

GAHC010270302023



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

I.A.(Civil)/3508/2023 In
WP(C)/6237/2023

ALAKESH BAISHYA
SON OF LATE M.R. BAISHYA , RESIDENT OF SYNERGY PARADISE, BLOCK
1, C-2, 4TH FLOOR, VIDYA MANDIR PATH, BHETAPARA, GUWAHATI-
781028

VERSUS

THE MANAGEMENT OF APOLLO HOSPITALS
GUWAHATI, UNIT INTERNATIONAL HOSPITAL, HAVING ITS UNIT AT
ASSAM HOSPITALS LIMITED, LOTUS TOWER, G.S. ROAD, CHRISTIAN
BASTI, GUWAHATI- 781005 BEING REPRESENTED BY ITS CHIEF
OPERATING OFFICER, SRI ABHIJIT SINGH.

Advocate for the Petitioner : MR S CHAKRABORTY

Advocate for the Respondent : MR A DASGUPTA

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

04.01.2024

Heard Shri S Chakraborty, learned counsel for the applicant/respondent no.
1. Also heard Shri A Dasgupta, learned Senior Counsel assisted by Ms. B Das,

learned counsel for the opposite party/writ petitioner.

By this interlocutory application, the applicant has prayed for appropriate orders to be passed under Section 17B of the Industrial Disputes Act, 1947.

The connected writ petition had been filed against a judgment and award dated 21.07.2023 passed by the learned Labour Court, Kamrup, Assam in Case No. 02/2022 which was adjudicated under Section 2A of the ID Act. This Court vide order dated 18.10.2023 had issued Rule and called for the LCR. This Court had also passed an interim order to the following effect:

“7. Having considered the submissions advanced on behalf of the petitioner, it is observed that the operation of the impugned Judgment and Award dated 21.07.2023 passed in Case no. 02/2022 by the learned Labour Court, Assam, Kamrup [M] shall remain stayed until further orders.”

Shri Chakraborty, learned counsel for the applicant/respondent no. 1 by referring to Section 17B of the Industrial Disputes Act, 1947 (hereinafter for short the Act) has submitted that in case, there is a stay of an order of reinstatement, there is a requirement for payment of full wages last drawn to the workman. He has also submitted that the prerequisites of Section 17B has been complied with by the applicant inasmuch as that he has filed an affidavit stating that he is not gainfully employed.

Shri Dasgupta, learned Senior Counsel fairly submitted that the provisions of Section 17B would be applied only if the workman fulfills the preconditions, namely, to submit proof that he is not gainfully employed by filing an affidavit.

This Court has noticed that such statement has been made in paragraph 6 of this interlocutory application.

In view of the above facts and circumstances and taking into account the objective of inserting of Section 17B in the statute which was done by an amendment in the year 1982, it is directed that from the date of the award, the applicant-workman be paid the wages last drawn by the respondent-management.

The interlocutory application stands disposed of.

JUDGE

Comparing Assistant