

I/64235/2019

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/~~920~~/LC-IR/22015(12)/55/2019Date : ~~27-09-2019~~

**ORDER**

WHEREAS an industrial dispute existed between M/s Mahadeo Jute & Industries Ltd., 352, G.T. Road, Bally, Howrah and Sri Sanju Samanta, S/o Sri Kamakshya Samanta, 14/5, Dharmatala Road, Bally, Howrah - 711201 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 filed an application under section 10(1B)(d) of the Industrial Dispute Act, 1947 (14of 1947) to the Judge, Second Industrial Tribunal, 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 Industrial Tribunal, Kolkata heard the parties under section 10(1B)(d) of the I.D. Act, 1947 (14of 1947).

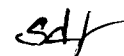
AND WHEREAS the said Judge Second Industrial Tribunal, Kolkata has submitted to the State Government its Award under section 10(1B)(d) of the I.D. Act, 1947 (14of 1947) on the said Industrial Dispute.

Now, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Dispute Act, 1947 (14of 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

I/64235/2019

: 2 :

No. Labr/920/1(5)/(LC-IR)Date 27-09-2019

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

1. M/s Mahadeo Jute & Industries Ltd., 352, G.T. Road, Bally, Howrah.
2. Sri Sanju Samanta, S/o Sri Kamakshya Samanta, 14/5, Dharmatala Road, Bally, Howrah - 711201.
3. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The O.S.D. & E.O. Labour Commissioner, W.B., New Secretariat Buildings, (11<sup>th</sup> 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. Labr/920/2(2)/(LC-IR)Date 27-09-2019

Copy forwarded for information to :-

1. The Judge, Second Industrial Tribunal, Kolkata, with respect to his Memo No. 1257- LT dated 12.09.2019.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.

Deputy Secretary

In the matter of an industrial dispute between workman Sanju Samanta, son of Sri Kamakshya Samanta of 14/5, Dharmatala Road, Bally, Howrah – 711201 against the management of the company M/s. Mahadeo Jute & Industries Ltd., 352, G.T. Road, Bally, Howrah.

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( Case No. 01/2015 U/s. 10(1B)(d).

BEFORE THE SECOND INDUSTRIAL TRIBUNAL: WEST BENGAL

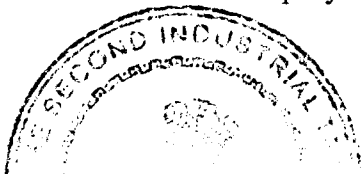
PRESENT: SHRI SRIBASH CHANDRA DAS, JUDGE,

SECOND INDUSTRIAL TRIBUNAL, KOLKATA

Date of passing award –07.08.2019

A W A R D

This is a case U/s. 10(1B)(d) of the Industrial Disputes Act, 1947 filed by workman Sanju Samanta, son of Sri Kamakshya Samanta of 14/5, Dharmatala Road, Bally, Howrah – 711201 against the management of the company M/s. Mahadeo Jute & Industries Ltd., 352, G.T. Road, Bally, Howrah. As per written statement the case of the workman is that the O.P. Company is a company registered under Company's Act, 1956 having its registered office at the address mentioned above mainly producing jute products and the workman / petitioner had been working under the company diligently and honestly but on 10.11.2013 the workman / petitioner received a show cause notice dt. 09.11.2013 from the management of the company raising allegations against the workman that on 08.11.2013 when C – shift duty was going on, the workman was not found in the place of his working during the time of checking and on the same day at about 11.40 p.m. when the supervisor of the company wanted to know the reason for his absence during duty hours, the workman became furious and quarrelled with him using filthy languages, but the workman described such contentions of show cause notice by the management of the company as false and baseless allegations on the ground that management of the company did not specify the name of the person with whom the workman was alleged to have misbehaved and also the specific words as have been stated to be allegedly filthy languages alleged to have been used by workman / petitioner. It is further stated that the management of the company issued charge-sheet against the workman on 13.11.2013 on the same day on which he received the show cause notice and the charge-sheet contained charges under Rule 14©, (i), (viii)& (ix) of the Standing Order and the management of the company also issued the notice of enquiry dt. 12.12.2013 appointing Mr. Tarak Dutta as enquiry officer. It is also mentioned in the written statement that the enquiry officer Mr. Tarak Dutta is a paid person of the management of the company and during the enquiry proceeding the enquiry officer Mr. Dutta did not provide opportunity for cross-examination of the witnesses tendered by and on behalf of the management of the company and the petitioner / workman being a lay-man not acquainted with the technicalities of the nature of conducting the domestic enquiries was not in a position to defend himself and the enquiry officer proceeded with the enquiry by writing his own words



and then stated the same to be the deposition of the witnesses. On 13.04.2014 the management of the company issued a letter to the workman / petitioner along with the report and finding of the enquiry officer holding him guilty under rule 14©(viii) of the standing order of the company and exonerating him of the rest charges, even though no specific allegations of man-handling anyone of the company was made against the petitioner and then on 23.04.2014 the management of the company dismissed the workman / petitioner from service on the basis of report and finding of the enquiry officer. It is next stated that the workman / petitioner immediately informed the matter to the Assistant Labour Commissioner, Howrah by a letter dt. 02.06.2014 and also wrote a letter dt. 30.06.2014 requesting the management of the company to reconsider its action taken against the workman but due to adamant attitude on the part of the management of the company the matter could not be settled before Assistant Labour Commissioner during conciliation and then the conciliation officer issued a certificate under rule 12A(3) of the West Bengal Industrial Disputes Rule, 1958 in Form – S on 27.02.2014. The management of the company also filed written statement to contest the matter in the dispute raising some legal technicalities to bar the instant proceeding before this Tribunal with a specific case in the way that the workman / petitioner was a Budly worker and denying the allegations made by workman / petitioner in his written statement the management of the company has mainly asserted in its written statement that the management of the company dismissed the service of the workman after holding domestic enquiry held by an independent enquiry officer who in his report and finding found him guilty of committing wrong under rule 14©(viii) of the standing order of the company.

Case record shows that hearing was started on the matter of validity of domestic enquiry and accordingly evidences were being recorded and at that stage Ld. Lawyer for the management of the company filed one petition U/s. 33B of the Industrial Disputes Act, 1947 before 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 and accordingly wanted time before this Tribunal till disposal of that petition U/s. 33B of the Industrial Disputes Act, 1947 but ultimately the Additional Chief Secretary to the Government of West Bengal, Labour Department rejected that petition and send back the case record for disposal. At this stage only joint application with memorandum of settlement as mentioned earlier has been filed.

During hearing of the joint application workman Sanju Samanta examined himself as P.W.-1 (07.08.2019), his cross-examination by Ld. Lawyer for the company was declined and he was also examined by Court to some extent and on behalf of the company its personnel officer Mr. Subhasis Ray was examined as O.P.W.-1 and his cross-examination was declined by Ld. Lawyer for the workman. The memorandum of settlement shows that the matter of dispute between the workman Sanju Samanta and the management of the company M/s. Mahadeo Jute & Industries Ltd. has been settled amicably as per terms and conditions arrived at and mentioned in the memorandum of settlement. As P.W.-1 the workman Sanju Samanta deposed that he has filed the memorandum of settlement as the case has been compromised with the management of the company amicably and he entered into the compromise without any pressure from anyone

and the memorandum of settlement was prepared as per negotiation for amicable settlement and then it was read over and explained to him and he understood that the memorandum of settlement was properly prepared. P.W.-1 i.e. workman Sanju Samanta deposed that he is educated upto Madhyamik and having come to understand that the memorandum of settlement was properly written, he signed the memorandum of settlement in presence of Personnel Officer of the company Mr. Subhasis Ray who also signed the memorandum of settlement in his presence. This P.W.-1 i.e. workman was also examined by Court to some extent and as P.W.-1 he stated to the Court that he compromised the matter of dispute without any pressure from anyone. Thus, going through such evidences given by workman as P.W.-1, it is coming out that there is no doubt that the workman has compromised the matter of dispute amicably only without any pressure from anyone. The Personnel Officer of the company Mr. Subhasis Ray also deposed that the matter of dispute has been settled amicably between the parties and the terms and conditions have been mentioned in the memorandum of settlement and the workman signed the memorandum of settlement without any pressure from anyone.

Ld. Lawyers of both sides uniformly argued that the matter has been settled amicably between the parties and there was no pressure on the workman in any way. Having taken the depositions of P.W.-1 (workman) and of personnel office Mr. Ray (O.P.W.-1) it is coming out that the workman amicably settled the matter without any pressure or other compulsion from anyone and the matter of memorandum of settlement is thus found to be acceptable and necessary order may be passed accordingly. It is, therefore,

ORDERED,

that the case be and the same is decided as per terms and conditions mentioned in the memorandum of settlement dt. 07.08.2019 and the issues i.e. whether the case is maintainable in its present form, whether the dismissal of Sri Sanju Samanta from service w.e.f. 23.04.2014 is justified and to what relief, if any, the petitioner is entitled as were framed on 12.05.2016 have been decided as per terms and conditions mentioned in the memorandum of settlement signed and filed by both sides on today i.e. 07.08.2019 and the memorandum of settlement dt. 07.08.2019 signed and filed by both sides as mentioned above is made part of this order, and it is stated that this is to be treated as an award of this Tribunal over the matter of dispute U/s. 10(1B)(d) of the Industrial Disputes Act, 1947, 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.

Judge



38/-  
(Sribash Ch. Das)  
Judge  
2nd Industrial Tribunal  
07.08.2019

Filed by  
Advocate  
For the Company  
7/15/19  
For the workman

Before the Learned Second Industrial Tribunal, West Bengal

**CASE NO. 01/15 u/s 10(1B)(d)**

In the matter of:

**Sanju Samanta**

~~ VERSUS ~~

**Mahadeo Jute & Industries Limited**

The humble JOINT APPLICATION on behalf of the parties

**Most Respectfully Sheweth:**

1. The above case is pending adjudication before this Learned Tribunal.
2. That the parties to this lis has amicably settled the matter and in terms of said settlement, the applicant has to withdraw the instant lis and consequent upon such withdrawal, the applicant will re-join the services of the company at the same status at the same Department, where he was posted at the time of his dismissal, a copy whereof is annexed herewith.
3. This is bonafide and made for interests of justice.

It is, therefore, humbly prayed that this Learned Tribunal would graciously be pleased to pass an Award recording the factum of settlement, for the interests of justice.

And for this act of kindness, your petitioner shall ever pray.

**VERIFICATION**

I, Subhasis Roy, the Personnel Officer of the company do hereby declare and say that the statements as made in paragraphs No. 1 and 2 are true to my knowledge and the rest paragraphs including prayers as made are my humble submissions before this Learned Tribunal.

I sign this verification on 07<sup>th</sup> day of August, 2019

*Subhasis Roy*

**VERIFICATION**

I, Sanju Samanta, the applicant of this case do hereby declare and say that the statements as made in paragraphs No. 1 and 2 are true to my knowledge and the rest paragraphs including prayers as made are my humble submissions before this Learned Tribunal.

I sign this verification on 07<sup>th</sup> day of August, 2019

*Sanju Samanta*

## MEMORANDUM OF SETTLEMENT

1. PARTIES TO THE SETTLEMENT: A. Sanju Samanta, son of Shri Kamakha Samanta, Residing at 14/5, Dharmatala Road(N), Bally, Howrah - 711202
- B. Mahadeo Jute & Industries Limited,(a company incorporated under Companies Act, 1956 and presently Companies Act, 2013) having its registered office at: 23A, Netaji Subhas Road, Calcutta - 700001 represented by Subhasis Roy, Personnel Officer.

2. SIGNATORIES TO THE SETTLEMENT A. Sanju Samanta for himself

B. Shri Subhasis Roy, Personnel Officer

for Mahadeo Jute & Industries Limited

3. SHORT RECITAL OF THE MATTER: Shri Sanju Samanta was chargesheeted for commission of gross misconducts which was not satisfactorily replied to for which, a Domestic Enquiry was held by an independent Enquiry Officer who after conducting the Domestic Enquiry in due observance of law and principles of natural justice found him to be guilty of certain charges in his Enquiry Report which was concurred with by the management of the company and after due observance of the law, dismissed him from the services for such proven misconduct.

Shri Sanju Samanta raised an industrial dispute which resulted in registration of Case no. 01/15 u/s/ 10(1B)(d) before the Learned 2<sup>nd</sup> Industrial Tribunal, West Bengal, which is still pending.

The parties to this Settlement held talks in an atmosphere of amicability to settle the matter and it has been decided that by reason of this settlement, the subject matter of Case no. 01/15 u/s/ 10(1B)(d) will stand resolved.

*Sanju Samanta*

*Subhasis Roy*

## 4. TERMS OF SETTLEMENT:

- A. Shri Sanju Samanta will withdraw Case no. 01/15 u/s/ 10(1B)(d) as pending before the Learned 2<sup>nd</sup> Industrial Tribunal, West Bengal.
- B. Consequent upon such withdrawal, Shri Sanju Samanta will re-join the services of the company at the same status at the same Department, where he was posted at the time of his dismissal.
- C. Shri Sanju Samanta will not claim any back-wages or any monetary benefit for the period of his dismissal till his re-joining.
- D. Shri Sanju Samanta will not suffer any break in service for the period of his dismissal till his re-joining.
- E. Shri Sanju Samanta confirms that upon execution of this Settlement he will have no further claims towards back-wages or any monetary benefit for the period of his dismissal till his re-joining.
- F. The parties to this settlement agree to execute any additional and/or supplementary settlements for disposal of the said case, strictly in terms of this settlement without any variance of terms and conditions whatsoever.
- G. By virtue of this settlement, all the claims of Shri Sanju Samanta as ventilated in Case no. 01/15 u/s/ 10(1B)(d) are settled fully and finally.

Signed and executed on this 08<sup>th</sup> day of August, 2019

**WITNESSES**


RANANEESH GUHA THAKURTA  
*Advocate*  
 Industrial Tribunal Bar Library  
 J. S. Buildings, 3rd Floor, Calcutta-700 001  
 M # 9339206195

*Sanju Samanta*  
 (Sanju Samanta)

*Subhasis Ray*  
 (Subhasis Ray)

Personnel Officer,

Mahadeo Jute & Industries Limited,