

I/27631/2018

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

Date : 24.09.2018

No. Labr/731/(LC-IR)/IR/11L-28/18

ORDER

WHEREAS under the Government of West Bengal, Labour Department Order No. 503 – IR/11L-07/2000 dated 26.05.2009 the Industrial Dispute between M/s Hotel Hindusthan International, 235/1, A.J.C. Bose Road, Kolkata - 700020 and their employee Ms. Ruth Masih, represented by Hotel Hindusthan International Karmachari Union (Regd. No. 13078), 249, Bipin Behari Ganguly Street, Kolkata - 700012 regarding the issue mentioned in the said order, being a matter specified in the Second Schedule to the Industrial Dispute Act, 1947 (14 of 1947), was referred for adjudication to the Judge, First Industrial Tribunal, West Bengal.

AND WHEREAS the Judge of the said First 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,



Secretary to the
Government of West Bengal

Date : 24.09.2018

No. Labr/731/1(5)/(LC-IR)

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

1. M/s Hotel Hindusthan International, 235/1, A.J.C. Bose Road, Kolkata - 700020.
2. Secretary, Hotel Hindusthan International Karmachari Union (Regd. No. 13078), 249, Bipin Behari Ganguly Street, Kolkata - 700012.
3. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The Labour Commissioner, W.B. New Secretariat Buildings, 1, K. S. Roy Road, 11th Floor, Kolkata- 700001.
- ✓ 5. The O.S.D., IT Cell, Labour Department, with the request to cast the Award in the Department's website.



Secretary to the
Government of West Bengal

Date : 24.09.2018

No Labr/731/2(2)/(LC-IR)

Copy forwarded for information to :

1. The Judge, First Industrial Tribunal, West Bengal with reference to his Memo No. 1643-LT dated 09.08.18.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.



Secretary to the
Government of West Bengal

24/9/18

In the matter of an industrial dispute between M/s. Hotel Hindusthan International, 235/1, A.J.C. Bose Road, Kolkata-700 020 and their employee Ms. Ruth Masih, represented by Hotel Hindusthan International Karmachari Union (Regd. No. 13078), 249, Bipin Behari Ganguly Street, Kolkata-700 012.

(CASE NO. VIII-22/09)

BEFORE THE FIRST INDUSTRIAL TRIBUNAL: WEST BENGAL

PRESENT

SHRI TANMOY GUPTA, JUDGE,
FIRST INDUSTRIAL TRIBUNAL, KOLKATA

A W A R D

The instant case arose out of an order of reference vide G.O.No. 503-I.R./IR.11L-07/2000, dated 26.05.2009 issued by the Labour Department, Govt. of West Bengal by which an industrial dispute between M/s. Hotel Hindusthan International, 235/1, A.J.C. Bose Road, Kolkata-700 020 and their employee Ms. Ruth Masih, represented by Hotel Hindusthan International Karmachari Union (Regd. No. 13078), 249, Bipin Behari Ganguly Street, Kolkata-700 012 has been referred to this tribunal for adjudication.

The issues specified in the order of reference are as follows:

I S S U E(S)

1. Whether the termination of service of Ms. Ruth Masih by the management of M/s. Hotel Hindusthan International with effect from 03.07.2006 is justified?
2. What relief, if any, is he entitled to?

The aforesaid reference issued by the Labour Department, Govt. of West Bengal and the same was received by this tribunal on 15.06.2009. Thereafter, this tribunal issued notices to the parties directing them to appear on 01.07.2009. The notices were duly served upon the parties and the parties accordingly appeared and authority of representative of the parties were duly filed. Thereafter, the parties filed written statement. The written statement for the workman was filed by the Vice President of Hotel Hindusthan International Karmachari Union. The hotel management also filed written statement duly signed by the authorised representative of the Hotel Hindusthan International and also Ld. Advocate representing the management. The parties also filed documents in support of their contention made out in the written statement. The evidence of the workman was recorded and she was cross examined. Then the date was fixed for the Hotel Management/Opposite Party. At this juncture the parties submitted before this court that there is a possibility of amicable settlement and the party sought for time to explore the possibility of settlement.



Thereafter, to-day (31.07.2018) a joint petition is filed by the parties together with a Memorandum of Settlement praying for passing an Award in terms of said Memorandum of Settlement. On the point of such settlement, the statement of the workman Ms. Ruth Masih was recorded on oath. The statement of Shibdas Guha Biswas, the Vice President of the Hotel Hindusthan International Karmochari Union who signed the written statement for the workman is also recorded on oath. Similarly, the statement of Mr. Mahendra Kumar Samal, the authorised representative of the Hotel Hindusthan International management is also recorded on oath.

The workman has stated that during pendency of the proceeding at the intervention of the union and the other well wishers subject matter in dispute has been amicably settled by and between her and the hotel management and a Memorandum of Settlement has been prepared duly signed by her and the authorised signatory of the hotel management. She has further stated that the same has also signed by Sri Shibdas Guha Biswas, Vice President of the union as a witness. The workman has stated further that a joint petition is also filed by her, Mr. M. K. Samal and Sri Shibdas Guha Biswas praying for passing an award in terms of such Memorandum of Settlement. The workman also stated that she signed those documents voluntarily on perusal of its contents and nobody induced her to file and sign those documents. She has also stated that the Hotel management has paid to her a sum of Rs. 9,84,726/- by issuing a Demand Draft in her name being no. 096694 dated 23.07.2018 drawn on Central Bank of India towards full and final settlement of all dues and claims. She then stated that another sum of Rs. 45,274/- has been paid to her by hotel management by issuing another demand draft in her name being no. 096693 dated 23.07.2018 drawn on aforesaid bank as on account of Gratuity. She has stated that she has no further claim against the hotel management in any manner in view of such settlement and prayed for passing award in terms of such settlement.

Sri Shibdas Guha Biswas the Vice President of Hotel Hindusthan International Karmachari Union has stated that all through he in the capacity of Vice President of the Union representing the workman before this tribunal. He has corroborated the statement made by workman. He has stated that he has gone through the joint petition of compromise and the Memorandum of Settlement filed by the workman and the hotel management and signed the Memorandum of Settlement as a witness. He has also corroborated the statement made by workman regarding payment of aforesaid amount to the workman by hotel management by issuing two demand drafts.

Mr. M.K. Samal has deposed for hotel management by saying that he has now attached with M/s. Hotel Hindusthan International in the capacity of Corporate



HR Manager. He has stated that the matter in disputes has been amicably settled within the hotel management and the workman at the intervention of well wishers and the union representing the workman. He has then stated that the Memorandum of Settlement has been signed by him for the hotel management and also by the workman herself and by the Vice President of the Union. He has also stated that the same has been filed and signed by them at their own accord and nobody induced them to make such settlement. He has also stated that the hotel management has paid a sum of Rs. 10,30,000/- by issuing two demand drafts dated 23.07.2018 drawn on Central Bank of India in the name of workman. He has also prayed for passing an award in terms of such settlement.

Considered the statement of the workman, the Vice President of the Union representing the workman and also the authorised signatory of the hotel management. Perused the joint petition of compromise filed by the workman, hotel management and the Vice President of the union representing the workman. Perused also the Memorandum of Settlement duly signed by the workman and the authorised signatory of the hotel management which is also signed by the Vice President of the union as a witness. It appears that the said joint petition of compromise and the Memorandum of Settlement has been filed by the parties voluntarily. The terms of the settlement appear to be valid and legal. That being so, I find no illegal impediment to accept the said Memorandum of Settlement. Consequently, the joint petition filed by the parties and the Vice President of the union representing the workman is allowed. Accordingly, I hold that an award should be passed as prayed for the parties in terms of the said joint petition of compromise and Memorandum of Settlement.

Hence,

ORDERED

that the joint petition and Memorandum of Settlement dated 31.07.2018 filed by the parties are allowed. Let an award be passed in terms of the Memorandum of Settlement dated 31.07.2018 filed by the parties which do from part of the Award along with the annexure if any. The instant case is thus disposed of accordingly.

This is my AWARD.

Dictated & corrected by me.

Sd/- T. Gupta

Judge.



Sd/- T. Gupta

Judge,
First Industrial Tribunal
31.07.2018

JUDGE
FIRST INDUSTRIAL TRIBUNAL
WEST BENGAL

MEMORANDUM OF SETTLEMENT

Under Section 2(p) of the Industrial Disputes Act, 1947
read with Rule 68 of the Industrial Dispute Rules, 1958.

01. Name and address of
The Parties

1. Messrs Hotel Hindusthan
International, 235/1, A.J.C
Bose Road, Kolkata-700
023.

And

2. Ms. Ruth Masih
(Name of the Workman)
Represented by M/s. Hotel
Hindusthan International
Karmachari Union

02. Representing the Employer 1. Mr. Mahendra Kumar Samal
Corporate HR Manager.

03. Representing the Workman 1. Ms. Ruth Masih herself.

04. Short Recital of the case :

Ms. Ruth Masih was an employee of M/s. Hotel
Hindusthan International who was terminated from the
service of the company with effect from 03.07.2006. The
union in the name and style as Hotel Hindusthan
International Karmachari Union raised a dispute with the
management of the company on behalf of Ms. Ruth Masih
and thereafter the said union also raised a dispute with the
Labour Department, Government of West Bengal. Ultimately,
by an order of reference no. 503-IR/IR/11L-07/2000 dated

Mahendra Kumar Samal,

~~31/7/18~~
Ruth Masih

26.05.2009, the same has been referred to the learned First Industrial Tribunal, Government of West Bengal for adjudication. The case has been registered as Reference Case No. VIII-23 of 2009

During the pendency of the matter before the learned Tribunal discussions were held in an atmosphere of cordiality between the parties for an amicable settlement of the matter and accordingly the matter has been settled by and between the parties on following terms:

4. **TERMS AND CONDITIONS :**

a. It is agreed and accepted by Ms. Ruth Masih that she has got no dispute with the management of the company regarding the severance of employer – employee relationship between herself and the company and she accepts the same without any reservation in any manner what so ever.

b. It is agreed and accepted by Ms. Ruth Masih that she shall not pray for reinstatement/reemployment in the company in any manner what so ever including back wages before any Authority, Labour Court, Tribunal or any Court of Law nor shall she authorize anybody including

Maheswari Anon Sany.

~~Goutam Prasad~~
31/9/18
R. Masih

Hotel Hindusthan International Karmachari Union to raise any demand or dispute on her behalf in connection with the matter as aforesaid.

c. It is agreed and accepted by both the parties to the instant settlement that Ms. Ruth Masih would be paid to the following effect by the Company in full and final settlement of her all dues and claims statutory or otherwise against the company including the claim for reinstatement, reemployment or fresh employment including back wages: (for the period of July 2006 to 31/07/2018)

<u>Sl. No.</u>	<u>Heads of account</u>	<u>Amount (Rs.)</u>
01.	Settlement amount	9,83,153/-
02.	Gratuity	45,274/-
03.	Leave wages	1573/-
Total		Rs. 10,30,000/-

d. It is agreed that the sum of Rs. 9,84,726/- (in total) (Rupees nine lakhs eighty four thousand seven hundred twenty six) only as aforesaid is being paid to her vide Demand Draft no. 096694 dated 23.07.2018 drawn on Central Bank of India (02328-SSB Kolkata) in full and final settlement of her all dues and claims statutory or otherwise against the company including leave wages. The amount to the tune of Rs. 45,274/- (Rupees forty five thousand two

Mahendra Chaman Sanyal.

~~Gurpreet Biswas~~
31/7/18

R. Masih

hundred seventy four) only paid by Demand Draft No. 096693 Dated 23.07.2018 drawn on Central Bank of India (SSB Kolkata) on account of Gratuity has been calculated correctly for the period she served as an employee in the company.

She further agreed and accepted that the amount of gratuity being Rs. 45,274/- (Rupees forty five thousand two hundred seventy four) only has been correctly calculated by the management of the company considering her period of service prior to severance of employer – employee relationship. She also undertakes that she shall never raise any claim either before the management or before any statutory authority regarding the said amount nor shall authorize any person to claim any amount on her behalf. In case, she makes any departure from her commitment, she shall refund the entire amount as mentioned in clause (c) of the instant settlement. So far as the amount of leave wages is concerned she confirms that the same has been calculated correctly as she has got neither any reservation nor any claim on such account.

Ms. Ruth Masih confirms that consequent upon payment of Rs. 10,30,000/- (in total) (Rupees ten lakhs thirty

Mohendra Kumar Sanyal.

~~Ankur Mishra~~
31/7/18
R. Masih

thousand) only she has got no claims statutory or otherwise in respect of the company nor shall she herself or authorise anybody including any union to prefer any claim, statutory or otherwise before any Authority, Labour Court, Tribunal or any Court of Law for preferring any claim for any amount against the company in any manner what so ever including for reinstatement, reemployment, fresh employment or back wages. So far as the provident fund amount is concerned, the management will render fullest co-operation in the event she takes appropriate steps under the provisions of Employees' Provident Fund and Miscellaneous Provisions Act, 1952.

e. It is confirmed by Ms. Ruth Masih that consequent upon her receiving the said amount of Rs. 10,30,000/- (in total) (Rupees ten lakhs thirty thousand) only, she shall grant a receipt as a token of her acceptance of the said amount in full and final settlement of her all dues and claims against the company.

f. It is confirmed by Ms. Ruth Masih that consequent upon the payment of Rs. 10,30,000/- (in total) (Rupees ten lakhs thirty thousand) only she is not interested to proceed with the Reference Case No. VIII-23/2009

Mahendra Uman Sonay

~~Sanjay Biswas~~
31/7/18
R. Masih

pending before the learned First Industrial Tribunal, Government of West Bengal in any manner whatsoever.

g. It is confirmed by Ms. Ruth Masih that she shall have no reservation in the event the present Reference case is disposed of consequent upon signing of this settlement and payment in terms thereof by virtue of a settlement Award. She further confirms that she shall extend fullest co-operation in making a joint application for disposal of the reference case being VIII-23/2009 in terms of the settlement on the date of signing and receiving the payment in terms thereof.

h. It is confirmed by Ms. Ruth Masih that she has accepted the said payment without any reservation and without being influenced by anyone. She also confirms that consequent upon payment of Rs. 10,30,000/- (in total) (Rupees ten lakhs thirty thousand) only by the management as mentioned in clause (c) of the foregoing settlement, she is not entitled to receive any amount from the company over and above the said amount statutory or otherwise for her service tenure including the reference case being VIII-23/2009. This settles all the disputes and differences between the parties fully and finally.

Mehendra Kumar Sanyal

R. Masih

~~Anita Biswas~~
31/7/18

08. This settlement settles all disputes and demands arising out of the Reference Case No. VIII-23/2009 and connected proceedings including any order passed in connection thereof. She further confirms that neither in her individual capacity nor shall she authorize anybody including the union under reference or any other union to raise any demand before any Authority, statutory Forum or the Court of competent jurisdiction to make any claim in connection with the period of employment with the company and her severance of employer – employee relationship subsequently and the issue relating to the severance of employer – employee relationship.

IN WITNESS WHEREOF the parties put their signatures this the 31st day of July, 2018.

Ruth Masih

Ms. Ruth Masih

M/s. Hotel Hindusthan international

For HOTEL HINDUSTHAN INTERNATIONAL

Witness :

Maheendra Kumar Sanyal
Corp. HR Manager

1. *Shilodas Buhar Biswas*
31/7/18

2. The Union.

A/c. Payee Only



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Ruth Mashih