

/2019

(2)

No. Labr/577./1(2) (10-IR)

Dated21-06-19

Copy forwarded for information to :

1. The Judge, Fourth Industrial Tribunal with reference to his Memo No. 372 – L.T. dated 18.03.2019.
2. The Joint Labour Commissioner (Statistics), W.B., 6, Church Lane, Kolkata-700001.



Deputy Secretary

No. Labr/577/2(5) - (10-IR)

Dated21-06-19

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

1. JIS College of Engineering, Block – A, Phase – III, Kalyani, Dist. – Nadia, Pin – 741 235.
2. Smt. Urmy Sarkar, wife of Sri Amitabha Sarkar, B – 7/37 (S), P.O. – Kalyani, Dist. – Nadia, Pin – 741 235.
3. The Assistant Labour Commissioner, W.B., In-Charge of Labour Gazette.
4. The Labour Commissioner, W.B., New Secretariat Building (11th 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

0407/2019

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

No. Labr./577/(LC-IR)/22015(16)/11/2018

Date ...21-06-19

ORDER

WHEREAS an industrial dispute existed between JIS College of Engineering, Block - A, Phase - III, Kalyani, Dist. - Nadia, Pin - 741 235 and Smt. Urmay Sarkar, wife of Sri Amitabha Sarkar, B - 7/37 (S), P.O. - Kalyani, Dist. - Nadia, Pin - 741 235 regarding the issues being a matter specified in the second schedule of the Industrial Dispute act, 1947 (14 of 1947);

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

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

ISSUES

- 1) Is this case filed u/s 2A(2) of the I.D. Act by the applicant is maintainable in law ?
- 2) Whether the applicant Smt. Urmay Sarkar was a workman under the provision of Industrial Dispute Act, 1947 ?
- 3) Whether the termination of service of the applicant with effect from 06.10.2016 by the management is justified and legal ?
- 4) To what relief, is the applicant entitled ?

AND WHEREAS the said Judge, Fourth 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,



Deputy Secretary

to the Government of West Bengal

In the matter of an industrial dispute between Smt. Urmey Sarkar, wife of Shri Amitabha Sarkar, resident of B-7/37 (S), P.O. & P.S. Kalyani, Dist. Nadia, West Bengal, PIN Code – 741 235 and JIS College of Engineering (An autonomous institute), Block-A, Phase-III, Kalyani, Dist. Nadia, West Bengal, PIN Code – 741 235, u/s 2A (2) of the Industrial Disputes Act, 1947.

Case No. 02 of 2017

Before the Fourth Industrial Tribunal, West Bengal, Kolkata

Present: Shri Gopal Kumar Dalmia, Judge,
Fourth Industrial Tribunal, Kolkata

AWARD

This case has arisen out of an application u/s 2A (2) of the Industrial Disputes Act, 1947 filed by Smt. Urmey Sarkar against the JIS College of Engineering, the opposite party on 30.01.2017, praying for declaring the termination of her service w.e.f. 06.10.2016 by the opposite party as illegal and unlawful and also for a direction upon the opposite party to reinstate her in the service with full back wages and consequential benefits. Thereafter, the opposite party appeared in the case and filed its written statement.

On the basis of the materials on record following issues were framed on 12.09.2017:

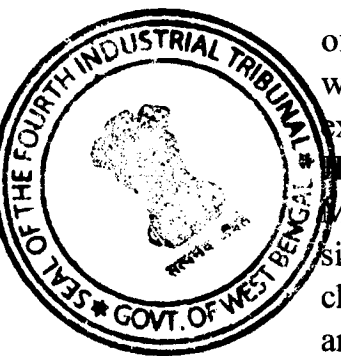
- 1) Is this case filed u/s 2A (2) of the I.D. Act by the applicant is maintainable in law?
- 2) Whether the applicant Smt. Urmey Sarkar was a workman under the provision of Industrial Disputes Act, 1947.
- 3) Whether the termination of service of the applicant with effect from 06.10.2016 by the Management is justified and legal.
- 4) To what relief, is the applicant entitled?

Thereafter, hearing on the point of validity of domestic enquiry was started. On 11.03.2019 parties have filed a joint compromise petition together with a Memorandum of Settlement and some other documents praying for passing an Award in terms of the said settlement arrived at between them.

To adjudge the point whether the settlement as reflected in the Memorandum of Settlement filed by the parties has been affected voluntarily or not and to see whether the settlement is lawful or not, the applicant Smt. Urmey Sarkar has been examined as P.W.-1 and one Shri Gora Chand Sarkar, the Manager, HR (Head) of JIS College of Engineering, Kalyani, Nadia has been examined as O.P.W.-1. Memorandum of Settlement has been marked as Exhibit-1 and one money receipt signed by the applicant, Smt. Urmey Sarkar on 11.03.2019 showing receipt of a cheque of Rs. 5 lakhs by her from the JIS College of Engineering on account of full and final settlement of her all dues and claims including the full amount of gratuity in terms of the Memorandum of Settlement has been marked as Exhibit-2. One letter of authority executed by the Principal of the JIS College of Engineering in favour of Shri Gora Chand Sarkar has been marked as Exhibit-A.

On perusal of the evidence of the P.W.-1 Smt. Urmey Sarkar and O.P.W.-1 Shri Gora Chand Sarkar, Memorandum of Settlement (Exhibit-1), Money Receipt (Exhibit-2) and other materials available on record it clearly discerns that a cheque of Rs. 5 lakhs has been given to the applicant Smt. Urmey Sarkar for full and final

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settlement of her all claims and dues including the amount of gratuity. It is also reflected in the Memorandum of Settlement that the applicant Smt. Urmy Sarkar has voluntarily accepted the termination of her service as effected by the order of termination dated 06.10.2016. After going through the evidences of both sides and other materials on record, it has become crystal clear to me that the settlement of the dispute has been made by the parties voluntarily. The terms of the settlement appear to be just and fair and I do not find any impediment in accepting the said settlement.

Under the circumstances, the present case is disposed of on the basis of the terms and conditions mentioned in the Memorandum of Settlement.

Hence, it is

Ordered

that the present industrial dispute be and same is disposed of on compromise. The Memorandum of Settlement filed by the parties on 11.03.2019 be made a part of the Award.

This is my Award.

Dictated & Corrected by me

Selt

Judge

Selt G.K. Dalma

Judge

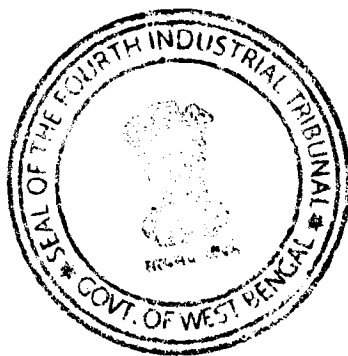
Fourth Industrial Tribunal

Kolkata

18.03.2019

Judge

Fourth Industrial Tribunal, W.B



MEMORANDUM OF SETTLEMENT

Name of the Parties : JIS College of Engineering,
and addresses Block – 'A', Phase – III,
Kalyani, District - Nadia,
Pin Code - 741235

- A N D -

Their employee -

Mrs. Urmy Sarkar,
Wife of Amitava Sarkar
Residing at B-7/37(S),
P.O. & P.S. Kalyani
District - Nadia,
Pin Code - 741235

Representing the Institute Sri Gora Chand Sarkar,
Manager-HR (Head)
JIS College of Engineering

Representing the Employee Mrs. Urmy Sarkar, herself

SHORT RECITAL OF THE CASE

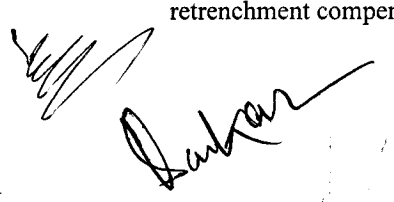
Mrs. Urmy Sarkar raised a dispute before the Dy. Labour Commissioner, Kalyani, Nadia alleging termination of service by the management of the Institute and thereafter she preferred an application u/s 2A(2) of the ID Act, for adjudication of the dispute before the Ld. Fourth Industrial Tribunal, Kolkata. The said application has been registered as Case No. 2/2017 u/s 2A(2). During the pendency of the said case before the Ld. Fourth Industrial Tribunal, the parties to the case started discussion for an amicable settlement of the matter. After protracted discussion and negotiation between the parties hereto a settlement has been mutually arrived at in a atmosphere of cordiality on the following terms and conditions :

TERMS OF SETTLEMENT

It is agreed by and between the parties hereto as follows :

- 5.1 That Mrs. Urmy Sarkar voluntarily accepts her termination of service as made in the order of termination dated 06.10.2016.
- 5.2 That Mrs. Urmy Sarkar is being paid herewith a sum of Rs. 5,00,000/- (Rupees Five Lakhs only) by the management of JIS College of Engineering, Kalyani by an Account Payee Cheque No. "715677" dated 01/03/2019 drawn on Punjab National Bank, Kanchrapara, 24 Pargana-North and she also agrees to receive the said sum in full and final settlement of all her claim and dues including the full amount of gratuity. Mrs. Urmy Sarkar shall not raise any further demand or dispute pertaining to employment or reinstatement or for any amount either statutory or otherwise, including salary, encashment of leave, notice pay, retrenchment compensation, gratuity and bonus etc. in respect of her services.

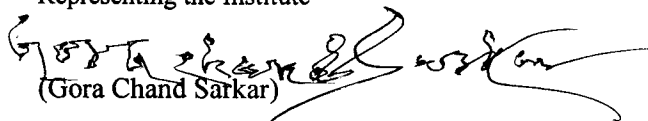
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- 5.3 That Mrs. Urmy Sarkar agrees to grant receipt in token of having received the above sum of Rs. 5,00,000/- (Rupees Five Lakhs only) in full and final settlement of her all dues and claim including the full amount of gratuity etc.
- 5.4 That on receipt of the said amount of Rs. 5,00,000/- (Rupees Five Lakhs only) and by virtue of the settlement all the dispute / claims / grievances of Mrs. Urmy Sarkar against the Institute stands settled fully and finally.
- 5.5 That Mrs. Urmy Sarkar shall not make any claim either for reinstatement or re-employment or any kind of employment and gratuity or for any amount either statutory or otherwise against the Institute in future. No other amount either statutory or otherwise whatsoever in nature is due and payable to Mrs. Urmy Sarkar by the Institute.
- 5.6 That the parties agree to file a joint petition of compromise along with this Memorandum of Settlement before the Ld. Fourth Industrial Tribunal with a joint prayer to pass an award on the basis of this settlement.
- 5.7 This settles the disputes fully and finally.

IN WINESS HEREOF, the parties hereto put their signature on this the 11th of March, 2019.

Representing the Institute

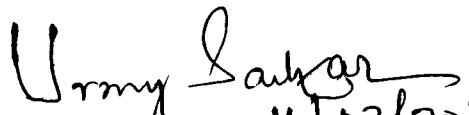

(Gora Chand Sarkar)

Manager -HR(Head)

JIS College of Engineering

Kalyani, Nadia

G. C. SARKAR
Manager -HR(Head)
JIS College of Engineering
Phase - III, Kalyani, Nadia


Mrs. Urmy Sarkar, herself 11/03/2019