer, that is the Management of M/s. Welkin Telecom Infra Private Limited, Kolkata and their workman for adjudication by this Tribunal.

THE SCHEDULE

“ Whether the action of the management of M/s. Welkin Telecom Infra Private Limited, Kolkata in superannuating Shri Jahar Mitra, Mobile Tower Assistant, w.e.f. 20.05.2021 vide their Notice dated 01/04/2021, as raised by Security & Allied Workers’ Union West Bengal, Kolkata vide letter dated 28.05.2021 is proper, legal and justified? If not, to what relief Shri Jahar Mitra is entitled to? What other directions, if any, are necessary in the matter? ”

1. On receiving Order **No. L-40012/2/2022-IR(DU)** dated 26.05.2022 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 27 of 2022** was registered on 13.06.2022 / 01.07.2022 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. This Industrial Dispute is fixed up today for appearance of the workman and filing written statement. Mr. Jahar Mitra, aggrieved workman and an employee of M/s. Welkin Telecom Infra Private Limited has appeared in person.

3. After receipt of the said Order, a Reference case has been registered and Notice was issued to M/s. Welkin Telecom Infra Private Limited and the General Secretary, Security and Allied Workers' Union (INTUC). M/s. Welkin Telecom Infra Private Limited have filed their written statement on 11.04.2023 but neither the workman nor the union has filed written statement.

4. M/s. Welkin Telecom Infra Private Limited, the employer of Jahar Mitra in their written statement have stated that the date of birth of the workman was recorded as 21.05.1963 and as per the Bengal Industrial Employment (standing order) Rules 1946, date of retirement of Jahar Mitra was 20.05.2021 after he attained the age of 58 years. A letter of superannuation was sent to him on 01.04.2021. After receipt of letter of superannuation Jahar Mitra corrected his Aadhaar card and submitted a copy of his Aadhaar Card to the company on 13.08.2021 which is not acceptable and employer company urged that the case has been filed on suppression of material facts for unlawful gain and same should be dismissed.

5. Jahar Mitra has not filed any written statement but he claims to be in service till 21.05.2023. The moot question is whether the Industrial Dispute raised by the employee working in a private company is maintainable before the Central Government Industrial Tribunal -cum- Labour Court, Asansol. The provision of Section 2(a)(i) of the Industrial Disputes Act, 1947 clearly lays down that : *“appropriate government means in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government”*.

6. The present case is not covered by Section 2(a)(i) of the Industrial Disputes Act, 1947 as the concerned petitioner employee was employed under M/s. Welkin Telecom Infra Private Limited and the employer industry is not under the control of the Central Government or is not concerning any such controlled industry specified by the Central Government. Section 2(a)(ii) of Industrial Disputes Act, 1947 lays down that in relation to any other Industrial Disputes, the State Government is the appropriate Government.

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Under such circumstance I am of the considered view that this Industrial Dispute referred to the Central Government Industrial Tribunal -cum- Labour Court, Asansol is misconceived and the same cannot be entertained by this forum. Petitioner, Jahar Mitra is granted liberty to move to the appropriate forum i.e. the State Industrial Tribunal for his redressal. Matter is accordingly disposed of.

Hence,

ORDERED

that an Award be drawn up in respect of the above Reference case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information.

(ANANDA KUMAR MUKHERJEE)
Presiding Officer,
C.G.I.T.-cum-L.C., Asansol.