

04.05.2026.
Court No. 13
Item No. 41.
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M.A.T. No. 2114 of 2025
A.P. Fashions (P) Limited
Versus
The State of West Bengal & Ors.

Mr. Lakshman Chandra Halder,
Mr. Balaram Patra.

..for the appellant.

Mr. Nayan Rakshit,
Mr. Nilay Rakshit.

..for the private respondent no. 2.

1. The instant appeal is directed against judgment and order dated 7th November, 2025 passed by a Single Bench of this Court in WPA 11783 of 2019 (A.P. Fashion Pvt. Ltd. Vs. Government of West Bengal & Ors.). The writ petition was filed by the employer challenging an award dated 26th September, 2018 passed by the 7th Industrial Tribunal, West Bengal in reference Case No. 23/2A(2) of 2015.

2. The brief facts relevant to the case are that the respondent no. 2 (employee) one Susanta Kumar Sarkar joined the appellant/employer on a contractual basis originally for a period of six months on or about 26th July, 2010. He however, continued to work in the employment of the appellant till December, 2014. He was engaged on a consolidated remuneration of Rs. 17,000/-.

3. Before the Tribunal, an email dated 29th September, 2014 was an exhibit. It was sent by the workman to

the appellant where he wanted to discontinue service w.e.f. October, 2014 subject to payment of all his legal dues, i.e., increments from April, 2014 to September, 2014, leave encashment of 60 days and a service certificate. The employer, however, insisted that the appellant submitted a formal letter of resignation which the workman refused to do until he was paid his legal dues.

4. By a communication dated 15th December, 2014, the appellant was directed to join service within seven days. By another letter dated 16th December, 2014, the employee recorded that he attended the workplace since after receipt of the letter dated 15th December, 2014 but was not allotted any duties nor allowed to sign on the attendance register.

5. The Tribunal found that indeed the workman was not allowed to join duties or given any work and held that the same constituted termination by refusal to employ the workman. The Tribunal also found that the appellant's conduct amounts to retrenchment of the respondent employee.

6. The Tribunal directed reinstatement and payment of full backwages in the award impugned dated 26th September, 2018. The Tribunal also directed full backwages to be paid to the workman together with all increments, bonuses etc.

7. The Single Bench in the impugned judgment dated 7th November, 2025 found that there was no

procedural impropriety or perversity in the award. It refused to enter into disputed questions of facts. The Single Bench rightly held that in a writ petition challenging an award passed by the Tribunal, the writ Court does not sit an appeal over the findings in an award passed by a statutorily constituted Tribunal. The writ petition was therefore, rightly dismissed by the Single Bench.

8. This Court, also, notices that post filing of the writ petition the appellant/company did not comply with the order passed by the Single Bench under Section 17B of the Industrial Disputes Act, 1947.

9. In course of contempt proceedings and an appeal carried therefrom by the employer, the entitlement of the respondent under Section 17B was directed to be kept with the Registrar General of this Court. The employer has deposited approximately about 6 to 7 lakhs to the credit of the instant proceeding subject to the result of the writ petition.

10. The appellant reached the age of 58 and would have normally superannuated from service sometime in May 2024. The workman not having rendered any service to the appellant/employer from December 2024, the Tribunal ought not to have directed payment of full back wages.

11. In terms of the law settled by the Supreme Court this Court is of the view that since the appellant employer has not reinstated the respondent/employee

pursuant to the award of the Tribunal he must be deemed to have been in service till the date of his superannuation sometime in May 2024. The appellant shall, therefore, pay the respondent No.2, Susanta Kumar Sarkar the full provident fund including both the employer and the employee contribution, full gratuity considering the appellant's service from 2010 till May 2024.

12. In so far as the back wages are concerned since the appellant did not receive any service from 2014 onwards for a period of 10 years until May 2024, he shall be paid by the appellant only 40% of back wages that shall include all increments including leave encashment until May 2024.

13. The aforesaid sums shall be paid by the appellant to the workman Respondent No. 2 calculated minus the sums available as deposited by the appellant with the Registrar General of this Court under Section 17B of the Industrial Disputes Act, 1947 together with accrued interest.

14. The Registrar General shall, upon notice to the appellant and the respondent, within 10 days of receipt of the order, credit to the account of the workman Respondent No.2, Susanta Kuamr Sarkar, by way of bank transfer, upon the learned Advocate-on-Record for the said respondent No.2 furnishing full bank particulars of his client, within a period of 10 days from the date of receipt of a copy of this order.

The Registrar General shall pay the respondent workman, the full amount deposited by the appellant together with accrued interest till date of payment.

15. The sums directed to be paid hereinabove, by the appellant employer to the workman, shall be paid after deducting the sums paid by the Registrar General to the respondent No.2 within a period of one month from the date of payment by the Registrar General to the respondent No.2 as directed hereinabove.

16. With the aforesaid directions, the impugned judgment dated 7th November, 2025 shall stand modified to the extent indicated hereinabove.

17. MAT 2114 of 2025 is allowed and disposed of.

18. Consequently, all connected pending applications, if any, shall stand disposed of.

19. There shall be no order as to costs.

20. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Rai Chattopadhyay, J.)