

File No. LABR-22015(12)/1/2019-IR SEC-Dept. of LABOUR
1/35972/2019

Government of West Bengal
Labour Department
I.R. Branch
N.S.Buildings, 12th floor
1, K.S.Roy Road, Kol – 1.

No. Labr/46/(LC-IR)
22015(12)/1/2019

Dated, 18.01.2019.

ORDER

WHEREAS under the Government of West Bengal, Labour Department Order No. 919-IR/7L-09/08 dated 24.09.12 the Industrial Dispute between M/s Tepcon International (India)Ltd., Unit Shri Hanuman Jute Mills, Ghosury, J.N. Mukherjee Road, Howrah-7 and Shri Sobhnath Singh, C/o Ganesh Shankar Chowdhury, 82, Girish Ghosh Road, Belur Math, Howrah regarding the issue mentioned in the said order, being a matter specified in the Second Schedule to the Industrial Disputes Act, 1947 (14 of 1947), was referred for adjudication to the Judge, Seventh Industrial Tribunal, West Bengal;

AND WHEREAS, the Judge of the said 7th Industrial Tribunal, West Bengal, has submitted to the State Government its award on the said Industrial Dispute.

NOW, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Dispute 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/-

Deputy Secretary to the
Government of West Bengal.

No. Labr/46/1(5)/(LC-IR)

Dated, Kolkata, 18.01.19.

Copy, with a copy of the Award, forwarded for information and necessary action to :-

1. M/s Tepcon International (India) Ltd., Unit Shri Hanuman Jute Mills, Ghosury, J.N. Mukherjee Road, Howrah-7
2. Sri Sobhnath Singh, C/o Ganesh Shankar Chowdhury, 82, Girish Ghosh Road, Belur Math, Howrah.
3. The Assistant Labour Commissioner, West Bengal In-Charge, Labour Gazette.
4. The Labour Commissioner, West Bengal, New Secretariat Buildings, 1, K.S. Roy Road, 11th floor, Kolkata-700 001.
- ✓ 5. The O.S.D., IT Cell, Labour Department, with the request to cast the Award in the Department's website.

Deputy Secretary

No. Labr/46/2(2)/(LC-IR)

Dated, Kolkata, 18.01.19.

Copy forwarded for information to :-

1. The Judge, 7th Industrial Tribunal, West Bengal with reference to his Memo No.2276-L.T., dated 26.11.18.
2. The Joint Labour Commissioner(Statistics), West Bengal, 6, Church Lane, Kolkata-700 001.

Deputy Secretary

In the Seventh Industrial Tribunal, West Bengal
New Secretariat Buildings, Kolkata

Present: Sri Avani Pal Singh,
Judge, Seventh Industrial Tribunal.

Case No.VIII-49/2012

(vide Order of Reference No.919-I.R./IR/7L-09/08 dated 24.09.2012)

Shri Sobhnath Singh,
C/o. Ganesh Shankar Chowdhury,
82, Girish Ghosh Road, Belur Math, Howrah.

....**Workman**

-versus-

M/s. Tepcon International (India) Ltd.
Unit Shri Hanuman Jute Mills, Ghusury, J.N. Mukherjee Road,
Howrah-07.

....**OP/ Company**

A W A R D

Dated : 01-10-2018

1. The instant case came to be registered upon receipt of an Order of Reference No. 919-I.R./IR/7L-09/08 dated 24.09.2012 issued by Government of West Bengal, Department of Labour, whereby this Tribunal was asked to adjudicate an industrial dispute existing between M/s. Tepcon International (India) Ltd., Unit : Shri Hanuman Jute Mills, Ghusuri, J.N. Mukherjee Road, Howrah-07 and their workman Sri Sobhnath Singh, C/o. Ganesh Shankar Chowdhury, 82, Girish Ghosh Road, Belur Math, Howrah related to the following Issues :-

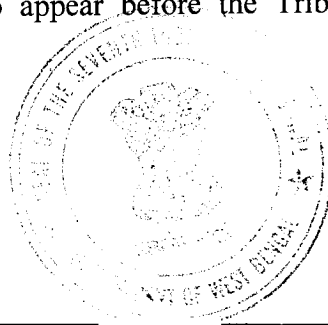
1. Whether the termination of service of Shri Sobhnath Singh by way of dismissal with effect from 24-08-2009 is justified ?

2. To what relief, if any, is the worker entitled ?

2. Upon registration of the aforesaid case on 07.11.2012, notices were issued to M/s. Tepcon International (India) Ltd., hereinafter referred to as the OP/Company, and also to Sri Sobhnath Singh (*since deceased and substituted by LRs*), hereinafter referred to as the workman, at their respective addresses given in the Order of Reference, with a direction upon them to appear before the Tribunal. Both the

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Judge, 7th Industrial Tribunal, W.B.

Kolkata, W.B.



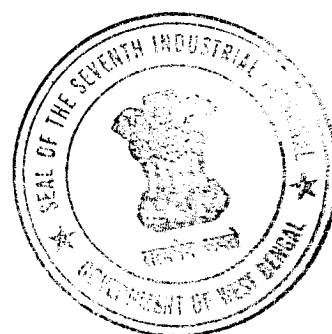
workman and the OP/Company duly appeared before this Tribunal and thereafter filed their respective statements and list of documents on various dates, whereupon the workman was directed on 08.05.2014 to lead his evidence.

3. The case of the workman, as comes out of his claim-statement, briefly is that he was working as a permanent clerk in the pay-section in the OP/Company since 30 years last, sincerely and diligently and that he used to prepare staff vouchers as per the direction of the management and/or his superior authority and that, each of such staff-voucher had the signatures of three persons, including himself and another person who would check and verify the voucher while the third person was the authorised signatory and that, without such verification and signatures of all the three signatories no payment could be made to the staff of the company, and further the workman stated that in his long career there were no complaints nor any allegations against him. It is the further case of the workman that, all of a sudden on 15.04.2009 he was served with a show-cause notice wherein it was mentioned that the staff vouchers for the month of March, 2009 had been scrutinised and some anomalies had been detected and further it had been alleged therein that such anomalies had been deliberately done by him for his own interest and accordingly the OP/Company had directed the workman to show-cause within 72 hours of receipt of such show-cause as to why disciplinary action would not be taken against him for such misconduct. It is the further case of the workman that he had replied to such show-cause on 17.04.2009 wherein he had stated that he was working under direct control of the General Manager and that all the staff-vouchers he had made were prepared on his instructions, given in presence of the Commercial Manager of that company and he had further stated that, being a subordinate staff, it was not possible for him to violate the instruction(s) of such superior officers. It is the further case that the OP/Company had thereafter directed to hold a domestic enquiry into the charges against him and

that, he had participated in such enquiry which was an eyewash and not done in accordance with law and was thus liable to be quashed. It is the further case of the workman that on 03.07.2009 a copy of the enquiry report was forwarded to him and he had raised strong objections thereto in writing, however the OP/Company in a pre-determined manner had dismissed the workman just to avoid **payment of retiral benefits to him** and that such dismissal dated 24.08.2009 was completely illegal and was liable to be set-aside and that, he was rendered unemployed and was suffering from huge financial crisis, being the only earning member of his family, and as such he was entitled to reinstatement with full back-wages and consequential benefits.

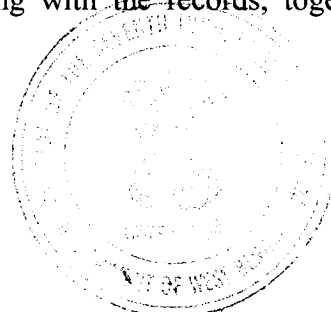
4. Rebutting the claims of the workman, the OP/Company raised the point of maintainability and such other objections, and stated that the **workman had already retired from service as per the certified standing orders** of the company and hence the instant case could not have been filed by him. The OP/Company, in its written statement, stated that the workman had committed serious misconduct of theft of fund, money, fraud and had dishonestly caused heavy loss to the company and accordingly the management had conducted proper domestic enquiry and all the principles of natural justice were observed by the Enquiry Officer, who had recorded the findings of guilt against the workman in his report, a copy of which was duly forwarded to the workman and he had made a representation against it, and that, the management upon considering both the enquiry report and such representation against it, had decided to dismiss the employee from his service by letter dated 24.08.2009. It was further contended on behalf of the OP/Company that the dismissal of the workman was lawful, done after holding proper domestic enquiry and upon a finding therein pointing to serious misconduct and hence the workman was not entitled to any relief in the instant case.

sd/-
Judge, 7th Industrial Tribunal, W.B.



5. Records further reveal that on 20.06.2014 Sobhnath Singh examined himself as PW-1 by tendering his affidavit-in-chief and he was cross-examined in part on that date and thereafter, on the prayers of the parties the matter kept getting adjourned on the ground that the parties were exploring a settlement between themselves and further, records reveal that **such further cross-examination of PW-1/workman was never completed** as on 09.03.2015, it was reported to this Tribunal that the workman had expired on 08.02.2015 and it was further reported that since his death certificate was not available proper steps could not be taken by his LRs for substitution.
6. Records further reveal that on 16.02.2016, a prayer for substitution was considered and allowed by this Tribunal and Anup Kumar Singh came to be substituted in place and stead of the Late Sobhnath Singh and further, this Tribunal directed that the evidence of Late Sobhnath Singh as PW-1 be expunged, and the substituted applicant was asked to lead evidence afresh.
7. It further reveals that on 01.12.2017, noting that the OP/Company had stopped appearing in the matter over three consecutive dates, this Tribunal directed that the matter shall proceed **ex-parte** against them, and it has so proceeded till date.
8. Records reveal that on 29.06.2018 Anup Kumar Singh, examined himself as PW-1, on oath, by tendering his affidavit-in-chief and during his such testimony, PW-1 **adopted the testimony of his father Sobhnath Singh** (the workman) including the documents that were marked at his instance and further, PW-1 deposed that such affidavit-in-chief as well as those documents may be taken as evidence on behalf of all the legal heirs of Sobhnath Singh, in respect of the claims as were made in the original application filed by their father, and accordingly the examination-in-chief dated 20.06.2014 of the workman, lying with ~~the~~ records, together with exhibits

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marked then were taken into evidence and freshly marked as **Exhibits-1 to 17 series**. That apart, copy of death certificate of Sobhnath Singh, issued by Baranagar Municipality (**Exhibit-18**), declaration by family members together with its translation (**Exhibit-19**), copy of voter identity card of PW-1 (**Exhibit-20**) and legal heir certificate issued by the native Gram Panchayat of Late Sobhnath Singh together with its translation (**Exhibit-21**) were all taken into evidence and marked accordingly.

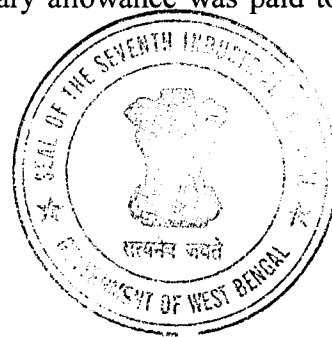
9. While deposing on behalf of the deceased workman, PW-1 Anup Kumar Singh testified that his father Sobhnath Singh had filed the instant case against his employer M/s. Tepcon International (India) Ltd. at its Unit – Hanuman Jute Mill, in respect of illegal termination of his services by the said employer and that his father had died on 08.02.2015 leaving behind his wife and three sons and two daughters, and all such legal heirs had duly authorised him by way of a declaration in Hindi (*Exhibit-19*) to depose on their behalf in the instant case. PW-1 further testified that during the pendency of this matter, his father Sobhnath Singh had adduced evidence by examining himself and had also exhibited copies of relevant documents which have been marked and that the **substituted LRs sought to rely on such testimony and documents** to prove the case against the OP/Company.

10. In light of such testimony of PW-1, adopting the entire affidavit-in-chief that had been tendered by the original-workman, this Tribunal proceeded to examine the facts stated therein. The original workman had testified that he had worked as a permanent clerk in the pay-section of the OP/Company since past 37 years sincerely and he used to prepare the staff vouchers as per the directions / instructions of the superior officers, and further, he had no right to prepare such vouchers without the direction of the management and every such voucher was required to be signed by three signatories, firstly by the person who prepared the voucher, secondly by the person who would check and verify the voucher, and thirdly by the authorised signatory on



behalf of the company, and it was further testified that without verification of a voucher no payment could be made to any staff of the company. It further appears from such testimony of the original workman that all of a sudden the officer-in-chief of the company by letter dated 15.04.2009 had issued a show-cause regarding some anomalies detected in the vouchers(s) for the month of March, 2009 and that he had given detailed reply to such show-cause on 17.04.2009 and stated that he was working under the direct control of the General Manager / Commercial Manager and in making of the staff-vouchers, he had totally followed the instructions of the General Manger Mr. Manna, passed in presence of the Commercial Manager Mr. Chandra. The original workman had further testified that on 18.04.2009, the officer-in-charge of his company had informed him that a domestic enquiry would be held against him and further on 02.06.2009 the officer-in-charge had informed him that in the charge-sheet there were some typographical mistakes and that, such letter rectifying the contents of the charge-sheet was issued after the engagement of the Enquiry Officer. It was further testified by the original workman that the management's witness Sri Duzari had deposed before the Enquiry Officer and stated that **Sobhnath Singh, S.C. Jain and A.K. Chandra were the three signing authorities for every voucher** yet the enquiry officer never summoned Mr. Manna or Mr. Chandra and that the real facts had not been disclosed before the enquiry and that, at the end of the enquiry, a copy of the Enquiry Report were sent by the General Manager (P & A) on 03.07.2009 to him and that he had duly replied to such Report, though the General Manager by letter dated 24.08.2009 had dismissed him from his service. The original workman had further testified that he had made a representation against such dismissal before the Deputy Labour Commissioner, Howrah and thereafter the Labour Department issued the Order of Reference on the basis of which the instant case came to be registered. The original workman further testified that at the time of his such dismissal, no monetary allowance was paid to him and that he

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was unemployed and suffering from financial crisis since the date of his dismissal, and further claimed that he was entitled to provident fund, gratuity, bonus for one year and leave encashment for 37 days from the OP/Company. On the point of relief, the original workman had sought for reinstatement in service with consequential benefits and full back wages.

11. Having noted the testimony of the original workman, this Tribunal proceeded to examine the documentary evidence (*Exhibit-1 to Exhibit-21 series*), all of which had been marked and taken into evidence **ex-parte**, and from the show-cause notice / charge-sheet (*Exhibit-10*), issued by the OP/Company it appears that the original workman had been directed thereby to explain the anomalies that had been detected upon scrutiny of eight (8) staff vouchers prepared by him for the month of March, 2009 and it was further alleged therein that he had committed forgery for his own interest causing immense financial loss to the company and that such acts on his part were gross misconduct according to the **Standing Orders**, Section 14(c) (Theft, Fraud or Dishonesty in connection with the employer's business or property) and Section 14 (c) (Habitual Negligence or Neglect of Work) and further, it appears therefrom (*Exhibit-10*) that the original workman was suspended with immediate effect and was granted 72 hours to reply to such charge-sheet in writing failing which the management had reserved its right to proceed in accordance with law without further reference to him. On perusal of the reply dated 17.04.2009 of the original workman (*Exhibit-11*) to the said show-cause notice / charge-sheet, this Tribunal finds that he had stated therein that he was a clerk who was working under the direct control of the General Manager / Commercial Manager and in respect of preparation of supervisory staff-voucher(s) he had totally followed the instructions of his General Manager Mr. Manna in presence of Mr. Chandra, the Commercial Manager and that it was Sri Manna as well as Sri Chandra who had told him that the concerned eight (8)

supervisory staff would get their full wages for that month, and that the salary for the period of their absence would be calculated separately, and on receiving such instructions from Mr. Manna the original workman had raised strong objection thereto, seeking clarification(s) as to how salary vouchers could be prepared for staff who were absent, to which Sri Manna had taken him to the chambers of Mr. Chandra, who too had supported the instructions of Sri Manna, and that being a subordinate staff it was not possible for him (original workman) to violate their instructions and hence he had made the staff-vouchers for full salary of the month. Referring to the proverbial 'sacrificial goat', the original workman contended therein that he had only obeyed instructions of his superior bosses and he had no other interest and that he could not have disobeyed the instructions of his immediate bosses and, referring to his thirty (30) years long career without any allegation or blemish, the original workman had also prayed that he may be excused for such incident and that his suspension may be revoked and he be allowed to resume his duties at the earliest.

12. Having noted the contents of the charge-sheet (*Exhibit-10*) as well as of the reply thereto by the workman (*Exhibit-11*), this Tribunal proceeded to examine the minutes of the enquiry proceedings (*Exhibit-9*), wherefrom it appears that the said enquiry was held on five (5) dates being 06.05.2009, 14.05.2009, 21.05.2009, 27.05.2009 & 03.06.2009 in presence of the management's representative Subrata Tola and the charged employee / original workman Sobhnath Singh and his authorised representative Sri Ashok Kumar Jha, and it further appears that, on 06.05.2009 the Enquiry Officer had explained the 'procedure of enquiry' to both the parties and further, on consent of the workman and his representative, the Enquiry Officer had written down the proceedings in English with the condition that the contents thereof would be explained to them in Bengali. It further appears that on the second date, 14.05.2009, the Enquiry Officer permitted the management representative to file the

documents on which the management sought to rely and copies of those documents were handed over to the original workman, and further it appears that on the third date, 21.05.2009, the management witness O.P. Duzari was allowed to rely on and identify seven (7) vouchers that were marked as Exhibit-1 collectively therein, and further on 27.05.2009, the management representative was permitted to file copies of letter dated 09.05.2009, letter of Sri R.K. Tiwari and standing orders of the OP/Company on the ground that those documents were very much essential for conducting the enquiry properly, and on the same date i.e. 27.05.2009, the management witness O.P. Duzari identified the letter of Sri R.K. Tiwari, marked Exhibit-4 therein, letter dated 09.05.2009 of Sri Kashinath Dey, marked Exhibit-5 therein, six pages of attendance register for the month of March, 2009, marked Exhibit-6 therein, and the Standing Orders of the mill, marked Exhibit-7 therein. On 03.06.2009, a letter was submitted on behalf of the management whereby the errors in the charge-sheet were sought to be corrected and such letter was marked Exhibit-9 in the said enquiry, purportedly on consent of both the parties.

13. From the minutes of the enquiry proceedings (*Exhibit-9*), as well as from the facts emerging therefrom, it is clear that **copies of documents relied upon by the management were produced for the first time on the days that the enquiry was being held**, as aforesaid, and such documents also included a letter whereby the language of the charge-sheet was sought to be altered, on the grounds of typographical mistake. Such facts make it abundantly clear that copies of documents, relied upon by the management were not served on the charge-sheeted employee / workman together with the show-cause/charge-sheet (*Exhibit-10*) and while admitting such documents during the enquiry, the **Enquiry Officer appears to have failed to ascertain if those documents had been served earlier** on the charge-sheeted employee / workman and if the workman had ~~any~~ opportunity to examine those

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Judge, 7th Industrial Tribunal, W.B.

Judge
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documents prior to framing his reply to the charge-sheet (*Exhibit-11*). That apart, it also appears that the Enquiry Officer permitted the charge-sheet to be altered without granting additional opportunity to the charge-sheeted employee / workman to file additional reply to such amended charge-sheet. It was also noted that Enquiry Officer appears to have acted mechanically in allowing such documents, which had not been served upon the employee earlier, to be admitted in evidence, and further the Enquiry Officer appears to have been unmindful of the fact that the language of the charge-sheet could not be permitted to be altered without affording an opportunity to the charged employee to meet such alteration, and such denial of opportunity was certainly against the established principles of natural justice. Further, with a view to ascertain if the Enquiry Officer had relied upon such unserved documents, brought in during enquiry, as aforesaid, this Tribunal examined a copy of the Enquiry Report dated 15.06.2009 lying with the records that were filed on behalf of the OP/Company (though the same was not formally exhibited as the matter had proceeded *ex-parte*, and such examination reveals that the Enquiry Officer, while discussing the evidence (*at pages 5 and 6*) held that the language of the charge-sheet as well as the reply of the charged employee to such charge-sheet made it clear that there were some anomalies for which the company had faced financial loss and further held that such anomalies were made in the said payment vouchers, marked *Exhibit-1 therein*, and that it was not possible for any higher management (*sic*) to check or scrutiny all relating papers all the time. Clearly, the Enquiry Officer had relied on the documents which had not been served on the charged employee, together with the charge-sheet, and hence the report as well as the findings of the Enquiry Officer therein, as well as the entire process of the enquiry would be vitiated by such **non-supply of relevant documents to the charged employee together with the show-cause notice / charge-sheet**, thereby causing serious prejudice to the charged employee / workman in meeting the charge against him and thereby violating the principles of natural

justice. The process of the enquiry having been vitiated by aforesaid non-supply of documents, the enquiry cannot be held to be lawful and the same is liable to be set-aside.

14. In this connection, this Tribunal further proceeded to examine the representation dated 17.07.2009 of the original workman against the Enquiry Report (*Exhibit-1*) and therefrom it appears that he had specifically sought a re-enquiry on the ground that the officials i.e. Sri A.K. Chandra and Sri B. Manna, were released prior to the enquiry and further, in the said representation (*Exhibit-1*), the original workman had also stated that the enquiry appeared to be motivated as, despite him mentioning the name of officials involved in the matter in his reply, those officials were not called upon for the enquiry, and thus evidence on record indicates that the workman had brought to the notice of the management that the enquiry report could not be relied upon and that he had also sought re-enquiry on the grounds stated therein. In such light of the matter, this Tribunal proceeded to further examine the order of dismissal of the workman (*Exhibit-2*) and found that the said representation dated 17.07.2009 (*Exhibit-1*) was before the competent authority, together with the Enquiry Report, however the competent authority failed to apply its mind and to meet the specific grounds that had been raised by the charge-sheeted employee and further, it appears that the competent authority neither discussed the grounds taken by the workman nor answered the same, and further it appears that besides the Enquiry Report, there was no other material before the competent authority, **which appears to have mechanically ordered the dismissal of the charge-sheeted employee / workman** from the services and further, there was nothing on record anywhere to sustain the serious charge of Theft, Fraud or Dishonesty in connection with employer's business or property or to sustain the other charge of Habitual negligence or neglect of work against the workman.

sd/-
Judge, 7th Industrial Tribunal, W.B.



15. Further, this Tribunal proceeded to examine the appeal dated 04.12.2009 preferred by the original workman against the said Enquiry Report (*Exhibit-13*) and found that he had raised the ground that the defence case was not considered by the Enquiry Officer at all in his Enquiry Report and that the order of dismissal dated 24.08.2009 passed by some higher officials (*Exhibit-2*), relying upon such Enquiry Report, was illegal and was liable to be quashed and further the original workman had also stated that he was entitled to be reinstated with full back-wages from the date of dismissal to such date of reinstatement. Having examined the order of dismissal (*Exhibit-2*), as aforesaid, this Tribunal finds substance in the contentions of the workman in his said appeal (*Exhibit-13*) that the Enquiry Officer had not considered the defence case at all and neither considered the documents that had been submitted on behalf of the charged employee during such enquiry, and for such reason also this Tribunal finds that the Enquiry Report cannot be sustained.

16. In the aforesaid connection, and in light of the unchallenged testimony of PW-1 as well as the documentary evidence brought in support thereof, this Tribunal finds that evidence on record clearly establishes that the disciplinary action, including the said Enquiry as well as the order of dismissal of the workman dated 24.8.2009 (*Exhibit-2*), cannot be held to be lawful and/or justified and in accordance with principles of natural justice, and accordingly this Tribunal holds that the termination of service of Sobhnath Singh by the OP/Company by way of dismissal with effect from 24.08.2009 was unjustified and unlawful, and the same is liable to be set aside.

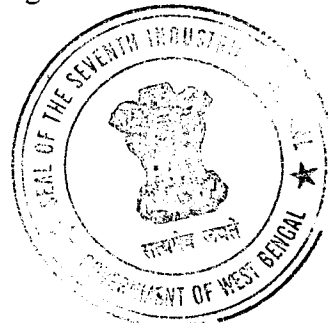
The Issue No. 1 of the Reference is answered accordingly.

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 Judge, 7th Industrial Tribunal, W.B.
 Judge
 Seventh Industrial Tribunal
 Kolkata, W.B.



17. In light of the findings of this Tribunal in respect of the Issue No. 1, as aforesaid, it is imperative to examine the **Issue No.2** ie: *To what relief, if any, is the worker entitled?* In the present case, this Tribunal has already found and held that the dismissal of the workman by order dated 24.08.2009 by the OP/Company was neither lawful nor justified, in the facts and circumstances as have come out from the materials on record and thus, the relief(s) would flow from the provisions of Section 11A of the Industrial Tribunal Act 1947, which empowers the adjudicatory authority to direct, by its Award, setting aside any such order of dismissal and to further direct the reinstatement of the workman on such terms and conditions as thought fit, or grant such other relief, as the circumstances of the case may require.
18. In the present case, it is already on record that the original-workman has died during pendency of this proceeding and that his legal heirs have continued to prosecute his cause against the OP/Company. Clearly, the relief of reinstatement would not lie in the present case and further, in the facts and circumstances as come out from the materials on record, this Tribunal is of the view that payment of monetary compensation to the legal heirs would meet the ends of justice.
19. From the ex-parte evidence on record, more particularly the copy of his death certificate (*Exhibit-18*), it appears that on the date of his death 08.02.2015, the original-workman was about 65 years old and thus, at the time of passing of his order of his dismissal on 24.08.2009, he would have been **very nearly his age of retirement** ie: 58 years, as per Standing Orders of the Company [*Exhibit-16, clause13(c)*]. That apart, from the adopted-affidavit-in-chief of the workman (at cl.7 thereof) it appears that he has prayed for provident fund, gratuity and bonus for one year as well as leave-encashment for 37 days from OP/Company, besides praying for reinstatement in service, with full back-wages and consequential benefits, though he

sd/-
Judge, 7th Industrial Tribunal, W.B.



has nowhere claimed that he was not paid salary till the month of his dismissal or that he was not paid wages due, till his dismissal from service, though it was stated (cl.6 thereof) that no monetary allowance was paid to him during his dismissal, but there is no such statement in respect of his wages and/or salary. However, from the charge-sheet/show-cause notice dated 15.04.2009 (*Exhibit-10*) it appears that in contemplation of the enquiry, the workman was suspended with immediate effect and there is nothing on record to indicate that the workman was paid his wages thereafter or that such suspension was lifted any time before passing of the said order of dismissal (*Exhibit- 2*) on 24.08.2009. Clearly, and in light of the unchallenged pleading (para 14) in the application of the workman that his last drawn wages were about Rs. 6,080.00 per month (rounded of), this Tribunal finds that on the date of his said dismissal 24.08.2009, the workman would be entitled to receive wages for the months from April to August 2009, **as per Clause 14(f) of the Standing Orders (*Exhibit-16*)**, as well as wages till his date of retirement, as per Service Record Card of the workman maintained in the office(s) of the Company in terms of **Clause 3(a) of the Standing Orders (*Exhibit-16*)**, **besides his retiral benefits on account of his long service to the OP/Company, as per policy of the said Company**, payable to his legal heirs.

The **Issue No. 2** is answered accordingly.

HENCE, IT IS

ORDERED

That, the order of dismissal dated 24.08.2009 issued by M/s. Tepcon International (India) Limited, Unit- Shree Hanuman Jute Mills, 76 J. N. Mukherjee Road, Ghosuri, Howrah, thereby dismissing the services of their workman Late Shobhnath Singh, Emp. Code 22168, Clerk, Pay Section, be and the same is held to be unlawful and unjustified and is accordingly set-aside;

sd/-
Judge, 7th Industrial Tribunal, W.B.

Judge
Seventh Industrial Tribunal
Kolkata, W.B.



That, the said Late Shobhnath Singh having died during pendency of this case, there shall be no order of reinstatement, however it is held that the legal heirs of the deceased are found entitled, through their legal representative Anup Kumar Singh, to receive monetary compensation equivalent to wages of the workman for the months from April to August 2009, **as per Clause 14(f) of the Standing Orders**, as well as wages and benefits of the workman till his date of retirement, as per service record of the workman maintained in the office(s) of the Company, in terms of **Clause 3(a) of the Standing Orders**, **besides retiral benefits of the workman** on account of his unblemished long service to the Company, **as per policy of the said Company**.

The aforesaid shall constitute the Award, passed **ex-parte** in the instant case No. **VIII-49/2012**, is disposed of.

Copies of the aforesaid ex-parte Award be sent to the concerned authorities.

Dictated & corrected by me

sd/-

Judge
Seventh Industrial Tribunal
Kolkata, W.B.

sd/-

Judge,
Seventh Industrial Tribunal
Kolkata
01/10/2018

Judge
Seventh Industrial Tribunal

sd/-
Judge, 7th Industrial Tribunal, W.B.

Judge
Seventh Industrial Tribunal
Kolkata, W.B.

