

10.04.2024  
Sl. No.5  
(PP)

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

**WPA 9307 of 2024**

**M/s Milap Roadways Pvt. Limited & Anr.  
Vs.  
The State of West Bengal & Ors.**

Mr. Samrat Choudhury  
.....for the petitioner.

Mr. Priyankar Saha,  
Ms. Srijani Mukherjee  
.....for the State.

The petitioner no.1 is the employer and has challenged the order of the First Labour Court, Kolkata dated 24<sup>th</sup> February, 2023. By the said order, the writ petitioner no.1 being described as O.P./Company was directed to pay salary of the workman that is respondent no.3 in this writ petition for the months of November, 2018 to February, 2019 aggregating to Rs.71,753.56. The O.P./Company (petitioner) was also directed to pay bonus for the financial years 2016-17, 2017-18, 2018-19 aggregating to Rs.18,565.56. The First Labour Court also allowed interest @ 10% per annum on the amounts allowed.

The petitioners have described the order dated 24<sup>th</sup> February, 2023 as an *ex parte* order in the body of the petition as also in the prayer portion.

The fact remains that the writ petitioners after filing the written statement despite of being afforded several opportunities did not appear before the First Labour Court, Kolkata, as a result whereof the Labour Court had fixed the matter for *ex parte* hearing of the said application made under the provisions of Section 33C(2) of the Industrial Disputes Act, 1947 (hereinafter referred to as "I. D. Act").

The petitioners say that the First Labour Court erred in holding that there is either a settlement or an award in existence which is pre-requisite condition for entertaining an application under the provisions of Section 33C(2) of the I. D. Act.

On a perusal of the application made by the respondent no.3, the impugned order and other materials on record, it is apparent that the workman/employee asserted about a tripartite agreement dated 29<sup>th</sup> November, 2018 said to have been executed between the employer and the several unions of the employee before the office of the Labour Commissioner at Kolkata.

The assertion made by the respondent no.3 (workman/employee) in paragraph 7 of the application has not been dealt with in the written statement filed by the writ petitioners. The writ petitioners have also not denied in any part of the

written statement that there was never a tripartite agreement entered into between itself and several unions on 29<sup>th</sup> November, 2018 before the Labour Commissioner at Kolkata nor have they denied the existence of such an agreement.

In absence of any specific denial or pleading in the written statement no issue in respect thereof can be raised for specific consideration by the Court.

It is also well-settled principle in law that unless pleaded in the written statement, no matter of evidence relied upon by the person can be looked into as held in **2024 SCC Online SC 226** (Srinivas Raghavendraraao Desai (Dead) by LRs vs. Kumar Vamanrao alias Alok and Ors.).

In the aforesaid facts and circumstances, the contention of the writ petitioners that the First Labour Court ought to have called for the tripartite agreement dated 29<sup>th</sup> November, 2018 or had to direct the applicant to produce such document is untenable.

I do not find any infirmity in the order dated 24<sup>th</sup> February, 2023 passed by the First Labour Court, Kolkata.

The writ petition is, therefor, dismissed.

Since I have not called for any affidavits, allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

**(Arindam Mukherjee, J.)**