

(2001) 02 CAL CK 0009
In the Calcutta High Court
Case No : C.O. 2449 of 2000

Birla Technical Services

APPELLANT

Vs

Nirmal Kumar Chakraborty

RESPONDENT

Date of Decision : 07-02-2001

Acts Referred:

Industrial Disputes Act, 1947 — Section 11A
West Bengal Industrial Disputes Rules, 1958 — Rule 15

Citation : (2001) 88 FLR 1095 : (2001) 1 LLJ 1077

Hon'ble Judges : Subhro Kamal Mukherjee, J

Bench : Single Bench

Advocate : Biswa Ranjan Bhakat and Manas Sinha, for the Appellant;
Mohammadi Yasmin, for the Respondent

Final Decision : Dismissed

Judgement

Subhro Kamal Mukherjee, J.—This is an application under Article 227 of the Constitution of India against an order passed by the 8th Industrial Tribunal, West Bengal in Case No. viii-123/1998. A reference was made by the Government to the said Tribunal for adjudication whether termination of service of the opposite party with effect from September 26, 1996 is justified and what relief, if any, he is entitled to. After the reference was received by the said Tribunal, the opposite party filed his written statement and the company also filed counter reply. The opposite party filed an application on March 30, 2000, inter alia, praying for allowing him to rely on two documents in evidence on recall. The said documents are- (a) Internal memo from one Samir Kumar Chaudhury to the opposite party under reference No. BTS/10M/194, BMP 2686 dated August 31, 1995; (b) A hand written note by the opposite party dated March 24, 1995. The opposite party contended that those documents are necessary in order to prove the nature of the duties of the opposite party and as those documents were misplaced at the time of preparation of the written statement and the list, of documents, those documents could not be disclosed. The company filed a written objection to the said application and prayed for rejection of the said application

filed by the opposite party herein. However, the company denied and disputed the genuineness of those documents.

2. By order impugned the learned Judge of the Tribunal allowed the said application of the opposite party dated March 30, 2000 on contest without cost.

3. Being aggrieved the company has come up with this application under Article 227 of the Constitution of India.

4. Mr. Biswa Ranjan Bhakat, learned advocate, appearing for the petitioner submitted in view of the proviso to Section 11-A of the Industrial Disputes Act, 1947 the Tribunal can only rely on the materials on record and shall not take any fresh evidence in relation to the matter. It is not a case where there has been a domestic enquiry and only the quantum of punishment is under dispute. The Rule 15 of the West Bengal Industrial Disputes Rules, 1958, as has been rightly pointed out by Mr. Manas Sinha, learned advocate, for the opposite party, empowers the Tribunal to accept, admit or call for evidence at any stage of the proceedings and in such manner as Tribunal thinks fit.

5. Since Tribunal has only permitted the opposite party to rely on two documents, I am not inclined to interfere with the order impugned. However, I make it clear that I have not gone into the evidentiary value of the documents and the Tribunal will be free to consider them in accordance with law with other documents.

6. With the aforesaid observations the application under Article 227 of the Constitution of India is dismissed.

7. There will be no order as to costs. Urgent xerox certified copies, if applied for, be given to the parties as early as possible.