

24.08.2026
Court No.13
Item No.11
AP

**FMA 672 of 2025
With
CAN 1 of 2025**

**M/S. Orient Electric Limited
Vs.
The State of West Bengal and Anr.**

Mr. Ranjay De, Senior Advocate
Mr. Basabjit Banerjee
Mr. Adityajit Abel Bose

... For the Appellant.

Mr. Balai Ch. Paul
Ms. Tithi Roy

... For the Respondent workman.

1. The subject appeal is directed against a judgement and/or order dated 3rd March, 2025 passed by a Single Bench of this Court in WPA 3180 of 2025. The appellant/employer is one of the oldest fan manufacturers in this State.

2. The appellant was aggrieved by an order dated 9th December, 2024 passed by the 7th Industrial Tribunal, Kolkata in Case No.1/2A (2) of 2014. By the said order the Tribunal passed an order under Section 15(2)(b) of the Industrial Disputes Act, 1947 and granted interim relief to the respondent workman.

3. The proceedings before the Industrial Tribunal themselves were under Section 2A of the Industrial Disputes Act, 1947. The workman had challenged an order of dismissal from service passed against him by the employer. The said order was passed after a regular departmental proceeding.

4. Mr. De, learned senior counsel for the appellant, would argue that the Tribunal failed to appreciate the scope of a Full Bench decision of this Court in the case of ***B.G. Sampat Vs. State of West Bengal*** reported in ***2001 (1) LLN 616***. Mr. De would lay emphasis, inter alia, on paragraph 17 of the said decision, which held that the expression, “if any”, under the West Bengal amendment to Section 15 in the form of Section 15(2)(b) required a Tribunal, while considering an application for interim relief to the workman pending adjudication of a dispute under Section 2A, to consider prima facie case.

5. Such mandatory condition of considering prima facie case, according to Mr. De, is not satisfied in the Tribunal holding that the enquiry is vitiated merely because the enquiry officer was an outsider and not an employee of the appellant industry.

6. It is argued by Mr. De that the Supreme Court has scaled down the requirement of an appointing enquiry officer from within the employees of the industry concerned, as mandated in the sanding orders concerned. The mandate of the standing orders that the enquiry officer should be appointed from the same industry should not be viewed or interpreted or enforced very strictly. Reference in this regard made to the decision of ***H.V. Nirmala Vs. Karnataka State Financial Corporation and Ors.*** reported in ***(2008) 7 SCC 639*** particularly paragraphs 19 and 20.

7. This Court finds some force in the submissions of learned counsel for the appellant. Indeed, an outsider acting as an enquiry officer could take a more balance and unbiased view in the inquiry which would benefit both the workman and the employer.

8. Be that as it may, this Court is informed that the reference under Section 2A of the Industrial Disputes Act has proceeded substantially. The recording of the workman's evidence is over. He has examined his witnesses. It is the appellant/management before this Court that is required to examine its witnesses. The witness action is on the preliminary issue as regards the validity of the domestic enquiry conducted by the employer. It is only after satisfaction as regards such validity that the merits of the enquiry will be gone into if at all by the Tribunal.

9. In the light of the above, this Court directs that the appellant/employer shall pay 60% of the sums adjudicated by the Labour Court under Section 15(2)(b) of the Act to the workman within a period of 15 days from date. In default, the entire sum directed to be paid under Section 15(2)(b) of the Act shall be payable by the employer to the workman.

10. The Tribunal shall proceed to determine the reference under Section 2A of the Industrial Disputes Act both on the question of maintainability and, if necessary, on the merits of the disciplinary proceedings against the workman and dispose of the same within a period of four

months from the date of communication of a copy of this order mandatorily and positively. No unnecessary adjournment shall be granted to any party by the Tribunal and/or Labour Court. The proceedings under Section 33C(2) of the Industrial Disputes Act shall stand disposed of in terms of the order indicated hereinabove.

11. In the event the Tribunal does not dispose of the proceeding before it within the time frame directed hereinabove, the parties may, inter alia, seek revival of the orders under Section 33C(2) of the Industrial Disputes Act, 1947 or other remedies available in law.

12. With the aforesaid directions, FMA 672 of 2025 is disposed of. Consequently, CAN 1 of 2025 is also disposed of.

13. There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)

(Anuj Singh, J.)