

Ct. No. 30
02.02.2026
M/L. No. 9
SM

WPA 898 of 2026
M/s. Kelvin Jute Limited
Versus
Ashma Khatun & Ors.

Mr. Soumya Majumder, sr. adv.
Mr. Bikash Shaw
Mr. Sk. Saad Nafisul Islam
.....for the petitioner
Mr. Susanta Pal
Mr. Krishna Keshab Paul
.....for the State
Mr. Lakshman Chandra Halder
.....for the respondent no. 1 & 2

1. Affidavit-of-service filed be kept with the record.

2. The writ application has been preferred challenging an award dated 28th November, 2022 passed by the learned 1st Industrial Tribunal in Case No. VIII-36/2013.

3. Vide the impugned order the tribunal directed as follows:

“That the instant case being No. VIII-36/2013 be and the same is allowed on contest with cost of Rs. 10,000/- (Rupees ten thousand) only. The petitioners substituted heirs of the workman are entitled to full back wages along with other consequential benefits from the date of termination i.e. on and from 03.07.2007 to the date of the death of the workman i.e. 26.11.2020 and the present petitioners i.e. 1,00,000/- (Rupees one lakh) only for facing mental

agony, unnecessary harassment and facing acute financial crisis.”

4. It is the case of the petitioners that the respondent/workman stopped reporting for work since August, 2006 and as such there was no case of refusal of employment with effect from July, 2007 as noted in the reference.

5. It is the case of the respondent/workman (now his legal heirs) that he was under treatment from March, 2007 to July 2007 and he produced a fit certificate before the petitioner/company at the time of joining.

6. It is the case of the respondent/workman that the management was ready to permit the workman to join his service, on half pay, which the workman refused. There is no evidence produced before the tribunal that the respondent/workman was asked to join on “half pay”.

7. On hearing the learned senior counsel appearing for the petitioner, it appears that admittedly the respondent/workman was issued a salary certificate relating to the wages paid.

8. As such, the respondent being aware of such mode of payment made to him by way of a salary statement, was free to join his service, as then the respondent/workman would have been in a

position to prove that he was granted only “half pay” in case he had joined his service.

9. The fact that the respondent/workman being aware that he was paid wages as per the salary statement, did not join his service from July, 2007, on producing only a fitness certificate from an empanelled ESI doctor, goes to prima facie show that the respondent/workman’s statement that he was asked to join only on “half pay” is prima facie not acceptable as the case of half pay could have been easily established and proved on the basis of the salary statement of wages.

10. **Admittedly, it is the respondent/workman’s statement that he was refused employment from July, 2007, but he has not placed anything before the tribunal to show or prove as to why he raised a dispute only in the year 2011 i.e., after almost 5 years.**

11. One of the contentions of the respondent/workman in support of his “half day” pay wages is that the management had stated that he would be paid on voucher payment system. Even that would have helped him prove his case.

12. The petitioner’s case is that the respondent/workman was a casual badli worker and was also sent a letter as well as a notice dated 14.08.2007 by registered post AD to report for duty

but in spite of receiving the same the workman remaining absent.

13. This Court is of the view that in case he was paid by voucher payment system, the same would have supported his statement and as the workman admittedly did not join and waited for five years to raise an industrial dispute, the petitioners have a prima facie case of hearing in the present case (refused to join).

14. Considering the nature of the evidence recorded before the tribunal, the records of the tribunal are necessary in the present case for its proper adjudication.

15. Accordingly, call for the records in case no. VIII-36/2013 from the Court of First Industrial Tribunal, Kolkata at once.

16. Considering the nature of relief prayed for in the present case, the matter be listed on 11th March, 2026 for final hearing.

17. As the respondent intends to use an affidavit-in-opposition be filed by **20th February, 2026**. Reply, thereto by 6th March, 2026 and parties to file their respective short notes on the next date of hearing.

18. Pending hearing the impugned award dated 28th November, 2022 passed by the learned 1st Industrial Tribunal in Case No. VIII-36/2013 be stayed till 31st March, 2026 or until further order

whichever is earlier.

[Shampa Dutt (Paul). J]