

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 20922 of 2026

M/s. Sri Annapurna Cotton Mills & Industries Ltd.
Vs
The State of West Bengal & Ors.

For the Petitioner : Mr. Joyjit Roy Chowdhury,
Mr. Vineet Kothari.

For the Respondent No.4 : Mr. Uddipan Banerjee,
Mr. Subhrakanti Samanta.

For the State : Mr. Madhu Jana,
Mr. Subhajit Das.

Judgment reserved on : 08.09.2026

Judgment delivered on : 08.10.2026

Shampa Dutt (Paul), J.:

1. The writ petition has been preferred challenging the Judgment dated 10th March 2026 passed by the Learned 2nd Labor Court, West Bengal in Case No Comp 1 of 2019 in connection with an Ex-parte Award dated 18th May 2018 passed in Case No 27 of 2011.
2. The predecessor of the Private respondent herein, preferred an application under section 33C(2) of the Industrial Disputes Act 1947

for recovery of Money in connection with an Ex-parte Award dated 18th May 2018 in Case No 27 of 2011.

3. The Operative part of the Ex-parte Award dated 18th May 2018 in Case No 27 of 2011 is as follows:-

“that the written statement under section 10(1B) (d) of the Industrial Disputes Act 1947 filed by the applicant is allowed ex-parte with cost of Rs. 5,000/-. The O.P. Company is directed to reinstate the applicant immediately. The applicant is also entitled to get full back wages along with other consequential benefits from the date of dismissal till the date of reinstatement. The O.P Company is directed to pay the back wages along with other consequential benefits and cost of Rs. 5,000/- within a period of 90 days from the date of this award, in default the applicant is at liberty to take the recourse of law for realization of the same and reinstatement.”

4. It is stated that the workman namely Kanai Lal Manna superannuated from his Job on 23rd March 2013 during the pendency of the said case being no. 27 of 2011 before the Tribunal.
5. Thereafter, the said Kanai Lal Manna intimated the petitioner herein through a letter dated 15th November 2018, regarding the said ex-parte Award but claimed for an imaginary amount of Rs.4,73,537/- along with the cost, considering himself as superannuated. The petitioner herein replied vide a letter dated 21st November, 2018 and informed that they are ready to pay and comply with the award dated 18th May, 2018 passed by the Learned 2nd Labour Court, West Bengal and also requested the said workman to provide exact calculation of claim in terms of the award dated 18th May, 2018.

6. The workman thereafter preferred an application under section 33C(2) of the Industrial Disputes Act, 1947 for recovery of money in terms of the ex parte award dated 18th May, 2018.
7. The said workman died intestate on 10th November, 2023 during the pendency of the said case bearing no. 1 of 2019 (33C(2)) leaving behind his wife as his sole legal heir.
8. The parties placed their respective argument in the said case and the Learned 2nd Labour Court, West Bengal was pleased to pass the Judgment therein on 10th March, 2026.
9. The Operative Part of the said Judgment dated 10th March 2026 passed in Case No 1 of 2019 by Learned 2nd Labour Court, West Bengal is as follows:-

"that the case being No. 1 of 2019 under section 33C(2) of the Industrial Act, is allowed partly on contest. Accordingly, O.P. is directed to pay Rs. 1,85,835/- to the legal heir of applicant, Kanailal Manna with annual simple 10% interest from the date of application of this case till realization, within 2 months from this date, in default, they are at liberty to take recourse of law".

10. The respondent no.4 on filing written notes has argued that the impugned award is in accordance with law and that the Executing Court has not gone beyond the original award and the said award does not call for any interference. The respondent no.4 has relied upon the following judgments:-

(i) M/s. Standard Pharmaceuticals Ltd. Vs. State of West Bengal & Ors., reported in 2014 (2) Cal LJ 616;

(ii) Kanchan Oil Industries Limited Vs. Sri Ranganath Sukla & Anr. reported in (2021) 171 FLR 139;

(iii) Smt. Jhunu Thapa Vs. The State of West Bengal & Ors.

in WPA No. 2850 of 2012;

(iv) Raj Narain Vs. Union of India & Ors. reported in (2019) 5 SCC 809.

11. It is the case of the petitioner that the learned Labour Tribunal in its order did not consider the period of suspension of work and has relied upon the judgment of the Hon'ble Supreme Court in **State Bank of India Vs. Ram Chandra Dubey, AIR 2000 SC 3734**, which established that Section 33C(2) only applies to the computation of a pre-existing right or benefit, that is already due and adjudicated. It cannot be used to newly determine or adjudicate an entitlement to a right or monetary claim that is disputed.
12. The petitioner further argues that vide the impugned award the labour Court has granted interest, even though the original award does not talk of interest. As such it is stated that the same cannot be granted by an Executing Court which cannot go behind the award being an executing Court. (The said submission of the petitioner is not well-founded considering that all consequential benefits were granted in the original award which includes interest).
13. **The petitioner has relied upon the following judgments:-**
 - (i) 2024 Supreme (Online) (KAR) 11425 (Management of Nwkrte Vs. Manjunath) (Paragraphs 14, 15 and 16.**
 - (ii) AIR 2000 SC 3734 (State Bank of India Vs. Ram Chandra Dubey & Ors.) (page 4 last 2 Paragraphs)**

(iii) 52 1993 (DLT) 594 Municipal Corporation of Delhi Vs. Ganesh Razak. (Paragraphs 16,17, 18 and 22).

14. The impugned award in the present case which arises out of a proceeding under Section 33C(2) of the Industrial Disputes Act arises out of the original award dated 18th of May, 2018 in case no. 27 of 2011 under Section 10(1B) (d) passed by the Learned Second Labour Court, West Bengal, Kolkata.
15. It is now the case of the petitioner that the Executing Court has gone beyond the original award and granted relief to the workman. It appears from the original award dated 18th of May, 2018 that the Labour Court had directed reinstatement of the employee and had directed payment of full back wages **along with other consequential benefits from the date of dismissal till reinstatement along with interest.**
16. **Vide the impugned order dated 10th March, 2026 the learned Labour Court has considered the claim of deceased workman from March, 2018 to March, 2023, which is wrongly recorded as the claim period is from March 2008 to March 2013.**
17. It appears from the copy of the service record that the date of birth of the deceased workman is 23.03.55. As such his date of **superannuation at 58 years was 23.03.2013.**
18. Admittedly all consequential benefits has been granted vide the original award and as such the impugned order dated 10th March 2026 passed by the Learned 2nd Labor Court, West Bengal in Case No Comp 1 of 2019 in connection with an Ex-parte Award dated 18th May 2018 passed in Case No 27 of 2011, is in accordance with law, as the labour

Court has not granted relief beyond the original award and thus the said order requires no interference.

19. WPA 20922 of 2026 is dismissed.

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

21. 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.)