08.10.2026
Item No.39
Ct. No. 30
g.b.

WPA 26399 of 2026

Lagan Engineering Company Ltd.
Vs
The State of West Bengal & Ors.

Mr. Soumya Majumdar, Sr. Advocate
Ms. Amrita Pandey
Mr. Ghanshyam Pandey
... For the Petitioner

Ms. Aparna Banerjee
Mr. Atanu Basu
.....For the State

1. Affidavit of service filed be taken on record.
2. The writ application has been preferred praying for quashing of Reference Order No. Labr./1794/(LC-IR)/22015(15)/75/2018 dated 15.12.2020 on a declaration that the impugned award dated 11.02.2025 passed in case no. 16/2020/10 by the Learned 3rd Industrial Tribunal, West Bengal is void and illegal.
3. Vide the impugned award the Tribunal passed an order as follows:

"that the Order of Reference is adjudicated by way of making decision on the Issue No.1 and the Issue No.2 in favour of the workman Subir Kumar Barai. In view of the decision made in the Order of Reference, M/s. Lagan Engineering Co. Ltd. is directed to reinstate the workman Subir Kumar Barai to his original permanent post of 'Fitter' with full back wages from the date the Management of

the Company stopped payment of his wages and benefits till the date of his reinstatement in the service. Further, M/s. Lagan Engineering Co. Ltd. is directed to provide other consequential benefits in accordance with law within 60 days from the date of publication of this Award."

4. Mr. Majumdar, learned senior counsel for the petitioner submits that the impugned award suffers from several contradictions and findings which are beyond the materials and evidence on record. The findings of the Tribunal is totally perverse and as such is an abuse of the process of law and is thus liable to be set aside.

5. On hearing the learned counsels for the parties and on perusal of the materials on record and also the impugned award herein it appears that the issues under reference before the Tribunal were as follows:

   *(i) "Whether the **refusal of employment** w.e.f. 23.07.2016 to the workman Sri Subir Kumar Barai by the Management of M/s. Lagan Engineering Co. Ltd. is justified?*

   (ii) *To what relief the workman is entitled?"*

6. The Learned Tribunal in respect of its findings, held that it was dismissal in guise of refusal of employment, though there was no materials before the Tribunal to show that the workman had been dismissed from service. There was

neither any dismissal letter nor any disciplinary proceeding dismissing him from service.

7. The Learned Tribunal also ignored Exhibits 'C', 'D' and 'E' which were the notices served upon the workman asking him to join his duties after he absented himself from joining his duties on and from 29.03.2016 till obtaining a medical fit certificate dated 21.07.2016 from an empanelled ESI Medical Officer. The Medical Officer advised him to resume duties on and from 23.07.2016 (after 4 months).

8. The employee claims that he was stopped from resuming his duties for no reason whatsoever. There is no explanation as to why he did not join his duties in spite of receiving three notices marked Exhibits 'C', 'D' and 'E'. The said documents/Exhibits prima facie show that there was "no refusal of service" in this case, but an 'abandonment of service' by the employee.

9. One of the contentions of the workman is that he had punched his attendance card to join his duties but allegedly was subsequently ousted from the premises by the Management of the Company. The said worker could not produce the said attendance card to substantiate his statement.

10. It is also noted that the Learned Tribunal erroneously continued to hold the workman to

be a permanent employee, even though there was no such observation in the order of reference.

11. In the written statement filed by the workman before the Tribunal, at paragraph 18, he has clearly stated that **his last drawn salary was admittedly Rs.195/- per day** and the job of the workman was that of a 'fitter' which goes to show that the workman was prima facie a daily-wage worker. In spite of the said admission of the workman before the Tribunal, the Tribunal proceeded to hold the workman to be a permanent employee, which is clearly an erroneous observation and finding. And on the basis of the said observations, the Tribunal has proceeded to direct the workman's reinstatement.

12. The erroneous findings of the Tribunal, as noted above, clearly makes the award an erroneous and perverse award and is, thus, set aside being not in accordance with law.

13. The writ application is allowed.

14. The workman shall be entitled to his lawful dues and benefits till 23.07.2016 which the petitioner shall pay with three months from the date of this order.

15. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties after completion of all necessary formalities.

(Shampa Dutt (Paul), J.)