

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

No. Labr/588/(LC-IR)/IR/10L-09/11

Date : . 24.6.19

ORDER

WHEREAS an industrial dispute existed between M/s Hindusthan Engineering & Industries Ltd., 38, Tiljala Road, Kolkata - 700 039 and Sri Ajit Singh, 51, Bondel Road, Kolkata - 700 019 regarding the issue, being a matter specified in the second schedule to the Industrial Dispute Act, 1947 (14 of 1947);

AND WHEREAS the workman has filled an application under section 10(1B)(d) of the Industrial Dispute Act, 1947 (14 of 1947) to the Judge, Second Labour Court, Kolkata specified for this purpose under this Deptt.'s Notification No. 1085-IR/12L-9/95 dated 25.07.1997.

AND WHEREAS, the Judge of the said Second Labour Court, Kolkata heard the parties under section 10(1B)(d) of the I.D. Act, 1947 (14 of 1947).

AND WHEREAS the said Judge Second Labour Court, Kolkata has submitted to the State Government its Award under section 10(1B)(d) of the I.D. Act, 1947 (14 of 1947) 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,

Deputy Secretary
to the Government of West Bengal

5/2019

: 2 :

No. Labn./588/1(5)/(LC-IR)

Date ...24-6-19.

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

1. M/s Hindusthan Engineering & Industries Ltd., 38, Tiljala Road, Kolkata - 700 039.
2. Sri Ajit Singh, 51, Bondel Road, Kolkata - 700 019.
3. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The Labour Commissioner, W.B., New Secretariat Buildings, (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

No. Labn./588/2(2)/(LC-IR)

Date ...24-6-19

Copy forwarded for information to :-

1. The Judge, Second Labour Court, West Bengal, with respect to his Memo No. 734 -LT dated 12.06.2019.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.

Deputy Secretary

An application U/s. 10(1B)(d) of the Industrial Disputes Act, 1947 filed by **Sri Ajit Singh**, residing at 51, Bondel Road, Kolkata-700 019 against **M/s. Hindusthan Engineering & Industries Ltd.**, at 38, Tiljala Road, Kolkata-700 039.

(Case No. 38 of 2006 U/S. 10(1B) (d) of Industrial Disputes Act, 1947)

BEFORE THE SECOND LABOUR COURT, WEST BENGAL, KOLKATA

PRESENT: **SRI ARABINDA PANTI**, JUDGE
SECOND LABOUR COURT
KOLKATA.

Date: 12-06-2019

A W A R D

The facts of the case of the petitioner in brief are that he joined in the Opposite Party Company on 01-08-1983 as unskilled workman and was working diligently, honestly and sincerely without any black spot.

The petitioner was an active member of a recognized union under the name and style Hindusthan Development Corporation Ltd., Engineering Factory Employees Congress.

It is the specific allegation that the management hurriedly and without prior permission from the Government and with ulterior motive issued lockout notice w.e.f 12-06-1999. The union raised an Industrial Dispute against the said illegal lock out. The management issued a joint charge sheet on 22-06-1999 addressed to Sashi Bhusan Singh & 18 others on various allegations as depicted in the petition. The petitioner replied to the charge sheet and ultimately it was not granted rather enquiry proceedings were started. Ultimately, the said proceedings were not completed but stopped on unknown ground. Ultimately,



the petitioner was dismissed from service without paying any monetary benefit as provided in the Labour Act. The applicant preferred application to the Conciliation Officer. As no conciliation was ripe, the officer issued a certificate. Thereafter, the applicant has preferred the application before this court praying for reinstatement with back wages.

The Opposite Party entered appearance in this case and filed written objection contending inter-alia the material allegation brought by the petitioner. The Opposite Party prayed for rejection of the application.

This case was initiated on 28-11-2006. Both sides adduced evidences from their side and ultimately the matter has been compromised in terms of memorandum of settlement. The parties filed their memorandum of settlement along with petition on 11-06-2019. On the same day the applicant was examined as P.W.1 and Mr. Sanjoy Karmakar, the Assistant Manager, Personal of the company was examined as P.W.2.

Perused the oral testimony of P.W.1 and O.P.W.2. Heard Ld. Advocate for both the parties. It appears from hearing, oral testimony and memorandum of settlement that the matter has been compromised out of court and in terms of compromise/settlement the company has paid a sum of Rs. 500000/- (Five Lakhs) to the applicant and the applicant has received the same by cheque bearing No. 679651, drawn on Punjab National Bank, Park Street Branch. The applicant has also deposed that he has no further claim and he has received the cheque as mentioned above towards full and final settlement.

On further perusal of the memorandum of settlement it appears to this court that the terms and conditions are legal, valid and sufficient.

Accordingly, this case is disposed of in terms of memorandum of settlement.



Hence, it is

Ordered

that the instant petition U/s. 10 (1B)(d) of Industrial Disputes Act, 1947 is here by disposed of in terms of memorandum of settlement. The memorandum of settlement be made part of the Award.

This is the Award passed by this court.

Dictated and corrected by me

Sd/-

Judge

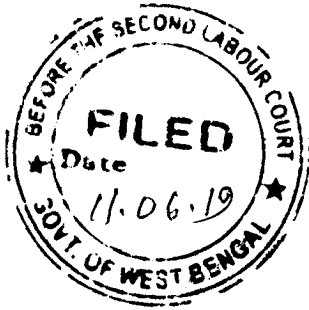
Judge
Second Labour Court W.B.

Sd/-

(Arabinda Panti)
Judge, 2nd Labour Court
Kolkata.

Judge
Second Labour Court W.B.





-1-

Form 'J'
(Sec Rule 68)

Memorandum of Settlement

Filed by
11/06/19
A.S. for workman

Filed by :-
Sanjay Karmakar
Asst. Mgr.
for the O.P./Co.
11/06/19

Name and address of the Parties:

Hindusthan Engineering & Industries Ltd.

"Mody Building"
27, Sir R. N. Mukherjee Road,
Kolkata – 700 001

Name of the persons (Please quote the
Names representing the persons)

Employer:-

Sri Sanjay Karmakar
Asst. Manager – Personnel

The name and address of the workman involved:

Sri Ajit Singh

51, Bondel Road,
Kolkata – 700 019

Name of the persons (Please quote the names
representing the workmen of person)

Sri Sanjay Karmakar

1. Short recital of the case:-

On 10/06/1999 the aforesaid worker along with others committed serious misconduct.

After the said incident the management issued Charge-Sheet to all the 19 (Nineteen) workmen.

The workmen in their reply denied the charges of the said charge-sheet individually. After receipt of the reply and being unsatisfactory, a domestic enquiry was initiated. The enquiry continued for a long time. The enquiry officer held the enquiry for several days but could not complete the same. Ultimately, issued a second Show-Caused notice proposing punishment to the workmen which were duly denied by workmen. Upon receipt of the said second show-cause notice, the management of the company issued a letter of dismissal dated 27th October 2005. Thereafter, said workmen raised Industrial Disputes separately before the officer of the Labour Commissioner by denying the said charges and thereafter the Government has referred the matter before Ld. 2nd labour court, Govt. of WB for adjudication of the dispute.

During the pendency of the proceeding before the Ld 2nd labour court the both the parties negotiated with each other and reached an amicable settlement. After a prolonged negotiation both the parties could arrive at an amicable settlement under the following terms and conditions:-

2. Terms of Settlement:-

(a) That the workman concerned hereby accepts the charges framed in the charge sheet and the order of dismissal issued by company's letter dated 27.10.2003.

(b) That the management has agreed to pay Rs.500000/- (Rupees Five lakh only) in full and final settlement of all dues including that of Gratuity and other statutory liabilities. The said

Sanjay Karmakar

Ajit Singh

amount of Rs. 500000/- (Rupees Five lakh only) is being paid vide Cheque No. 679651 dated 22.04.2019 drawn on PNB, Large Corporate Branch, Park Street, Kolkata – 700 016 Bank before the Learned 2nd labour court.

- (c) That after having accepted the aforesaid amount the workman declares that he has no grievance whatsoever against the company. He has no demand whatsoever against the company in respect of finance, employment, re-employment or future employment.
- (d) That in view of the above settlement there remains no dispute between the management and workman concerned and as such both the parties pray before the Learned 2nd labour court by filing appropriate application for passing an Award in terms of this settlement.
- (e) That both the parties to this settlement prays before this Ld. 2nd labour court to pass an award in terms of this settlement so that the dispute between the parties come to an end once for all.
- (f) That this settles all the disputes between the parties.

Saujan Karmakar
(Signature of the Management and his Representative)

Anand Singh
(Signature of the Workman and his Representative)

Witnesses:-

1. Samajit Das

2. Srijit Bandyopadhyay
Advocate
11/04/19.

RECEIPT

Received Rs. 500000/- (Rupees Five lakh only) by cheque No. 679651 dated 22.04.2019 Drawn on Punjab National Bank, Large Corporate Branch, Park Street, Kolkata – 700 016 from Hindusthan Engineering Industries Ltd., 8 & 38, Tiljala Road, and 1, P. G. Road, Kolkata – 700 039 in full and final settlement as per Memorandum of settlement dated ..11.06.2019.... and case No. 38 of 2006 u/s 10(1)B(d) of I.D. Act. , pending before Ld. 2nd labour court, West Bengal, Kolkata on

Asit Singh
(Signature with revenue stamp)

Witness:

1. Samrat Das.
2. Siraj Dey
Advocate
11/6/19.

Dated:-

The Secretary,
Labour Department,
Govt. of West Bengal,
New Secretariat Building,
1, K.S. Roy Road,
Kolkata – 700 001.

Sir,

Re:-Compliance of Rule 68 of the West Bengal Industrial Disputes Rules, 1958

Enclosed please find a copy of the bi-partite settlement between the management and the workman namely Ajit Singh.

Please treat this as a compliance of the aforesaid rules.

Thanking you,

Copy to:-

Labour Commissioner, W. B.

Conciliation Officer, W. B.