

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

C.O. 3173 of 2022

CAN 1 of 2025

**M/s Talbot & Company
versus
Jitendranath Ray & Ors.**

For the petitioners : Mr. Rananeesh Guha Thakurta
Ms. Senjuti Sengupta

For the Opposite Party : Mr. Swagato Roy

Heard on : 16.12.2025

Judgment on : **16.12.2025**

Raja Basu Chowdhury, J:

1. The present application being CAN 1 of 2025 has been filed, inter alia, praying for extension of the interim order passed in the matter on 19th September 2024.
2. Admittedly, in this case, the petitioner has suffered an order dated 25th January 2019 passed by the Referee, West Bengal Shops and Establishment Act, 1963 (hereinafter referred to as the "said Act") and the Assistant Labour Commissioner El & MW Section, Kolkata.
3. The facts are that the opposite party had filed an application form 'N' dated 11th July 2013 for recovery of his alleged unpaid wages for the

period from November 2012 to March 2013 from his employer, the petitioner herein. According to the case made out by the opposite party, his employer did not pay his wages for the aforesaid period amounting to Rs. 57,537/-.

4. Following filing the above application, the matter was taken up for enquiry and a notice under Rule 32(3) of the West Bengal Shops and Establishment Rules, 1963 was issued on the petitioner / employer. According to the opposite party since his employer has assured that he shall clear his dues, the opposite party had waited and subsequently, since payment was not made, he approached the referee. Hence, there was delay in approaching the referee. Considering the peculiar facts, the delay in filing the application under Section 14 of the said Act was condoned.
5. On contested hearing, a finding of fact was returned that the petitioner being the employer had deputed the opposite party to Agarpara Jute Mill where he worked till his retirement on 31st March 2013. accordingly, the referee held that the opposite party was entitled to Rs.57,537/- in accordance with the provisions of the said Act towards unpaid dues and also entitled to compensation amounting to two times of due wages. On the basis of such calculations, it was determined that an aggregate sum of $\text{Rs.}57,537 \times 2 + 57,537/-$ totaling to a sum of Rs.1,72,611/- was payable to the opposite party and in exercise of power under Section 14(3) of the said Act and the petitioner was directed to make the aforesaid payment within 30 days.
6. Challenging the aforesaid order, a writ petition was filed before this Court which was registered as WPA 19756 of 2020. By an order dated

16th January 2020 the said writ petition was dismissed. Challenging the aforesaid order, an appeal was filed before the Hon'ble Division Bench of this Court. In course of hearing of such appeal, the petitioner who was the appellant had raised two issues. First being the referee had no jurisdiction to entertain the claim as the employee-employer relationship had stood snapped as the opposite party had reached the age of superannuation and other ground that was canvassed before the Hon'ble Appeal Court was that the application was filed beyond the prescribed period of 6 months and the application was thus not maintainable.

7. While hearing out such appeal, the Hon'ble Division Bench of this Court by an order dated 6th December 2021 had decided the issues against the petitioner, however, since the writ petition was dismissed on the ground of alternate remedy without deciding the writ petition on merits, liberty was granted to the petitioner to file a statutory appeal. The petitioner not only filed the statutory appeal but had also filed an application for stay in connection therewith which came to be rejected by order dated 18th August 2022. The matter was taken up for consideration by a Coordinate Bench of this Court on 19th September 2024. It was argued before the Coordinate Bench that since the Hon'ble Division Bench had granted liberty to the petitioner to prefer an appeal, the petitioner having preferred the same, the stay ought to have been granted. The petition, thus, should be admitted otherwise the very purpose of filing the instant revisional application shall be frustrated. It is in those circumstances the revisional application was admitted and the impugned order was stayed.

8. Though, the matter has come up under the heading “*for extension of interim order*” however, considering the peculiar case noted above this Court has taken up the hearing of the application with consent of the parties.
9. Although, Mr. Guha Thakurta learned advocate appearing for the petitioner canvassed diverse legal issues before this Court as regards the challenge to the original order passed by the referee, I, however, find that the writ petition is confined to a challenge as regards rejection of the application of stay. As such, when the appeal is pending before the Learned Trial Court, I am of the view that decision by this Court should only be confined to the stay application.
10. Having heard the learned advocates appearing for the respective parties and having noted that a factual finding had already been returned by the referee that the opposite party was an employee under the petitioner and the unpaid dues was ascertained to be Rs.57,535/-, I am of the view that there is no scope to grant any stay insofar as such direction to pay the unpaid dues is concerned. However, at the same time noting that an additional compensation has also been directed, I am of the view that justice will be sub-served if the petitioner is directed to deposit 50 per cent of the entire amount with the Learned Chief Judge, Presidency Small Causes Court, Calcutta.
11. There shall be an unconditional stay for a period of 4 weeks from date. In the event, the petitioner deposits the aforesaid sum, the order of stay shall continue subject to condition that the opposite party shall be at liberty to file an appropriate application for disbursal of unpaid wages to the extent of Rs.57,535/- upon furnishing an indemnity bond that in

the event, it does not succeed, the aforesaid amount shall be returned. The balance amount out of the amount directed to be deposited must be invested in a short term fixed deposit with any nationalized bank yielding highest rate of interest and the same shall be renewed from time to time until further orders of this Court. It is expected that the petitioner shall dispose of the appeal of the opposite party on expeditious basis.

12. With the above direction and observation, the impugned order dated 18th August 2022 passed by the Chief Judge, Presidency Small Causes Court, Kolkata is thus set aside. The stay application thus stands disposed of on the above terms and the revisional application along with its connected application being CAN 1 of 2025 are accordingly disposed of.
13. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)

**Saswata
A.R. (Court)**