

GAHC010270302023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/3508/2023

ALAKESH BAISHYA
SON OF LATE M.R. BAISHYA , RESIDENT OF SYNERGY PARADISE, BLOCK
1, C-2, 4TH FLOOR, VIDYA MANDIR PATH, BHETAPARA, GUWAHATI-
781028

VERSUS

THE MANAGEMENT OF APOLLO HOSPITALS
GUWAHATI, UNIT INTERNATIONAL HOSPITAL, HAVING ITS UNIT AT
ASSAM HOSPITALS LIMITED, LOTUS TOWER, G.S. ROAD, CHRISTIAN
BASTI, GUWAHATI- 781005 BEING REPRESENTED BY ITS CHIEF
OPERATING OFFICER, SRI ABHIJIT SINGH.

Advocate for the Petitioner : MR S CHAKRABORTY

Advocate for the Respondent : MR A DASGUPTA

Linked Case : WP(C)/6237/2023

THE MANAGEMENT OF APOLLO HOSPITALS
GUWAHATI
UNIT INTERNATIONAL HOSPITAL
HAVING ITS UNIT AT ASSAM HOSPITALS LIMITED
LOTUS TOWER
G.S. ROAD
CHRISTIAN BASTI

GUWAHATI- 781005 BEING REPRESENTED BY ITS CHIEF OPERATING
OFFICER
SRI ABHIJIT SINGH
PERMANENT RESIDENT OF HOUSE NO . BX1/12
A SOUTH CITY VILL AYALI KHURD P.O. LUDHIANA
LUDHIANA. PIN - 142027 PUNJAB

VERSUS

ALAKESH BAISHYA
SON OF LATE M.R. BAISHYA
RESIDENT OF SYNERGY PARADISE
BLOCK 1
C-2
4TH FLOOR
VIDYA MANDIR PATH
BHETAPARA
GUWAHATI- 781028

Advocate for : MR A DASGUPTA
Advocate for : appearing for ALAKESH BAISHYA

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

01.12.2023

Heard Shri S. Chakraborty, learned counsel for the applicant, who has filed this application for invoking the provisions of Section 17B of the Industries Disputes Act, 1947 (in short, ID Act). It is contended that the writ petition pertains to a challenge of an award dated 21.07.2023 passed by the learned Labour Court, Kamrup, Assam in Case No. 02/2022 which was adjudicated under Section 2A of the ID Act.

2. It is submitted that while Rule was issued by this Court on 18.10.2023, the provisions of Section 17B was not taken recourse to.

3. Shri Chakraborty, learned counsel has also referred to the averments made in paragraph 4 of the I.A. where he has stated in the affidavit that during the time of the proceeding before the learned Labour Court, he was not gainfully employed and even as on today, he is not gainfully employed and therefore, entitled to the benefits of provisions of Section 17B of the Act.
4. Shri Dasgupta, learned counsel for the opposite party / writ petitioner however submits that he may be given time to file objection.
5. This Court is however of the opinion that such objection is not a requirement of law inasmuch as, application of Section 17B of the ID Act is dependent upon a declaration made by the workman on an affidavit regarding lack of gainful employment and the same pertains to certain circumstances and termination from service is one of such circumstances.
6. Be that as it may, in the interest of justice, the matter is adjourned to give the opposite party / writ petitioner an opportunity and the same be listed for orders on 08.12.2023.

JUDGE

Comparing Assistant