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**(2001) 01 CAL CK 0022**

**Calcutta High Court**

**Case No:** C.O. No. 16481 (W) of 1993

Madhusudan Konar

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

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**Date of Decision:** Jan. 12, 2001

**Acts Referred:**

- Industrial Disputes Act, 1947 - Section 2

**Citation:** (2002) 4 LLJ 870

**Hon'ble Judges:** Ashim Kumar Banerjee, J

**Bench:** Single Bench

**Final Decision:** Allowed

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### **Judgement**

@JUDGMENTTAG-ORDER

Ashim Kumar Banerjee, J.

Writ petitioner challenged the order of Award of the Tribunal appearing at page 30 of the writ petition being annexure "E" therein. It appears from the Award that the Judge of the 9th Industrial Tribunal, Durgapur published a "No Dispute Award" since the parties did not appear despite repeated notices having been served.

2. Learned advocate appearing for the writ petitioner submits that in accordance with the provisions of Section 2(b) of the Industrial Disputes Act 1947 "Award" means an interim or a final determination of any industrial dispute of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made u/s 10A . According to the writ petitioner no dispute award is not an award within the definition of Section 2(b) of the said Act of 1947. In support of his contention, the learned advocate relied on two decisions of this Court. The first one is a Division Bench judgment reported in 1977 Lab IC 13. wherein it has been categorically held by the Division Bench that the expression "or of any question relating thereto" means any matter incidental to the industrial dispute. Therefore, to constitute an award the main dispute might be

decided first and thereafter any such matter or question relating to the main dispute might be decided or adjudicated upon and "no dispute award" accordingly is not an Award". Relying on the said Division Bench judgment ASHOK KUMAR CHAKRADORTY J. (As His Lordship then was in case of Debasis Jana reported in 1997(1) CLJ 578 held that no award can be passed without interim or final determination of an industrial dispute or of any question relating thereto. As "no dispute award" is passed without determination of either of these points, such award cannot have existence in the eye of law.

3. I find substance in the contention of Mr. Guin appearing on behalf of the writ petitioner. Ms. Chhabi Chakraborty appearing for the respondents in her usual fairness has not disputed such proposition.

4. Accordingly the writ petition succeeds. The impugned order appearing at page 30 being annexure "E" to the writ petition is set aside. The matter is remanded back to the Tribunal for adjudication on merits. The Tribunal will dispose of the pending proceedings with utmost expedition preferably within 8 weeks from the date of communication of this order.

5. There shall be no order as to costs.

6. Urgent Xerox certified copy, if applied for be supplied on usual undertakings.