

I/732561/2026

Government of West Bengal
Labour Department, I. R. Branch
N.S. Building, 12th Floor, 1, K.S. Roy Road, Kolkata – 700001

No. Labr/ 92 / (LC-IR)/ 22015(16)/23/2026

Date : 19/01/2026

ORDER

WHEREAS under Labour Department's Order No Labr/837/(LC-IR) dated 06.09.2019 with reference to the Industrial Dispute between M/s. BCITS Private Ltd., No. 60 Gold Part (3d Floor), Rajadanga, Kasba, Kolkata-700107 and its workman Sri Goutam Shaw, represented by the West Bengal State Electricity Distribution Co. Ltd. (WBSEDCL) Contractors Workers Union, 77/2/1, Lenin Sarani (First Floor), Kolkata-700013, regarding the issues mentioned in the said order, being a matter specified in the Second Schedule of the Industrial Dispute Act' 1947 (14 of 1947), was referred for adjudication to the 8th Industrial Tribunal, Kolkata.

AND WHEREAS the 8th Industrial Tribunal, Kolkata, has submitted to the State Government its Award dated 16.12.2025 in Case No. VIII-10/2019 on the said Industrial Dispute Vide e-mail dated 15.01.2026 in compliance of Section 10(2A) of the I.D. Act' 1947.

NOW, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Dispute Act' 1947 (14 of 1947), the Governor is hereby pleased to publish the said Award in the Labour Department's official website i.e **labour.wb.gov.in**.

By order of the Governor,


Assistant Secretary
to the Government of West Bengal

No. Labr/ 92 /1(5)/(LC-IR)/ 22015(16)/23/2026

Date : 19/01/2026

Copy forwarded for information and necessary action to:

1. M/s. BCITS Private Ltd., No. 60 Gold Part (3d Floor), Rajadanga, Kasba, Kolkata-700107.
2. Sri Goutam Shaw, represented by the West Bengal State Electricity Distribution Co. Ltd. (WBSEDCL) Contractors Workers Union, 77/2/1, Lenin Sarani (First Floor), Kolkata-700013.
3. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The O.S.D. & E.O. Labour Commissioner, W.B. New Secretariat Building, 1, K. S. Roy Road, 11th Floor, Kolkata- 700001.
5. The Deputy Secretary, IT Cell, Labour Department with request to cast the Award in the Department's website.


Assistant Secretary
to the Government of West Bengal

No. Labr/ 92 /2(3)/(LC-IR)/ 22015(16)/23/2026

Date : 19/01/2026

Copy forwarded for information to :

1. The Judge, 8th Industrial Tribunal, Kolkata, with reference to e-mail dated 15.01.2026.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata -700001.
3. Office Copy.


Assistant Secretary
to the Government of West Bengal

In the matter of an industrial dispute exists between M/s. BCITS Private Ltd., No. 60 Gold Part (3d Floor), Rajadanga, Kasba, Kolkata-700107 versus Sri Goutam Shaw, represented by the West Bengal State Electricity Distribution Co. Ltd. (WBSEDCL) Contractors Workers Union, 77/2/1, Lenin Sarani (First Floor), Kolkata-700013 vide G.O. No. Labr/837/(LC-IR) dated 06.09.2019.

(Case No. VIII-10/2019)

Before the Eighth Industrial Tribunal: West Bengal
Present Sri Amit Chattopadhyay
Judge,
Eighth Industrial Tribunal,
West Bengal.

Sri Goutam Shaw, represented by The West Bengal State Electricity Distribution Co. Ltd.
(WBSEDCL) Contractors Workers Union.....**Applicant / workman**
Vs.
M/s. BCITS Private Ltd..... **O.P. Company**

A W A R D

Dated : 16.12.2025

Received a copy of order of reference vide G. O. No. Labr/837/(LC-IR) dated 06.09.2019 from the Labour Department, Govt. of West Bengal and reference no. 3115-IR/IR/3A-6/59, dated 21/06/1960 referring an industrial dispute which exists between Sri Goutam Shaw, represented by the West Bengal State Electricity Distribution Co. Ltd. (WBSEDCL) Contractors Workers Union, 77/2/1, Lenin Sarani (First Floor), Kolkata-700013 and M/s. BCITS Private Ltd., No. 60 Gold Part (3d Floor), Rajadanga, Kasba, Kolkata-700107 for adjudication on the following issues:-

I S S U E (S)

- 1) Whether refusal of employment to Sri Goutam Shaw with effect from 20.06.2018 is justified?
- 2) What relief is he entitled to?

As per written notes of argument the case of the workman is that the workman concerned viz. Sri Goutam Shaw, whose name is mentioned in the Order of reference has stated the Facts in his both written statement and evidence in chief which are as under :-

That he joined on 01.06.2015 as a Meter Reader, at Amtola consumer care centre under direct supervision and control of the above named employee viz. M/S BCITS, a contractor under the Principal employee West Bengal State Electricity Distribution Company Ltd. (in short WBSEDCL).

Said workman was honest, diligent and sincere and as such being satisfied of his work the above-named contractor covered him within the purview of ESI Act and P.F. Act.

Being personal malice and grudge and as per instruction of the said contractor one Sri Piyal Parui, the supervisor used to harass him severally and disallow him to report him for duty on 27.01.2017 without any valid reasons and he was asked to return the Billing Machine which was his custody. He made a protest against the said supervisor by his letter dated 25.4.2017 to both contractor and the Principal Employer. That after several approaches and per station the Authority of the Contractor allowed him to resume his duties in the said capacity/ on 3rd week of May, 2017 at Usti

Consumer Care Centre forcefully onwards but his due legitimate salary was kept withheld in spite of several approaches. However, partial amount towards back salary/wages was paid to him. He is still entitled to get the balance due salaries for the previous periods of due withheld amount.

However, on 19.06.2018 all the meter readers of Usti customer care including the workman concerned was called by the supervisor of the contractor (viz. BCIT Pvt. Ltd/.) on the place of fresh downloading of the Machine (Mobile). After machine was handed over to other meter readers the said supervisor refused to return the said down loading of the Machine (Mobile) to the workman concerned by alleging that he would not be given the Machine as his service was no longer required and no need to come his duty place from 20.06.2018 onwards. Said refusal of employment w.e.f. 20.06.2018 was amounted as illegal and unlawful termination in as much as no charge sheet /show cause was issued at any point of time. No opportunity was given by holding any domestic enquiry for his self defence. No retrenchment compensation, notice pay was paid. Due wages/salary amounting Rs.1,62,00/- was also not paid. However at the time of illegal termination only due wages amounting Rs.53,202/- was paid. Hence an amount of Rs.1,08,818/- is still due and payable by the contractor. He is still unemployed and no source of income except reinstatement full back wages and compensation amounting Rs.3,00,000/- in terms of settled law.

The company contends that the workman joined on 01.06.2015 with full knowledge of the terms of employment, his conduct was repeatedly rude, insubordinate and disruptive, the workman resisted performance of core duties, failed to complete meter reading work and mishandled company property, damaging 3 mobile phones and 7 printers within two months. He was issued warning letters including letter dated 18.05.2016. The workman was transferred to Usti CCC on 20.12.2016 but did not accept the transfer order. He worked as a piece-rated part-time worker from June 2017 to June 2018 as he did not accept the regular terms.

According to the company his wages were cleared up to January 2018 and the balance was withheld because company property remained in his custody. He acknowledged the payment by his letter dated 20.08.2018.

The company has stated that the workman was never terminated, rather he voluntarily stopped reporting, refused employer's directions and rendered himself unemployable through misconduct.

A formal dispute was raised separately by the workman concerned and the union before both the management i.e Principal employer (WBSEDCL) and the contractor by sending several letters to withdraw the order of illegal termination by way of refusal of employment w.e.f. 20.06.2018 and to reinstate him in his former service with full back wages for the period of forced unemployment. According to the workman the company remained silent over the matter and they did not pay any heed.

Accordingly the workman raised an industrial dispute before the Asst. Labour Commissioner, Diamond Harbour, 24 Pgs. (South) seeking his intervention. The Asst. Labour Commissioner issued several memos for joint conferences and tried his best effort to settle the matter amicably but ultimately no settlement was arrived at, at the conciliation level hence the

Labour department, Govt. of West Bengal referred the matter to this Tribunal by Govt. Order dated 6.5.2019 for adjudication of dispute.

Sri Goutam Shaw (PW-1) adduced evidence by filing EIC and produced some documents which were marked as Exhibit-1 to Exhibit – 14. The workman was cross examined by the Ld. Advocate of the company. A corroborated evidence was adduced by the witness Mr. Manas Sinha (PW-2) and he was the General Secretary of the union. He was also crossexamined by the Ld. Advocate of the company. During his evidence he produced only one document i.e. copy of registration of Trade Union.

On behalf of management, OPW-1 Sri Eduward Burn gave evidence and produced documents such as -

1. Terms of contract of employment dated 01.06.2015 (Ext-D)
2. Warning letter dated 18.05.2016 (Ext-E)
3. Letter of termination dated 30.01.2016 (Ext-F)
4. Letter of Manas Sinha (Ext-G)
5. Letter by Additional General Manager (HR&A) dated 20.08.2018 (Ext-H)
6. Report issued by AM (HR&A) , Behala Division (Ext-I)

From the evidence in record it reveals that the workman was a contractual meter reader under a contractor , not a permanent employee. From June 2017 he was working as a piece-rated part-time worker , not under regular muster roll. The nature of his engagement was task-based and assignment-specific.

OPW-1 stated that repeated non-performance and insubordination compelled the company to cease allotment of work.

On analyzing the evidence it established that the company had no obligation to allot work to a piece-rated worker if work was not possible due to his own misconduct.

The workman in his evidence has stated many things but the same are inadequate to substantiate his own case. Facts remain that there was no official enquiry conducted by the company against the workman. Moreover it is undisputed situation that no retrenchment compensation and notice pay was paid to the workman by the company. The company through their evidence and documentary evidence has placed that the behaviour of the workman with the supervisor and the staff of the company are very rude and arrogant. They have placed it through their evidence that the workman was not ready to most of his duties as per office letter. The workman was a part-time worker and he was transferred to Usti CCC but he did not accept his transfer letter. There was no rebuttal on the part of the workman in relation to the allegation that he mishandled 3 mobile phones and 7 printers within 2 month and he did it intentionally so that he can delay the whole work process of the company as well as WBSEDCL.

PW-2 who is claimed to support the workman is contradicted by his own letter on record.

In depth study of the evidence in record, I am of the view that the workman has not rebutted multiple acts of insubordination, refusal to accept transfer, repeated damage of

company's property and failure to perform meter reading tasks. The workman failed to prove that he was not working as piece-rated worker.

The conduct proved against the workman amounts to continued misconduct justifying the employer's decision to not place essential equipment in his custody or allot sensitive work like meter reading.

In view of the discussion the conclusion may be drawn that the workman was not a permanent or regular employee but a piece rated worker and he was guilty of misconduct, insubordination, refusal of transfer and manhandling company's property. The refusal of employment was a consequence of workman's own conduct and not an act of illegal termination.

The workman concerned has relied the judgment of Hon'ble High Court at Madras as reported in Supreme Court Labour Cases Vol. – III, Page 394 (Narotam Chopra, Presiding Officer, Labour Court & Others) in support of his case. After perusal of the said judgment I am of the view that the said case has no manner of applicability as the facts and circumstances and the points involved are totally different.

The Apex Court has consistently held that refusal of work assignment to a casual/piece-rated worker for misconduct does not constitute "retrenchment" (e.g., S.M. Nilajkar v. Telecom District Manager, Municipal Council, Sujapur v. Surinder Kumar). Here, refusal of employment was a consequence of non-acceptance of transfer, non-performance, mishandling of tools and insubordination.

Thus, refusal of employment was reasonable, justified and proportionate.

Hence it is

ORDERED

that the refusal of employment to Sri Gautam Shaw w.e.f. 20.06.2018 is held to be justified. The workman is not entitled to reinstatement, back wages, or any other relief. The reference is answered accordingly.

This is my AWARD.

Let the copy of this judgment and award be sent to the Secretary, to the Government of West Bengal, Labour Department, New Secretariat Buildings, 12th Floor, 1 No. Kiran Shankar Roy Road, Kolkata – 700 001.

Dictated & Corrected by me

Judge

-Sd-
(Amit Chattopadhyay)
Judge
Eighth Industrial Tribunal,
Kolkata
16.12.2025

GOVERNMENT OF WEST BENGAL
DIRECTORATE OF INDUSTRIAL TRIBUNALS
NEW SECRETARIAT BUILDINGS
BLOCK - 'A', 2ND FLOOR
1, KIRAN SANKAR ROY ROAD
KOLKATA - 700001

Memo No.

Dated Kolkata, the 16.12.2025

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From: Shri Amit Chattopadhyay,
Judge,
8th Industrial Tribunal,
Kolkata - 1.

To : The Secretary to the
Govt. of West Bengal,
Labour Department,
New Secretariat Buildings, 12th Floor,
1, Kiran Sankar Roy Road,
Kolkata - 700 001.

Sub: In the matter of an industrial dispute between Sri Goutam Shaw, represented by the West Bengal State Electricity Distribution Co. Ltd. (WBSEDCL) Contractors Workers Union and M/s. BCITS Private Ltd., No. 60 Gold Part (3d Floor), Rajadanga, Kasba, Kolkata-700107.

(Case No. VIII-10/2019)

Sir,

I am sending herewith the Award passed in the matter of an industrial dispute filed by applicant Sri Goutam Shaw, represented by the West Bengal State Electricity Distribution Co. Ltd. (WBSEDCL) Contractors Workers Union, 77/2/1, Lenin Sarani (First Floor), Kolkata-700013 against M/s. BCITS Private Ltd., No. 60 Gold Part (3d Floor), Rajadanga, Kasba, Kolkata-700107 vide G.O. No. Labr/837/(LC-IR) dated 06.09.2019 for information and necessary action.

Encl: As stated above.

Yours faithfully,

-Sd-
Judge,
Eighth Industrial Tribunal,
Kolkata
16.12.2025