

I/63125/2019

**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/889/(LC-IR)/.....

Date : 23-09-2019

**ORDER**

WHEREAS under the Government of West Bengal, Labour Department Order No. 1149-IR dated 26.08.2019 the Industrial Dispute between M/s TRA General Hospital, 7, Dr. Biresh Guha Street, Kolkata-17 and their workman Shri Pradip Halder, Purba Sahebpur, P.O.- Champahati, P.S.- Sonarpur, Dist-24 Pgs(S) Pin-743330 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, 2nd Industrial Tribunal, West Bengal.

AND WHEREAS the Judge of the said 2nd 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/889/1(5)/(LC-IR)

Date : 23-09-2019

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

1. M/s TRA General Hospital, 7, Dr. Biresh Guha Street, Kolkata-17
2. Shri Pradip Halder, Purba Sahebpur, P.O.- Champahati, P.S.- Sonarpur, Dist-24 Pgs(S) Pin-743330
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, 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.

No. Labr/889/2(2)/(LC-IR)

RS 23.9.19  
Deputy Secretary

Date : 23-09-2019

Copy forwarded for information to :

1. The Judge, 2nd Industrial Tribunal, West Bengal with reference to his Memo No. 1149-L.T. dated 26.08.2019 .
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. TRA General Hospital 7, Dr. Biresh Guha Street, Kolkata – 700017 and their workman Pradip Halder of Purba Sahebpur, P.O. – Champahati, P.S. – Sonarpur, Dist. 24-Parganas (S), Pin. 743330. ( Case No. VIII-19/2014 ).

BEFORE THE SECOND INDUSTRIAL TRIBUNAL: WEST BENGAL

PRESENT: SHRI SRIBASH CHANDRA DAS, JUDGE,

SECOND INDUSTRIAL TRIBUNAL, KOLKATA

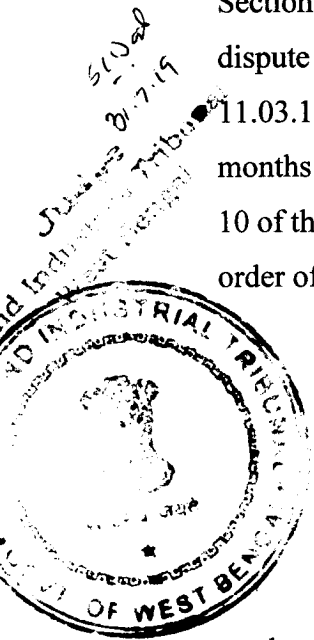
Date of passing award –31.07.2019

A W A R D

The case record is put up for order arising out of filing of memorandum of settlement describing it to be as per Rule 68 of West Bengal Industrial Disputes Rule, 1958. Case record shows that this case arose by way of order of reference vide No. 440-I.R./11L-14/2014 dt. 04.04.2014 by order of Governor signed by Assistant Secretary to the Government of West Bengal, Labour Department, I.R. Branch, East India House, (2<sup>nd</sup> Floor) 20B Abdul Hamid Street, Kolkata – 700069 mentioning that an industrial dispute exists between M/s. TRA General Hospital, 7, Dr. Biresh Guha Street, Kolkata – 700017 and their workman Pradip Halder of Purba Sahebpur, P.O. – Champahati, P.S. – Sonarpur, Dist. 24-Parganas (S), Pin. 743330 relating to issues as mentioned in the order of reference stated to be matters specified in the second / third schedule in the Industrial Disputes Act, 1947, further mentioning that it is expedient that the said dispute should be referred to an Industrial Tribunal constituted U/s. 7A of the Industrial Disputes Act, 1947, and then in exercise of power conferred U/s. 10 read with Section 2A of the Industrial Disputes Act, 1947, the Governor became pleased to refer the dispute to this Tribunal stated to be constituted under Notification No. 803-I.R./3A-2/57 dt. 11.03.1957 for adjudication requiring this Tribunal to submit its award within a period of 3 months from the date of receipt of this order of reference in terms of Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 and other provisions of this Act, the issues framed in the order of reference being as under: -

- 1) Whether the termination of service by way of dismissal of workman Sri Pradip Halder by management of the company M/s. TRA General Hospital w.e.f. 23.01.2012 is justified or not?
- 2) If not, to what other relief is the workman entitled?

After taking cognizance on the order of reference this Court issued notice to the workman Pradip Halder and also on the management of the company M/s. TRA General Hospital to file written statement. In the written statement filed by workman Pradip Halder it is stated that he was the permanent workman of the O.P. Company on and from 2001 till his service was terminated by the management of the company on 23<sup>rd</sup> January, 2012. It is further stated that the hospital is run on lease by the management of the company granted by Kolkata Municipal Corporation. It is further stated that he was allotted night-shift duty in the intervening night of July 22, 2014 and July 23, 2014 from 8 p.m. to 8 a.m., and accordingly he had been performing his duty as sweeper with her colleague sweeper Smt. Manju Devi and after Manju Devi went to the ladies room after her duty, the workman sat on the sofa thinking about



performing his duties and if he had left any duty unperformed, and at that time only Mr. Sk. Adil Rahaman who was in-charge of the administration of O.P. Company was passing by but suddenly Mr. Rahman raised cries mentioning that the workman had been sleeping. It is next stated that after that he was issued show cause notice on 25.07.2011 by Dr. Jayanta Chakraborty who was the CEO of the Hospital of the O.P. Company falsely mentioning that the workman had been sleeping during the time of his duty giving the workman only 48 hours to make reply. It is further stated that the workman made a reply against the show cause notice in July 27, 2011 and being a lay-man without any knowledge of intricacies and implication of his reply. It is next stated the workman was suspended by letter dt. 27.07.2011 by Dr. Chakraborty and the workman was not allowed to enter the hospital w.e.f. 27.07.2011. It is next stated that workman got a notice from advocate Gobinda Das Mitra for conducting enquiry but Mr. Mitra was never given any appointment letter making him enquiry officer and he was the legal advisor of the company also. Domestic enquiry commenced on 09.09.2011 by enquiry officer Mr. Mitra and then workman was given a copy of proceeding without copies of the documents used in the domestic enquiry proceeding and enquiry officer acted illegally without following the principles of natural justice and also did not narrate the procedure before conducting the enquiry by the enquiry officer. It is further mentioned that the enquiry officer conducted the domestic enquiry against the workman in an illegal way and on the basis of that illegal enquiry report the workman was terminated from the service and thus criminal punishment was given to the workman illegally and without following the principles of natural justice. The workman prayed for holding the domestic enquiry proceeding and its report as illegal and void ab initio and also prayed for his reinstatement in service. The management of the company has also filed W.S. to contest the case raising some legal technicalities such as reference is without application of mind by the appropriate government, workman admitted guilt etc. to bar the matter of adjudication in the case and denying the contention of the written statement filed by the workman, the management of the company has raised that the domestic enquiry conducted against the workman was proper and the workman was found guilty and on the basis of report of enquiry officer the workman was dismissed from service.

The case record further shows that after that hearing on the validity of domestic enquiry was taken up and on behalf of the company the enquiry officer advocate Gobinda Das Mitra was being examined as O.P.W.-1 and the company also adduced documentary evidences and from the side of workman, workman Pradip Halder examined himself as P.W.-1 and also adduced documentary evidences and thus the case was at the stage of passing order on the validity of domestic enquiry. At this stage both sides filed memorandum of settlement mentioning that as per settlement, a sum of Rs. 75000/- as full and final settlement of the case will given to the workman by issuing one account payee cheque and the management of the company will also pay money arising out of gratuity for the service given by the workman and management of the company will also ensure withdrawal of provident fund money by taking necessary steps and give the same to the workman. The memorandum of settlement also shows that both parties signed the settlement in presence of witnesses.



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Justice  
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West Bengal

The matter of settlement was taken up for hearing and during this stage the management of the company examined its administrative assistant Sri Subhra Pradhan as O.P.W.-2 and he deposed that he was authorised by the management of the company to depose in connection with the memorandum of settlement between the parties in this case and the memorandum of settlement was marked Ext. H, O.P.W.-2 also deposed that the matter of this case has been amicably settled between management of the company and the workman Pradip Halder and identified the memorandum of settlement, O.P.W.-2 also deposed that the memorandum of settlement is between management of the company and workman Pradip Halder and on behalf of the management of the company, O.P.W.-2 Subhra Pradhan signed the memorandum of settlement and also identified his signature thereon and on behalf of the workman it was signed by workman Pradip Halder himself and the memorandum of settlement was marked Ext. H and the workman declined to cross-examine O.P.W.-2 Subhra Pradhan. workman Pradip Halder as P.W.-1 deposed that the matter of dispute in this case has been settled by himself with the management of the company and arising out of this settlement he has also received money arising out of gratuity and a further money of Rs. 75000/- from the company and the workman has no further claim against the company. workman Pradip Halder as P.W.-1 also deposed that the matter of settlement was prepared in writing in presence of witness namely Smt. Mithu Halder and also deposed that he settled the case matter without any pressure from anyone but out of his free will and intention. workman Pradip Halder (P.W.-1) was examined by the Court to some extent and then P.W.-1 deposed that he does not want to be reinstated in his service and the matter settlement s prepared amicably and he signed the matter of settlement after understanding the same fully and also deposed that he does not have any objection in case this proceeding is disposed of on the basis of the settlement.

Ld. Lawyer for the company has submitted that the case matter has been settled amicably and both sides have signed the memorandum of settlement out of free will and there was at all no pressure for doing so on the workman. During hearing Ld. Lawyer for the workman was not available and workman also deposed as P.W.-1 that his lawyer would not come.

After going through the memorandum of settlement and the evidences adduced by O.P.W.-2 Subhra Pradhan of management of the company and also that of the workman as P.W.-1, it is coming out that the workman entered into the settlement in question at his free will after receiving money as per settlement and there was no pressure or any other coercion on him for signing the matter of settlement , and accordingly necessary order may be passed. It is therefore,

**ORDERED.**

that the present proceeding arising out of order of reference vide No. 440-I.R./11L-14/2014 dt. 04.04.2014 by order of Governor signed by Assistant Secretary to the Government of West Bengal, Labour Department, I.R. Branch, East India House, (2nd Floor) 20B Abdul Hamid Street, Kolkata – 700069 be, and the same is, ordered in terms of contention in the memorandum of settlement (Ext. H) between the parties i.e. workman Sri Pradip Halder Purba Sahebpur, P.O. – Champahati, P.S. – Sonarpur, Dist. 24-Parganas (S), Pin. 743330 and the



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management of the company M/s. TRA General Hospital, 7, Dr. Biresh Guha Street, Kolkata – 700017, and the memorandum of settlement (comprising 3 pages) dt. 05.07.2019 is made part of this order, and the management of the company is directed to bear the cost. This order and direction is to be treated as an award of this Tribunal in view of the order of reference as mentioned above and it is directed that necessary number of copies of this judgement and award be prepared and sent to the Additional Chief Secretary to the Government of West Bengal, Labour Department, N.S. Buildings, 12<sup>th</sup> Floor, 1, K.S. Roy Road, Kolkata- 1 as provided in the rules.

Dictated & corrected by me.

S.C.D.  
Judge



S.C.D.  
(Sribash Ch. Das)  
Judge

2nd Industrial Tribunal  
31.07.2019

Judge  
2nd Industrial Tribunal  
West Bengal