

GAHC010203482017



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case : I.A.(Civil)/1989/2022

SARDAR KULDIP SINGH VIRDI
S/O LATE HARBANSH SINGH
R/O SALONA
KELLYDEN TEA ESTATE
P.O.-SALONA
DIST-NAGAON (ASSAM)

VERSUS

MANAGEMENT
KELLYDEN TEA ESTATE AND ANR.
AMALGAMATED PLANTATION PRIVATE LIMITED CO. HAVING ITS
REGISTERED AND HEAD OFFICE AT UNIT NO.-302 A
3RD FLOOR
ELIGN CHAMBER
1A
ASHUTOSH MUKHARJEE ROAD
KOLKATA-700020 AND HAVING TEA ESTATE AT SALONA
NAGAON
P.O.-SALONA
NAGAON-782139
DIST-NAGAON
ASSAM

2:THE PRESIDING OFFICER
LABOUR COURT
KAMRUP(M)
GUWAHATI-781001
ASSAM

Advocate for : MR K L GUPTA
Advocate for : MR. A DAS appearing for MANAGEMENT
KELLYDEN TEA ESTATE AND ANR.

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 14-02-2023

Heard Mr. K.L. Gupta, learned counsel for the applicant. Also heard Mr. A. Das, learned counsel appearing for the management/ opposite party.

This I.A. has been filed invoking Section 17B of the Industrial Dispute Act seeking an order for release of the back wages payable to the applicant with effect from the date of the award dated 23-02-2017. Earlier an industrial dispute was raised by and between the applicant and the respondent/ management which was referred to the Labour Court at Kamrup, Guwahati. After hearing the parties, the learned Presiding Officer of the Labour Court had passed award dated 23-02-2017 arising out of Reference Case No. 02/2013 answering the reference in favour of the workman. Consequently the order of termination of service of the workman/ applicant was set aside and a direction was issued to reinstate him back in service. Aggrieved thereby, W.P.(C) No. 6758/2017 has been filed by the management, which is pending disposal before this Court. The present I.A. has been filed by the workman for release of his back-wages.

By referring to the decisions of this Court rendered in the case of ***Kakumoni Bhuyan Vs. Management of Apollo Hospitals, Guwahati***, reported in ***2021 0 Supreme(Gau) 218*** as well as the subsequent decision in the case of ***Nipul Ch. Das Vs. PNB & Anr.*** rendered in connection with ***I.A.(C) No. 44/2021***, Mr. Gupta submits that the management would be bound to pay the back-wages to the applicant with effect

from the date of award, pending disposal of the connected writ petition.

Mr. Das, learned counsel representing the management has also submitted, in his usual fairness, that in view of the provisions of Section 17B of the Industrial Dispute Act as well as the decisions rendered in the case of ***Kakumoni (Supra)*** and ***Nipul (Supra)***, the applicant would be entitled to the back-wages. However, since the award was passed way back in the year 2017, hence, the management be permitted to pay the amount of back-wages to the workman in two equal installments, spanning over a period of 06 (six) months from the date of this order. Mr. Gupta has agreed to such a proposition.

After going through the provision of Section 17B of the Industrial Dispute Act as well as the decisions of this Court in the case of ***Kakumoni (Supra)*** and ***Nipul (Supra)***, I find that on an interpretation of the relevant provisions of law, the learned Single Judges of this Court have held that the workman would be entitle to back-wages even during the pendency of a proceeding before the higher forum. Such an opinion was expressed by interpreting Section 17B of the Industrial Dispute Act, 1947. The aforesaid principle, in the opinion of this Court, would be applicable in the facts of the present case as well.

As such, this I.A. is hereby allowed. The opposite party/ management of Kellyden Tea Estate is hereby directed to release the back-wages of the applicant, payable as per his last drawn wages, calculated w.e.f. 23-02-2017 till the date of disbursement of the same. The amount can be disbursed in two equated installments over a period of 06 (six) months with effect from the date of this order. Thereafter, the workman shall be paid his current wages until disposal of the connected writ petition.

With the above observation, this I.A. stands disposed of.

JUDGE

GS

Comparing Assistant