

15.05.2025
Item No.05
BR

WPA 8219 of 2025
M/s/ The India Jute & Industries Ltd.
-vs-
State of West Bengal and others

Mr. Ronojoy De, Sr. Adv.,
Mr. Nayan Rakshit,
Mr. Pran Gopal Das
... for the petitioners

Mr. Uddipan Banerjee,
Mr. Subhrakanti Samanta
... for the respondent no.3

The present writ application has been preferred challenging the order dated 22.10.2024 passed by the respondent 2nd Industrial Tribunal, Calcutta.

It is the contention of the petitioner herein that the order under challenge has been passed without considering the evidence adduced in chief. It is submitted that as the evidence on record adduced by the petitioner has not been considered by the tribunal on technical grounds, the order being not in accordance with law is liable to be set aside.

On perusal of the order under challenge it appears that the observations

of the Tribunal in respect of the said affidavit in chief is as follows:

“According to Rule 24 of the West Bengal Industrial Disputes Rules, 1958, a Tribunal has power to consider reception of evidence taken on affidavit according to the Code of Civil Procedure, 1908 while trying a labour dispute.

Order 18 Rule 4 of the Code of Civil Procedure , 1908 is related to evidence in chief in the form of affidavit. As per this provision evidences in chief in the form of affidavit can only be in relation to the fact or facts required to be proved by the parties and the examination in chief of a witness shall be only on an affidavit as per Order 18 Rule 4 of the Code of Civil Procedure and each witness of both sides has to submit affidavit in chief in respect of fact or facts required to be proved in a case as evidence and this is a mandatory provision and without any affidavit in chief of any witness or any of the parties, his evidence in chief in respect of the fact or facts and circumstances cannot be considered legally as per this provision.

The provision of Order 18 Rule 4 of the Code of Civil Procedure , 1908

has come into force w.e.f. 01.07.2002 and it is concerned with evidences of the witnesses of both sides in chief only by affidavit and it is not concerned with the proof of documents in chief and cross examination of the said witness by the other side and if a witness does not submit his evidences in chief by affidavit, his evidences in chief in court cannot be considered legally as per Order 18 Rule 4 of the Code of Civil Procedure 1908 but if he proves any documents in his examination in chief, that will be considered legally and his cross examination will also be considered legally.”

Admittedly the examination in chief in the case was recorded on dock, by the predecessor-in-office of the present Presiding Officer. The learned Judge rejected the said evidence as it was not adduced as per the provisions of Order 18 Rule 4 CPC. The purpose of the provision under Order 18 Rule 4 CPC was to expedite the trial in civil suits. In the present case as it is admitted that the examination-in-chief has been adduced on dock, on oath by the Court, the same is in accordance with law and it is only a mere technicality, that the same was not filed under Order 18

Rule 4 CPC. Such technicalities are to be overlooked in the interest of justice while deciding a dispute in accordance with law based on the evidence recorded before the Court.

In view of the said facts, the order under challenge being order dated 22.10.2024 passed by the respondent 2nd Industrial Tribunal, Calcutta being not in accordance with law is set aside.

The writ application is disposed of by setting aside the order dated 22.10.2024 passed by the respondent 2nd Industrial Tribunal, Calcutta in case No. VIII-43 of 2008, with the direction that the Tribunal shall consider and decide the issue afresh within a period of 30 days from the date of communication of this order on granting an opportunity of hearing to all the parties and by passing a reasoned order.

Pending hearing of the 'issue' afresh, the petitioner in the interest of justice is directed to continue paying the interim relief to the extent of Rs. 4875/- per month on and from January 2025 to the petitioner.

It is made clear that this Court has not gone into the merit of the order under challenge. The interim order shall be

subject to the decision of the Tribunal, in respect of the point of maintainability.

With these observations, the writ petition stands disposed of.

There will be no order as to costs.

Urgent Photostat certified copy of this order be given to all the parties upon usual undertakings.

(Shampa Dutt (Paul), J.)