

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 10987 of 2026

Kanoria Jute and Industries Ltd.
Vs
State of West Bengal & Anr.

For the Petitioner	:	Mr. Victor Chatterjee, Mr. Supreem Naskar.
For the Respondent No.2	:	Ms. Ankita Mishra, Mr. Priyam Misra.
For the State	:	Ms. Manju (Manot) Agarwal, Ld. AGP Mr. Koushik Bhatta.
Judgment reserved on	:	22.07.2026
Judgment delivered on	:	18.08.2026

Shampa Dutt (Paul), J.:

1. The writ application has been preferred challenging an order dated 17.02.2026 passed by the Learned 2nd Labour Court, West Bengal, Kolkata in case no. 18/2011 under Section 33C(2) of the Industrial Disputes Act, 1947.
2. Vide the impugned order, the application under Section 33C(2) was allowed partly. The learned 2nd labour Court directed that the

applicant/employee Ranjit Kumar Khanra is entitled to get due wages. O.P/Management is directed to pay due wages of the workman for the period from January, 2006 to October, 2009 (worker's superannuation was in 2009) amounting to Rs. 1.43.336/- (Rupees one lac forty-three thousand thirty-six) only, to the applicant Ranjit Kumar Khanra.

3. Interest @10% per annum to be added on the amount of Rs. Rs. 1.43.336/- (Rupees one lac forty-three thousand thirty-six) only from the date of filing of this application till the date of actual payment.
4. The principal contention of the petitioner herein is that the establishment was **under closure due to labour unrest from the period from March, 2006 to August, 2011 and as such the petitioner is not liable to pay the said amount as computed vide the said order.**
5. The petitioner's case herein is that the Respondent No. 2 had been in continuous employment with the Petitioner's establishment since the year 1969 and had, during the course of such employment, been entrusted with duties involving handling of the Company's financial transactions.
6. Upon **detection of serious financial irregularities** and acts amounting to misappropriation of the Company's funds attributable to the conduct of the Respondent No. 2, the petitioner, in accordance with the prevalent standing orders and **the principles of natural justice, initiated a domestic enquiry against the respondent no.2.**
7. The said domestic enquiry was conducted by a competent Enquiry Officer, wherein the Respondent No. 2 was afforded full and fair

opportunity to defend himself. Upon conclusion of the enquiry, and upon due consideration of the findings therein, the charges of misappropriation were found to have been duly established. In view of the gravity and seriousness of the misconduct proved against the Respondent No. 2, the Petitioner was constrained to terminate service of the respondent no.2 with effect from 25.04.1980.

8. The respondent no.2 challenged the penalty imposed upon him by the petitioner herein and invoked the provisions of the Industrial Disputes Act, 1947. The matter was referred to the Learned 4th Industrial Tribunal for adjudication
9. **On 22.11.1995**, the Learned 4th Industrial Tribunal was pleased to pass an Award, whereby the Learned Tribunal directed reinstatement of the Respondent No. 2 herein in the service of the petitioner along with full back wages.
10. The petitioner's further case is that the petitioner/company has been under complete closure with effect from 10.02.2019 on account of severe and prolonged labour unrest, which continues unabated till date. It is further stated that, as a direct consequence of such closure, the Company has ceased all its operational and commercial activities and has been rendered financially non-functional.
11. **The respondent no.2 after obtaining the said Award from the Learned Tribunal was never interested in resuming his duty.**
12. The respondent no.2 in order to extract money from the petitioner filed repeated proceedings under Section 33C(2) of the Industrial Disputes Act, 1947. The respondent no.2 filed the following cases:-

Sl.	Case No.	Period
1.	Comp. Case No.27 of 1996	05/1980 to 09/1996
2.	Comp. Case No.06 of 2000	10/1996 to 02/2000
3.	Comp. Case No. 11 of 2003	03/2000 to 06/2003
4.	Comp. Case No.01 of 2006	07/2003 to 12/2005

- 13.** It is further stated that in terms of the orders passed in the aforesaid four proceedings initiated by the respondent no.4 herein, orders were passed in favour of the respondent no.2. The petitioner has already paid a total amount of Rs.8,03,320/- to the respondent no.2 in connection to the Award dated 22.11.1995.
- 14.** The Respondent No. 2 has subsequently proceeded to unilaterally compute and claim alleged further monetary dues for the period from January, 2006 to October, 2011, such subsequent claim, based on self-calculation, is wholly misconceived, untenable in law, and dehors the scope and ambit of the provisions of Section 33C(2) of the Industrial Disputes Act, 1947. **The same had been registered as Comp Case 18 of 2011.**
- 15.** The impugned order was then passed by the Labour Court. The petitioner submits that the impugned order directing the said payment is erroneous on the ground that the petitioner/company was under closure from March, 2006 to August, 2011.
- 16.** Both parties have filed their respective written notes in course of hearing wherein the respondent no.2 in his written notes has stated that the writ application is not maintainable.

- 17.** An order under Section 33C(2) is computational and executionary in character. The Labour Court thereunder acts as an executing forum. The impugned order adjudicates no right afresh; it merely quantifies a liability already crystallised under the Award of 1995. Article 226 cannot be converted into a substitute for an appeal so as to permit re-agitation of concluded findings of fact.
- 18.** It is the argument of the respondent no.2 that no provision of the Industrial Disputes Act, 1947 casts any obligation upon a workman to execute an order of reinstatement. The machinery for recovery of money due under an Award lies in Sections 33C(1) and 33C(2), and it is that machinery which the Respondent No. 2 has lawfully invoked. The Award became enforceable upon expiry of thirty days from publication under Section 17A, and the obligation to give effect to it lay upon the petitioner alone.
- 19.** In respect of the closure of the company for the period, as stated, the petitioner pleads complete closure with effect from 10.02.2019, yet elsewhere asserts a “closure period from 21.03.2006 to 21.08.2011. These cannot stand together.
- 20.** The claim period allowed is January 2006 to October, 2009, wholly anterior to the closure of 10.02.2019 pleaded by the petitioner itself. On its own primary pleading, no part of the claim period falls within any closure. Further, closure must be pleaded and strictly proved. No notice under Section 25-O or 25-FFA, no permission of the appropriate Government, no intimation to the Labour Commissioner and no order of closure has been produced either before the Learned Labour Court or

before this Hon'ble Court. Material not led in evidence below cannot be introduced for the first time in writ jurisdiction.

21. The doctrine of "No Work No Pay" has no application. It operates against a workman who voluntarily abstains from duty. It cannot be invoked against a workman kept out of service by the employer's own wrongful termination and its continued refusal to obey a banding Award. The Respondent No. 2 does not stand as an ordinary workman on the muster roll, but as the beneficiary of a subsisting and unchallenged Award; his entitlement flows from that Award and not from the wage roll of the establishment.
22. It is further stated by the respondent no.2 that the date of superannuation lies within the exclusive knowledge of the employer, and the burden of proving it, together with the service record and certified standing orders, lay upon the petitioner. More fundamentally, the plea defeats itself: if the Respondent No. 2 attained superannuation during the claim period, the inescapable corollary is that he continued in service until that date, the Award of reinstatement never having been set aside or complied with, and wages therefore continued to accrue up to that date.
23. The Learned 2nd Labour Court confined the award to January 2006 to October 2009 though dues up to October 2011 were claimed, expressly declining the balance upon its finding as to superannuation. **(On the basis of year of birth as stated by the workman).**
24. The respondent no.2 has relied upon the following decisions in support of his contention:-

- (i) *Hindustan Tin Works Pvt. Ltd. Vs. Employees of Hindustan Tin Works Pvt. Ltd., (1979) 2 SCC 80;*
- (ii) *Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D. Ed.) & Ors., (2013) 10 SCC 324;*
- (iii) *Mohan Lal Vs. Management of Bharat Electronics Limited, (1981) 3 SCC 225.*

25. The respondent no.2 has finally prayed for dismissal of the writ application.
26. The respondent no. 2 workman has filed a writ petition being WPA 13223 of 2026, where he has prayed for quashing of the same order and recomputation.
27. The labour Court categorically held that the workman himself stated his date/year of birth as 1951. Thus took the date of superannuation as 2009.
28. The workman cannot expect to receive such wages beyond the date of superannuation without producing any proof, considering that the company is now closed down, when **he has prayed for computation beyond his superannuation.**
29. The labour Court in the impugned award rightly held that the workman could not produce any documents against the claim of the company regarding closure from 2006 to 2011.
30. The labour Court rightly held that **the workman could neither produce his pay slip or any of his co-workers for the said period from 2006-2009. This was taken into consideration for computation of wages but will also apply in respect of closure.**

31. The relevant extract from the impugned award are as follows:-

“19. Moreso, it is uncovered from Exhibit-6(series) that the applicant filed cases being 27 of 1996, 06 of 2000. 11 of 2003, 01 of 2006 under section 33C(2) of the Industrial Disputes Act 1947 and this court computed the back-wages of applicant till 2005. Additionally this court has found that the date of birth of applicant Ranjit Kumar Khanra is 24.10.1951 and the superannuation age in the O.P. Company is 58 years as per clause 13C of the standing order of the company, therefore, the applicant Ranjit Kumar Khanra reached at the age of superannuation in October 2009, but he has claimed the backwages till 2011, so he is not entitled to get backwages after October 2009.

20. Besides, that this court has found from evidence on record that the applicant has not produced any evidence to establish his salary or salary of his co-workers in the O.P. Company in 2006 to 2009, but L.d. Counsel for the management admitted in the written notes of argument that the applicant joined the service of O.P. in 1969 and his salary was Rs.2016/- at that time and it was increased to Rs.3116/- in January 2005, so admittedly the salary of applicant in the month of December 2005 was Rs.3116/-. Moreso, the applicant has not been able to prove with cogent and substantial evidence that his salary was Rs.7000/- in 2006. Apart from that the applicant has also failed to prove that he is entitled to get annual increment and house rent as well as yearly bonus. Similarly the applicant has also failed to prove that he was entitled to get monthly salary of Rs.8500/-, house rent @Rs.510/- and annual bonus @Rs.8500/- in January 2009. Thus this court has found insufficient evidence of the applicant in this matter and the applicant has been measurably failed to prove that he was entitled to get wages @Rs.7000/- per month to Rs.9000 per month annual increment, bonus and house rent allowance. Furthermore, there is no whisper in the affidavit in chief of the applicant/P.W.-I that he was not employed during the claim period. Moreso, he has not produced any document to show that he did not reach the

age of superannuation in 2011. However, he admitted that his date of birth was 24.10.1951.

21. Furthermore, the Ld. Tribunal has not provided any consequential relief in the award to the applicant, so the applicant is not entitled to get any bonus in this matter as per section 2(rr) of Industrial Disputes Act as wages does not include Bonus.

Ordered

That the application under Section 33C(2) is allowed partly.

The applicant/employee **Ranjit Kumar Khanra** is entitled to get due wages. O.P./Management is directed to pay due wages of the workman for the period from January 2006 to October 2009 amounting to **Rs. 1,43,336/- (Rupees one lac forty-three thousand thirty-six)** only to the applicant **Ranjit Kumar Khanra**. Interest @10% per annum to be added on the amount of **Rs. 1,43,336/- (Rupees one lac forty-three thousand thirty-six)** only from the date of filing of this application till the date of actual payment.

Interest @10% per annum to be added on the aforesaid amount of **Rs. 1,43,336/- (Rupees one lac forty-three thousand thirty-six)** only from the date of filing of this application till the date of actual payment.”

32. It appears from the materials on record that though the “closure notice” was marked exhibit ‘B’ on 17.08.2022 in the computation case, the same was neither considered nor made part of the impugned order/award. (page 115 of the writ application annexure “p6”).
33. The said notice (exhibit-B) before the 2nd Labour Court declared closure w.e.f. 21st March, 2006 from 6 A.M. The labour Commissioner was duly informed.
34. The document at page 118 to the writ application is the letter informing about the opening of the mill w.e.f. from 22.08.2011.

- 35. This document was also marked exhibit 'D' by the labour Court on 17.08.2022, but again not taken into consideration by the labour Court.**
- 36. Exhibit 'E' before the 2nd labour Court copy at page 119 is a notice dated 22.08.2011 as declaring opening of the mill at 11 A.M.**
- 37. In spite of the documents being before the labour Court,** the same was erroneously ignored, considering that any subsequent development to an award effecting the right of the parties under the law has to be duly considered while deciding **entitlement as per law.**
- 38. The exhibited documents of closure and opening of the mill herein clearly prove that due to severe labour unrest the mill remained closed from 2006 to 2011.**
- 39.** The workman too could not prove that any other workman received any pay/wages for the said period as held by the 2nd labour Court.
- 40.** The workman is thus not entitled to any wages for the period from 2006 to 2009 as granted.
- 41.** All these facts and evidence on record clearly proves that the 2nd labour Court's order impugned is perverse and erroneous having not taken into consideration the evidence on record.
- 42.** Thus the order dated 17.02.2026 passed by the Learned 2nd Labour Court, West Bengal, Kolkata in case no. 18/2011 under Section 33C(2) of the Industrial Disputes Act, 1947, **is thus quashed and set aside.**

43. WPA 10987 of 2026 is allowed.

44. Applications, if any, connected thereto stand disposed of consequently.

45. Interim order, if any, stands vacated.

46. Photostat certified copy of this Judgment, if applied for, be given to the parties on priority basis upon compliance of all formalities.

(Shampa Dutt (Paul), J.)