

**Government of West Bengal  
Labour Department  
I.R. Branch  
N.S.Buildings, 12<sup>th</sup> Floor  
1, K.S. Roy Road, Kolkata - 700001**

No. *Indus: 266 / (LE-IR)*

Date *...11...03...19*

**ORDER**

WHEREAS an industrial dispute existed between M/S Shibrampur Bhusan Chandra Halder Memorial Seva Sadan, Biren Roy Road(West), Vill+ P.O. Jote Shibrampur, Dist- 24 Parganas ( S) Kolkata-141 and their workman Chandana Mondal, New Samanny Park, Joth Shibrampur, P.S. Maheshtala, 24 Pgs (S)Kolkata-141 regarding the issues being a matter specified in the Second schedule of the Industrial Dispute act, 1947 (14of 1947);

AND WHEREAS the workman has filed an application directly under sub-section 2 of Section 2A of the Industrial Dispute act, 1947 (14of 1947) to the Judge, Eighth Industrial Tribunal Specified for this purpose under this Department Notification No. 101-IR dated 2.2.12;

AND WHEREAS the Judge of the said Industrial Tribunal heard the Parties and framed the following issues as the "Issue" of the said dispute;

**ISSUES**

1. Whether the consequential effect of termination of service under the veil of prolonged suspension of work is justified with effect from 03.08.2016?
2. To what relief is legally entitled by Smt. Chandana Mondal ?

AND WHEREAS the said Judge, Eighth Industrial Tribunal has submitted to the State Government its Award on the said Dispute.

NOW, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Governor is pleased hereby to publish the said Award as shown in the Annexure hereto.

**ANNEXURE**

(Attached herewith)

By order of the Governor,

*sd/r*

Deputy Secretary  
to the Government of West Bengal

2/2019

(2)

No. Labn. 1266/1(2) (IR-IR)

Dated .....11-03-19

Copy forwarded for information to :

1. The Judge, Eighth Industrial Tribunal with reference to his Memo No. 189-LT dated 07/02/2019.
2. The Joint Labour Commissioner (Statics), W.B., 6, Church Lane, Kolkata-700001.



Deputy Secretary

No. Labn. 1266/2(5) (IR-IR)

Dated .....11-03-19

Copy with a copy of the Award is forwarded for information &amp; necessary action to:

1. M/s : Shibrampur Bhusan Chandra Halder Memorial Seva Sadan, Biren Roy Road(West), Vill+ P.O. Jote Shibrampur, Dist- 24 Parganas ( S) Kolkata-141 .
2. Chandana Mondal, New Samanny Park, Joth Shibrampur, P.S.: Maheshtala, 24 Pgs (S)Kolkata-141 .
3. The Assistant Labour Commissioner, W.B., In-Charge of Labour Gazette.
4. The Labour Commissioner, W.B., New Secretariat Building (11<sup>th</sup> Floor), 1, Kiran Sankar Roy Road, Kolkata - 700001.
- ✓ 5. The O.S.D., IT Cell, Labour Department, with the request to cast the Award in the Department's website.



Deputy Secretary

BEFORE THE EIGHTH INDUSTRIAL TRIBUNAL, WEST BENGAL

PRESENT: **SHRI MADHU SUDAN DUTTA, JUDGE, EIGHTH INDUSTRIAL TRIBUNAL.**

**CASE NO.01/2A (2) of 2018**

SMT. CHANDANA MONDAL OF KRISHNARAMPUR, ASHUTI, MAHESHTALA,  
24 PARGANAS (SOUTH), KOLKATA- 700-141

.... Applicant

-VS-

M/S. SHIBRAMPUR BHUSAN CHANDRA HALDER HERMORIAL SEVA SADAN,  
BIREN ROY ROAD (WEST), VILL. & P.O. JOTE SHIBRAMPUR, P.S.  
MAHESHTALA, DISTRICT – 24 PARGANAS (SOUTH), KOLKATA- 700 141

....Opposite Party

**AWARD**

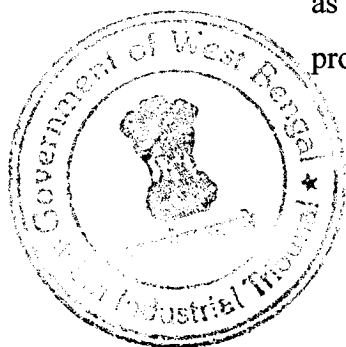
The case is filed by the applicant u/s 2A (2) of the Industrial Tribunal Act 1947 as amended, against her employer the O.P. M/S. Shibrapore Bhusan Chandra Halder Mermorial Seva Sadan, in connection with the termination of her service /cessation of employment under the veil of suspension by her employer seeking order that the same is illegal, reinstatement in service with full back wages and consequential benefits.

Record reveals that notice was sent to the O.P. on 30.10.2018. The applicant filed petition along with the postal track records of the notice sent to the O.P. from which it is evident that on 07.12.2018 the notice has been duly served upon the O.P. Company but as the O.P. Organisation in spite of receiving the notice did not appear, the instant case proceeded ex - parte after framing the following issues:

1. Whether the consequential effect of termination of service under the veil of prolonged suspension of work is justified with effect from 03.08.2016?
2. To what relief is legally entitled by Smt. Chandana Mondal?

*DECISION WITH REASONS*

The applicant in her evidence in chief has stated that she came in the employment roll of the O.P. Organisation from the month of October 2012 as Receptionist-Cum-Office Assistant and her salary was elevated from Rs. 2200/- to Rs. 4000/- approximately. She has further stated that she fairly well covered under the Section 2(s) of the Industrial Disputed Act, 1947 (as amended) being an employee and the nature of work was electrical, operational, technical and manual too. She has specifically stated that it is an utter dismay and highly shocking that the opposite party with a malafide intention issued a letter on 03.08.2016 allegedly fabricated fact which is far off from truth. She has further stated that in the said letter it was bolt from the blue to her that her service has been taken off placing her under 'Suspension' suffers as nullity, as such, in no time, she was ever offered any subsistence allowance during the period of her cessation of employment under the veil of 'Suspension' hits the relevant provisions of law, created a forced idleness putting her in woeful conditions and lead her to extreme financial crisis and starvation.



Further contention is that she requested the management on several times as well as appealed to the authority concerned to withdraw the letter of suspension as it has no leg to stand on with the arena of the legislature but it is very much painful that the management did not consider the appeals due to their arrogant and vindictive attitude and in consequence of which she had no other alternative left open rather compelled to send a Demand of Justice vide her letter dated 16.01.18, sent by Speed Post inter alia challenging the entire factum, so plotted by the management allegedly in respect of which the management did not consider the redressal grievances of her prayer till date and kept her in a dark-dungeon.

She has specifically contended that the O.P. Management suspended her employment under their whims and did not follow any disciplinary proceedings against her even no charge sheet or show cause notice was issued and/or any domestic enquiry was conducted.

Thereafter she took the shelter before the conciliatory machinery of the Government vide her letter dated 12.02.2018 (Ext. 6). Without getting any response from the office of the Labour Department she filed the instant case u/s 2A (2) of the Industrial Dispute Act, 1947 (as amended) after expiry of 45 days praying for the reinstatement in her service with full back wages and other consequential benefits.

Evidently no domestic enquiry was held against the applicant before her suspension, even she was not offered any allowance during the period of her cessation of employment, which definitely hits the relevant provision of law.

Now the question comes for consideration is that what was her last drawn salary? In her evidence in chief she claimed that after increment her salary enhanced to Rs. 4000/- and in support her submission she filed Ext. 9, which goes to show that her salary was enhanced to Rs. 3520/- w.e.f. 1<sup>st</sup> April 2016. Therefore, I am to hold that her last drawn salary was 3520/- and not Rs. 4000/-. Because a person may lie but documents not. The applicant in her evidence in chief in para 11 has specifically stated that she has not been gainfully employed elsewhere from the date of her suspension.

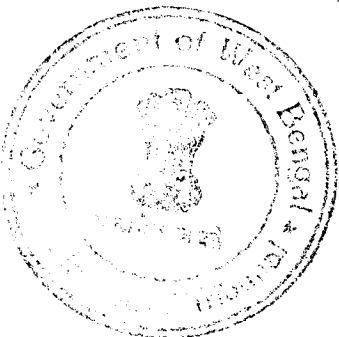
Therefore, in view of my above made discussion, I hold that the applicant has been able to prove her case ex-parte.

Thus, the issues are decided ex-parte in favour of the applicant.

Hence, it is,

**ORDERED**

Case No. 01/2A(2) of 2018 filed by Smt. Chandana Mondal against the O.P. M/s. Shibrampur Bhusan Chandra Halder Memorial Seva Sadan is allowed ex-parte but without cost.



The O.P. Company is directed to reinstate the applicant Smt. Chandana Mondal in service within 1(one) month from the date of publication of this Award.

The O.P. Company is also directed to pay all the back wages and other consequential benefits to the applicant with effect from the date of termination of her service /cessation of employment under the veil of suspension w.e.f. 03.08.2016.

This is my Award.

Let a copy of the Award be sent to the Addl. Chief Secretary, Government of West Bengal, Labour Department, New Secretariat Buildings, Kolkata – 700001 for information and necessary action.

Dictated & corrected by her.

Sd/- M. S. Dutta  
Judge  
Eighth Industrial Tribunal,

Sd/- M. S. Dutta  
(Madhu Sudan Dutta)  
Judge,  
Eighth Industrial Tribunal,  
Kolkata.  
04.02.2019

