

12.03.2026

Sl. No.9.

D/L.

Mithun.

Ct.No.29.

CRR/1136/2026

Parwati Rai

Vs.

The State of West Bengal & Anr.

Mr. Amar Dudhwewala,
Mr. Karan Dudhwewala

...for the petitioner

This is an application for a direction for expeditious disposal of the proceeding of Complaint Case No.CS/23142/2017 under Section 33C(1) of the Industrial Disputes Act, 1947 presently pending before learned Judicial Magistrate, 16th Court, Calcutta.

The petitioner is the widow of one Rajendra Rai who was a workman of opposite party and said Rajendra Rai died on 10.04.2024 and after his death, the petitioner by order dated 20.01.2025 passed by learned Judicial Magistrate, 16th Court, Calcutta has been substituted in place of late Rajendra Rai in the aforesaid complaint case.

The opposite party no.2 had made an application before the Industrial Tribunal for sanction of the dismissal of the petitioner's husband from employment but an order dated 13.08.2014 passed by the learned Judge, the said application of the opposite party no.2 was dismissed. Pursuant to that order, the petitioner's husband was entitled to be reinstated with full back wages and other consequential benefits arising out of the continued employment. However, since the opposite party no.2 did not reinstate the petitioner's husband and prevented him from joining service, he filed an application before the Industrial Tribunal under Section 33C(2) of the Industrial Disputes Act, 1947 praying for the

determination of the money due and payable by the opposite party no.2 to the petitioner being Computation Case no.46 of 2014 which was disposed of by the learned Tribunal thereby directing the opposite party no.2 to pay a sum of Rs.15,95,960/- to the petitioner's husband. In the meantime, a certificate dated 08.02.2017 was issued by the Labour Department for recovery of the said amount payable by the opposite party no.2 to the petitioner's husband but since the opposite party no.2 was not complying with the said order, the Deputy Labour Commissioner filed a petition of complaint under the aforementioned section of Industrial Disputes Act for recovery of the said amount being aforesaid Complaint Case No.CS/23142/2017. The concerned Magistrate was pleased to take cognizance and several orders were passed by the Court below to make payment to the petitioner's husband by the opposite party no.2 who failed to comply the same and for which the Trial Court by an order dated 20.02.2019 was pleased to issue an order of attachment against opposite party no.2. Thereafter, several dates were fixed by the Trial Court but no payment was made by opposite party no.2 and for which Distress warrant was issued against opposite party no.2. Despite issuing two orders of attachments against the opposite party no.2, no report of any attachment was submitted before the Trial Court on several occasions. Thereafter on 17.02.2024, the opposite party no.2 made a meagre payment of Rs.30,000/- to the petitioner's husband. A fresh order of attachment was again issued on 28.07.2025 against opposite party no.2.

It is submitted on behalf of the petitioner that after waiting for almost nine years, since the filing of the instant case though several order were passed thereby issuing order of attachment against the

opposite party no.2 but the opposite party no.1 has not been able to recover the said due amount from opposite party no.2.

In this context, learned Counsel for the petitioner submits that the concerned Magistrate have jurisdiction to proceed for realization and recovery of the amount as if it were a fine imposed by such Magistrate and Section 461 of the BNSS lays down the procedure of realization of fine by a Magistrate. However, in the instant case, the procedure laid down under Section 461 of the BNSS has not been followed till date. On the contrary, the Magistrate is proceeding in the instant case under Section 84 and 85 of the BNSS which is contrary to Section 33C of the Industrial Dispute Act which unnecessary causing delay in disposal of the application. Therefore, the petitioner prays for a direction upon the Court below for expeditious disposal of the proceeding.

Having heard learned Counsel for the petitioner it appears that the prayer made by the petitioner is justified in terms of its long pendency and since the prayer made by the petitioner is innocuous and if the application is disposed of without serving notice to the opposite parties, the opposite party will have no cause to prejudice and, as such, service of copy of application upon the opposite party is dispensed with.

In such view of the matter, the instant application being CRR 1136 of 2026 is hereby disposed of with a direction upon the Court below to make every endeavour to dispose of the Complaint Case being No.CS/23142/2017 as expeditiously as possible following the procedure laid down in the Industrial Dispute Act and relevant provision in the BNSS and to conclude the entire procedure preferably within 60 days from the date of communication of this order.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

(Dr. Ajoy Kumar Mukherjee, J.)