

57640/2019

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

No. Labr/76.2/(LC-IR)/22015(18)/1/2018

Date: 16.08.2019

**ORDER**

WHEREAS under the Government of West Bengal, Labour Department Order No. Labr/589/(LC-IR)/13L-01/17 dated 01.06.17 the Industrial Dispute between M/s The Statesman Ltd., 4, Chowringhee Square, Kolkata - 700 001 and its workman Sri Baidyanath Chanda, 54/3/2/1, Banerjee Bagan Lane, Salkia, Howrah - 711100 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, Seventh Industrial Tribunal, Kolkata.

AND WHEREAS the Judge of the said Seventh Industrial Tribunal, Kolkata, 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

Date: 16.08.19

No. Labr/76.2/1(5)/(LC-IR)

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

1. M/s The Statesman Ltd., 4, Chowringhee Square, Kolkata - 700 001.
2. Sri Baidyanath Chanda, 54/3/2/1, Banerjee Bagan Lane, Salkia, Howrah - 711100.
3. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The O.S.D. & E.O. Labour Commissioner, W.B. New Secretariate Buildings, 1, K. S. Roy Road, 11<sup>th</sup> Floor, Kolkata- 700001.

✓ 5. The O.S.D., IT Cell, Labour Department, with the request to cast the Award in the Department's website.

RS 21.8.19  
Deputy Secretary

No. Labr/76.2/2(2)/(LC-IR)

Date: 16.08.19

Copy forwarded for information to :

1. The Judge, Seventh Industrial Tribunal, Kolkata with reference to his Memo No. 1004-L.T. dated 26.07.2019.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata -700001.

Deputy Secretary

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

Present: Shri Ashis Kumar Das, Judge,  
Seventh Industrial Tribunal, Kolkata.

**CASE NO.VIII-06/2017**

**Shri Baidyanath Chanda,**  
54/3/2/1, Banerjee Bagan Lane, Salkia,  
Howrah- 711100.

...**Workman**

-Versus-

**M/s. The Statesman Ltd.,**  
4, Chowringhee Square, Kolkata-700001

...**Company**

**A W A R D**

**Dated : 25-07-2019**

Workman is present.

Today is fixed for passing ex-parte order / Award.

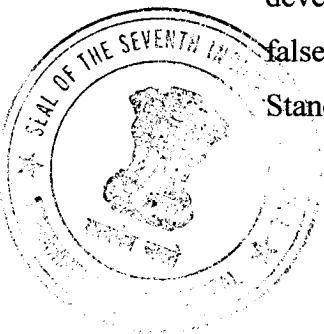
Case record is taken up for passing ex-parte order / Award.

This case has been referred to this Tribunal by the Government of West Bengal, in its Labour Department, vide Order of Reference No. Labr./589/(LC-IR)/IR/13L-01/17 dated 01.06.2017 relating to an industrial dispute between M/s. The Statesman Ltd., 4, Chowringhee Square, Kolkata and their workman Shri Baidyanath Chanda, 54/3/2/1, Banerjee Bagan Lane, Salkia, Howrah- 711100 for adjudication on the following issues :

**I S S U E (S)**

1. Whether the refusal of employment of Shri Baidyanath Chanda by the management of M/s. The Statesman Ltd. w.e.f. 15.09.2001 by way of prolonged suspension is justified?
2. What relief, if any, is he entitled to?

The specific case of the workman, as made out from his written statement, is that he joined in the OP/Company under reference as a 'case room cleaner' in Process Department w.e.f. 18.05.1981 in the Head Office of the Company, 4, Chowringhee Square, Kolkata-700001. The Company confirmed his service w.e.f. 1982 and promoted him time to time as a distributor, burman, pester and finally as offset machine-man w.e.f. 1998. The Company illegally transferred his service in the year 1998 from Head Office at Kolkata to Siliguri Branch and he complied with the said illegal transfer order for the interest of the development of the Company's business. Thereafter, on 15.09.2001 the Company issued a false and fabricated charge-sheet against him and framed charge under the Certified Standing Order known as Service Rule. The Company asked him to give reply to the charge



contd....

within 48 hours and accordingly, he replied by his letter dated 17.09.2001 with a request to withdraw the alleged charge-sheet dated 15.09.2001 and to permit him to join in the duties immediately, but the Company did not consider his prayer and decided to institute an enquiry in the charge-sheet. Said enquiry was kept pending upto prolonged period without paying subsistence allowance in proper time. Ultimately, the Company did not allow him to join in any proceedings of the domestic enquiry. Thereafter, he received an enquiry report by letter dated 20.04.2002. According to him, the enquiry report is false and fabricated. He gave reply to the second show-cause notice of the Company dated 20.04.2002 by his letter dated 30.04.2002 sending by fax and under registered post to Sri K.K. Chowdhury, the Branch Manager and informed him that the enquiry report was fabricated one and prayed for reconsideration and review of entire situation of the alleged charge-sheet and to withdraw and revoke such suspension order and to allow him to resume his duties. The Company received his reply letter dated 30.04.2002, but did not consider his prayer and also did not pay any subsistence allowance as per West Bengal Subsistence Allowance Act, 1969. Since he had been suffering financial hardship, he filed an application in Form-A before the Assistant Labour Commissioner under sub-Section 1 of Section 4 of the West Bengal Subsistence Allowance Act, 1969 for recovery of money due from the employer and after hearing both the parties, he received the subsistence allowance upto the month of July, 2005, but the Company did not pay him his subsistence allowance for the month of January, 2003 and August, 2003 and after December, 2005 to till date, which is gross violation of the Act. After receiving his reply letter dated 30.04.2002 of second show-cause notice, the Company did not issue any letter of dismissal against him and the settled position of law is that the prolonged suspension amounting to termination of service and so, having no other alternative he filed an industrial dispute before the Labour Commissioner by letter dated 11.07.2011 and Conciliation Officer issued notice to the Company to file their comments in the matter and the Company appeared, but did not file any written comments and several dates of hearing were fixed by the Conciliation Officer, but did not arrive any settlement between the parties and ultimately the Conciliation Officer submitted his report before the Labour Secretary, Department of Labour, Government of West Bengal and then after considering the facts and circumstances, the Labour Department referred the matter to this Tribunal for adjudication framing the above referred 2 (two) issues. Now, he has prayed for an order of his reinstatement in service with full back wages and other consequential reliefs.

On the other hand, the OP/Company after service of notice, entered appearance and filed written reply of the written statement, so filed by the workman. It appears from the record that the OP/Company stopped taking steps on and from 17.07.2018 and considering all aspects, this Tribunal by his order dated 18.07.2018 fixed the case on 13.09.2018 for **ex-parte hearing** / evidence of workman.



contd....

**FINDINGS**

In order to prove his case, the workman Sri Baidyanath Chanda has examined himself as PW-1 and proved photocopies of some documents, which are marked as Exhibits - 1 to 14. PW-1 has adduced evidence corroborating his case. On perusal of the unchallenged oral testimony of PW-1 and the exhibited documents, I am of the view that the workman's case has been proved by his ex-parte evidence. There is nothing to disbelieve the unchallenged oral testimony of the workman (PW-1), which has duly been corroborated by the exhibited documents. Therefore, I have no other alternative but to hold that the refusal of employment of workman Sri Baidyanath Chanda by the management of M/s. The Statesman Ltd. w.e.f. 15.09.2001 by way of prolonged suspension is unjustified and against the principles of natural justice. Consequently, the workman is entitled to get the relief as prayed for.

**In the result, the case succeeds ex-parte.**

Hence, it is,

**O R D E R E D**

That the case being No. VIII-06/2017 under Section 10 of the Industrial Disputes Act, 1947 be and the same is allowed ex parte against O.P. namely, M/s. The Statesman Ltd. without cost.

The opposite party namely, M/s. The Statesman Ltd. is hereby directed to reinstate the workman namely, Sri Baidyanath Chanda immediately and is also directed to pay 50 per cent back wages along with all consequential benefits from the date of termination of service i.e. with effect from 15.09.2001 till today. The OP/Company is further directed to comply with the Award within a period of 90 days from the date of this Award, in default, the OP/Company has to pay interest at the rate of 10% till the realization of the entire due amount, failing which the workman will be at liberty to put the Award in execution as per law.

This is my Award.

Dictated & corrected by me

sd/-

Judge

*Judge*  
Seventh Industrial Tribunal



sd/-

(ASHIS KUMAR DAS)  
Judge,  
Seventh Industrial Tribunal,  
Kolkata  
25/07/2019

*Judge*  
Seventh Industrial Tribunal