

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

No. Labr/618/(LC-IR)

Date : 02/07/2018

ORDER

WHEREAS under the Government of West Bengal, Labour Department G.O. No. 90-IR dated 15.01.2001 the Industrial Dispute between M/s Humboldt Wedag India Pvt. Ltd. (now known as MBE Coal & Mineral Technology India Private Limited) , Eco Space Campus, 2B, 4th Floor, New Town, Rajarhat, Kolkata-160 and their employee represented by Humboldt Wedag India Ltd. Employee Union, 12, Collins Lane, Kolkata-16 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, 8th Industrial Tribunal, West Bengal.

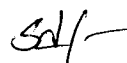
AND WHEREAS the Judge of the said 8th Industrial Tribunal, West Bengal, has submitted to the State Government its award on the said Industrial Dispute.

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,



Deputy Secretary
to the Government of West Bengal

No. Labr./618/1(5)/(LC-IR)

Date : 02/07/2018

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

1. M/s . Humboldt Wedag India Pvt. Ltd. (now known as MBE Coal & Mineral Technology India Private Limited) , Eco Space Campus, 2B, 4th Floor, New Town, Rajarhat, Kolkata-160
2. The Secretary, Humboldt Wedag India Ltd. Employee Union, 12, Collins Lane, Kolkata-16.
3. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The Labour Commissioner, W.B. New Secretariate 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.


Deputy Secretary

No. Labr./618/2(2)/(LC-IR)

Date : 02/07/2018

Copy forwarded for information to :

1. The Judge, 8th. Industrial Tribunal, West Bengal with reference to his Memo No. 701-L.T. dated 07.06.2019 .
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.

Deputy Secretary

In the matter of an Industrial Dispute between M/s. Humboldt Wedag India Pvt. Ltd. (now known as MBE Coal & Mineral Technology India Private Limited, situated at Eco Space Campus 2B, 4th Floor, New Town, Rajarhat, Kolkata - 700160) and their employee represented by Humboldt Wedag India Ltd. Employee Union (Regd. No. 20955 of 1993), 12, Collins Lane, Cal - 16, referred to this Tribunal vide G.O. No. 90-I.R. dated 15.01.2001.

(Case No. VIII-25/2001)

BEFORE THE EIGHTH INDUSTRIAL TRIBUNAL: WEST BENGAL
P R E S E N T

SRI MADHU SUDAN DUTTA, JUDGE

EIGHTH INDUSTRIAL TRIBUNAL, KOLKATA.

A W A R D

This Industrial Dispute between M/s. Humboldt Wedag India Pvt. Ltd. (now known as MBE Coal & Mineral Technology India Private Limited, situated at Eco Space Campus 2B, 4th Floor, New Town, Rajarhat, Kolkata - 700160) and their employee represented by Humboldt Wedag India Ltd. Employee Union (Regd. No. 20955 of 1993), 12, Collins Lane, Cal - 16, has been referred by the Govt. of West Bengal, Labour Department vide Order No. No. 90-I.R. dated 15.01.2001, to this Tribunal for adjudication of the following issues: -

I S S U E S(S)

1. Whether the Refusal of Employment of Sri Prabir Mukherjee with effect from 06.12.1999 is justified?
2. What relief, if any, he is entitled?

Record is taken up for order.

The applicant Sri Prabir Mukherjee was appointed on 01.03.1980 in the O.P. Company. On a charge of misconduct his service was dismissed after holding an enquiry w.e.f. 06.12.1999, which was challenged by the applicant by way of raising industrial dispute. As the matter was not settled this reference has been sent by the Labour Department vide an order of reference bearing G.O. No. 80-IR dated 15.01.2001. This Tribunal had also granted interim relief to the applicant in terms of the provision of the section 15(2)(B) of the I.T. Act 1947 and the same had been duly paid by the Company. Admittedly the applicant was holding the post of Senior Engineer in the O.P. Company at the time of dismissal from service.

During the pendency of the hearing of the merit of the case on merit, pursuant protracted negotiation between the parties and at the intervention of their well-wishers the dispute has been settled amicably out of Tribunal with intimations to this Tribunal on the terms and conditions as stipulated in the Memorandum of the settlement.

Both the parties filed the Memorandum of settlement duly signed by the applicant and the authorized signatory of the O.P. Company after receiving 04 (four) Account Payee cheques of Rs. 3,50,000/- (Rupees three lakhs fifty thousand only) each total amounting to Rs. 14,00,000/- (Rupees fourteen lakhs only).



Details of the cheques, which have been received by the applicant before this Tribunal are given below: -

- (1) ICICI Bank Cheque No. 001041 dated 30.04.2019 amounting to Rs. 3,50,000/-
- (2) ICICI Bank Cheque No. 001045 dated 31.05.2019 amounting to Rs. 3,50,000/-
- (3) ICICI Bank Cheque No. 001043 dated 29.06.2019 amounting to Rs. 3,50,000/-
- (4) ICICI Bank Cheque No. 001044 dated 31.07.2019 amounting to Rs. 3,50,000/-

The applicant and the authorized signatory of the O.P. Company Sri Subir Kumar Sadhu were examined on oath as P.W.1 and O.P.W.1 respectively.

Perused evidence of both the parties and the Memorandum of settlement. Heard, Ld. Lawyers for both sides, I find that dispute has been settled amongst the parties amicably and receiving the cheques as detailed above, the applicant forgoes his claim and conceded that he shall not claim any amount in future from the O.P. Company. As the applicant has already attended the age of superannuation, question of his reinstatement does not arise.

In view of the attending circumstances and long pendency of this adjudication, I find nothing to stand in the way of settlement arrived at between the parties. Evidently out of 04 (four) cheques, 02 (two) are pre dated i.e. 30.04.2019 and 31.05.2019 and the remaining 02 (two) cheques are postdated 29.06.2019 and 31.07.2019. I would therefore make an observation that if the said 04 cheques are bounced or the applicant fail to en-cash the same due to any fault on the part of the O.P. Company, the applicant will be at liberty to take the recourse of Civil or Criminal action before any competent Court or in Forum of Law any account whatsoever and TDS, if any applicable on the aforesaid stated amount will be paid by the company.

Thus, Memorandum of settlement is considered and accepted. Let it be kept with the record and be part of this Award.

Accordingly, Issue Nos. 1 & 2 are decided in terms of the Memorandum of settlement.

Hence it is,

Ordered

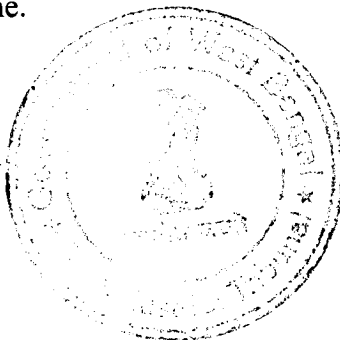
That this adjudication bearing case No. VIII-25/2001 is disposed of in terms of the Memorandum of settlement.

This is my Award.

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

Dictated & corrected by me.

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



Sd/- M. S. Dutta
Sd/- Madhu Sudan Dutta
Judge
Eighth Industrial Tribunal
07.06.2019

MEMORANDUM OF SETTLEMENT

I. Name of the Parties : M/s. Humboldt Wedag India Pvt. Ltd. (now known as MBE Coal & Mineral Technology India Private Limited)

And

Their Employee Prabir Mukherjee

II. Representing Employer : Subir Kumar Sadhu, (Senior Manager, Personnel & Administration).

III. Representing Employee : Prabir Mukherjee, the employee concerned.

IV. Short Recital of the case : The employee, Shri Prabir Mukherjee was appointed on 01.03.1980 in the company. On a charge of misconduct the employee's service was dismissed after holding an enquiry with effect from 06.12.1999, which was challenged by the employee concerned by way of raising an industrial dispute. An Order of Reference being G.O.

Prabir Mukherjee

For MBE Coal & Mineral Technology India Pvt. Ltd.
Subir Kumar Sadhu
Subir Kumar Sadhu
Senior Manager (Personnel & Administration)

No.80-IR dated 15.01.2001 was made for adjudication the issues mentioned in the said order of reference by the Ld. 8th Industrial Tribunal. On the date of dismissal, Sri Mukherjee was holding the post of Senior Engineer in the company. At the time of dismissal from service, the employee was paid his admissible gratuity dues on the basis of calculation made at the rate of employee's pay as on the date of his dismissal from service. The Learned Industrial Tribunal had also granted interim relief to the employee in terms of the provisions of Section 15(2)(b) of the I.D. Act, 1947 ; and the same had been paid by the company.

Thereafter during the pendency of the hearing on merit of the case pursuant to protracted negotiation between the parties i.e. Prabir Mukherjee, the ex-employee

Prabir Mukherjee

For MBE Coal & Mineral Technology India Pvt. Ltd.
Subir Kumar Sadhu

Subir Kumar Sadhu
Senior Manager (Personnel & Administration)

concerned and the Company ; the dispute over the issues of dismissal of the employee's service from the company and the entitlement of his relief(s) have been settled amicably out of Court on the following terms and conditions.

V. Terms and Conditions of Settlement :

- a) The Company shall pay a sum of Rs.14,00,000/- (Rupees Fourteen Lakhs net of tax) only in four equal monthly instalment as mentioned herein-below by way of package deal to Prabir Mukherjee in full and final settlement of all his claims, dues, wages, gratuity including his claim of reinstatement and any other claim on any account whatsoever and Prabir Mukherjee has agreed to receive the aforesaid amount in full and final settlement of all his claim and due including his claim of reinstatement, from the company.

The total amount of Rs.14,00,000/- (net of Tax) shall be paid through 4 account payee cheques by 4(four) equal instalments.

Cheques details is as follows :-

DATE	CHQ. NO.	BANKER	BRANCH	AMOUNT
30.04.2019	001041	ICICI	Ecospace	3,50,000.00
31.05.2019	001045	ICICI	Ecospace	3,50,000.00

Prabir Mukherjee

For MBE Coal & Mineral Technology India Pvt. Ltd.

Subir Kumar Sadhu
Subir Kumar Sadhu
Senior Manager (Personnel & Administration)

29.06.2019	001043	ICICI	Ecospace	3,50,000.00
31.07.2019	001044	ICICI	Ecospace	3,50,000.00

All the abovementioned cheques are handed over to the employee concerned
Prabir Mukherjee before the ab. Tribunal.

b) TDS, if any applicable on the aforesaid stated amount will be paid by the company.

VI. All disputes and issues upto and inclusive on the date of the settlement and/or in future will be deemed to have been settled. The employee concerned will not claim any amount in future and will not file any case before any Court / Tribunal or any Forum of Law on any account whatsoever.

Prabir Mukherjee
For the Employee

For MBE Coal & Mineral Technology India Pvt. Ltd.
Subir Kumar Sadhu
Senior Manager (Personnel & Administration)
For the Company

WITNESSES :-

1. *Subir Kumar Sadhu*

2. *Jeevan Narendar*

SWAPNA BANERJEE
Admin
29.05.19

Before the Ld. Eighth Industrial Tribunal

West Bengal

In the matter of :

An industrial dispute

Between

M/s. Humboldt Wedag India Pvt. Ltd.

(now known as MBE Coal and

Mineral Technology India Private

Limited, at present situated at Eco

Space Campus 2B, 4th Floor, New

Town, Rajarhat, Kolkata - 700 160;

And

Their employee represented by

Humboldt Wdag India Ltd.

Employees Union, 12, Collins Lane,

Kolkata - 700 016;

And

In the matter of

Order of Reference No.

And

In the matter of :

Case No. VIII-25 of 2001

The humble joint petition of

compromise between the parties

abovenamed.

For MBE Coal & Mineral Technology India Pvt. Ltd.

Pradyumn Kumar

Subir Kumar Ghosh
Senior Manager (Personnel & Administration)

Most Respectfully Sheweth

1. That after protracted negotiation between the parties abovenamed the matter has been settled amicably on the terms and conditions as mentioned in the Memorandum of Settlement dated 29.05.2019 recorded by and between the parties abvoenamed.

2. That the parties have agreed that the company shall make the payment of a sum of Rs.14,00,000/- (Rupees Fourteen lakhs) net of tax only toward all claims of the employee concerned, Prabir Mukherjee including his claims of reinstatement in terms of Memorandum of Settlement dated 29.05.2019 recorded by and between the parties abovenamed.

3. The aforesaid sum of Rs.14,00,000/- (Rupees Fourteen lakh) only net of tax shall be paid by the four cheques being nos. 001041 dated 30.04.2019, 001045 dated 31.05.2019, 001043 dated 29.06.2019, 001044 dated 31.07.2019 on ICICI Bank for Rs.3,50,000.00 each on the same day after passing necessary order the joint petition of compromise between the parties before this Learned Tribunal.

4. That in the circumstances as stated above it is most humbly prayed that your Honour may graciously be pleased to pass necessary Award in terms of this joint petition of compromise and the Memorandum of Settlement dated 29.05.2019 recorded by and between the parties abovenamed.

Prabir Mukherjee

For MBE Coal & Mineral Technology India Pvt. Ltd.

Subir Kumar Sadhu
Subir Kumar Sadhu
Senior Manager (Personnel & Administration)

Under the circumstances stated above your petitioners therefore pray that Your Honour may graciously be pleased to pass an Award in terms of the joint petition of compromise and the Memorandum of Settlement dated 29.05.2019 and to pass such other order or orders as Your Honour may deem fit and proper.

And your petitioner as in duty bound shall ever pray.

Subir Kumar Sadhu

For MBE Coal & Mineral Technology India Pvt. Ltd.

Subir Kumar Sadhu
Subir Kumar Sadhu
Senior Manager (Personnel & Administration)

Verification

I, Subir Kumar Sadhu the Senior Manager (Personnel & Administration) of the abovenamed company do hereby declare and say that this statements contained in paragraphs 1 to 4 are true to my knowledge and information as derived from records which I verily believe to be true and the rests are my respectful submissions before this Learned Tribunal.

I sign this verification today the 29th day of May, 2019 at this Tribunal Premises.

For MBE Coal & Mineral Technology India Pvt. Ltd.


Subir Kumar Sadhu
Senior Manager (Personnel & Administration)

Verification

I, Prabir Mukherjee the employee concerned do hereby declare and say that this statements contained in paragraphs 1 to 4 are true to my knowledge and the rest are my respectful submissions before this Learned Tribunal.

I sign this verification today the 29th day of May, 2019 at this Tribunal Premises.

