

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

No. Labr/ 100 / (LC-IR)/22015(16)/582/2018

Date : 21-01-2025

**ORDER**

WHEREAS an industrial dispute existed between M/s. Bharat Battery Manufacturing Company Pvt. Ltd. and their two workmen Unions (i) Bharat Battery Shramik Karmachari Union & (ii) Bharat Battery Mfg. Co. Mazdoor Union, regarding the issues, being a matter specified in the second schedule to the Industrial Dispute Act, 1947 (14 of 1947);


AND WHEREAS the 4<sup>th</sup> Industrial Tribunal, Kolkata has submitted to the State Government its Memorandum of Settlement Award dated 26.11.2024 in Case No. VIII - 28/2015 on the said Industrial Dispute Vide e-mail dated 27.11.2024 in compliance of u/s 10(2A) of the I.D. Act, 1947.

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,


  
Assistant Secretary  
to the Government of West Bengal

No. Labr/ 100 /1(6)/(LC-IR)/ 22015(16)/582/2018

Date : 21-01-2025

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

1. M/s. Bharat Battery Manufacturing Company Pvt. Ltd.
2. Bharat Battery Shramik Karmachari Union.
3. Bharat Battery Mfg. Co. Mazdoor Union.
4. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
5. The OSD & EO Labour Commissioner, W.B., New Secretariat Building, 11<sup>th</sup> Floor, 1, Kiran Sankar Roy Road, Kolkata – 700001.
6. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.

  
Assistant Secretary

No. Labr/ 100 /2(3)/(LC-IR)/ 22015(16)/582/2018

Date : 21-01-2025

Copy forwarded for information to :-

1. The Judge, 4<sup>th</sup> Industrial Tribunal, N. S. Building, 1, K.S. Roy Road, Kolkata – 700001 with respect to his e-mail dated 27.11.2024.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.
3. Office Copy.

  
Assistant Secretary

In the matter of an Industrial Dispute between M/s. Bharat Battery Manufacturing Company Pvt. Ltd. and their two workmen Unions viz. (i) Bharat Battery Shramik Karmachari Union (ii) Bharat Battery Mfg. Co. Mazdoor Union.

**(Case No. VIII-28/2015)**

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BEFORE THE FOURTH INDUSTRIAL TRIBUNAL: WEST BENGAL

**P R E S E N T**

SHRI NANDAN DEB BARMAN, JUDGE  
FOURTH INDUSTRIAL TRIBUNAL  
KOLKATA.

**A W A R D**

**Dated: 26<sup>th</sup> November, 2024.**

**ISSUES**

- (1) Whether the issues raised by Bharat Battery Shramik Karmachari Union in their Charter of Demand regarding increase of increment for staff and workmen, leave salary with arrear, increase of house rent allowance, determination of incentives, etc. before the management are justified?
- (2) What relief, if any, are they entitled to?

**Written Statement of Bharat Battery Shramik Karmachari Union.**

The case of the workmen being represented by the General Secretary of Bharat Battery Shramnik Karmachari Union (Regd. No. 25288) in brief is as follows: –

- (1) The Union under reference submitted a Charter of Demand by their letter dated 30.04.2013 to the Director of Bharat Battery Mfg. Co. Pvt. Ltd. with their major demands that
  - (i) Full days in a month which was paid by the management irrationally and arbitrary for which the workmen are being deprived in each month not only in respect of basic pay but all service benefits arising on the basis of such basic pay.
  - (ii) The Union wrote a letter to Shri S. K. Basu, Joint Labour Commissioner on 22.07.2013 for settlement of Charter of Demand in which the Joint Labour Commissioner by his letter dated 30.07.2013 requested the Company to send competitive representative for a joint conference on 12.08.2013 at 2:30 P.M. A copy of which was also send to the Union for a joint conference and thereafter several joint conferences were held before the Conciliation Officer on several occasions but all are in vain and no fruitful result arrived at with regards to the said Charter of Demand.
  - (iii) That again on 19.07.2024 a bipartite level meeting was held before the Conciliation Officer, in which Union demanded overall rise of pay of Rs. 5,000/- but after a discussion Union came down to Rs. 3,000/- when the representative of the management present over their assured that the said demand will be conveyed to the top management and the decisions to be communicated after a discussion with the top management. But no such decision was conveyed to the Union.

- (iv) The Conciliation Officer again and again tried his level best to conduct bipartite level meeting for Conciliation and settlement but the OP/Company did not respond and ultimately no fruitful result could be arrived at with regard to the said Charter of Demand and ultimately the matter was referred before this Tribunal by the appropriate authority vide G.O. No. 652-I.R./IR/11L-70/2013 dated Kolkata, 1<sup>st</sup> July, 2025 to have a decision from this Industrial Tribunal over the aforesaid issues.

Written Statement of the Company i.e. M/s. Bharat Battery Manufacturing Company Pvt. Ltd.

This OP/Company in its written statement denying all the material claims and allegations of the Applicant Union i.e. Bharat Battery Shramik Karmachari Union, submitted *inter alia* that this Union has no locus standi as it represents a negligible minority workman in the company and has no status as a sole bargaining agent. The OP/Company further contended that:

- (i) The order of reference is not maintainable in as much as the dispute has been settled by Memorandum of Settlement entered into by the Company with the majority Union viz. Bharat Battery Mfg. Co. Mazdoor Union (Regd. No. 13146) as the sole bargaining agent and the only recognized Union declared by the Registrar of Trade Union, West Bengal securing 68.29 % of votes.
- (ii) The dispute, if any, over the issues of Charter of Demand is not maintainable as the much majority of workmen had settled the dispute by accepting the Memorandum of Settlement and the members of Bharat Battery Shramik Karmachari Union also accepted the benefits arising out of the said settlement and in spite of that the few workmen of the said Union raised some objections even after accepting the benefits of the settlement.

Hence, the Memorandum of Settlement dated 31.03.2015 is applicable on all the workmen of the Company even though a negligible minority workmen might have any objection.

Although the appropriate Government inadvertently made Bharat Battery Mfg. Co. Mazdoor Union, as a party to the dispute in the Order of Reference but the said Union submitted before the Ld. Tribunal that they are not a necessary party to the dispute of this case as they have already settled the matter with the Company. As a result of which the Order of Reference in connection with this case is not maintainable and an Award can be passed accordingly.

DECISIONS WITH REASONS

Evidence of the applicant Union i.e. Bharat Battery Shramik Karmachari Union.

To prove their case the applicant Union has examined two witnesses namely Shri Gurupada Bhattacharya as P.W.-1 and Shri Goutam Gangopadhyay as P.W.-2 respectively. In addition to their oral evidence the applicant Union also exhibited so many documents which have been marked as Exhibit-1 to Exhibit-39 respectively, which are as follows:—

Exhibit-1	Charter of demand dated 30.04.2013.
Exhibit-2	Letter dated 22.07.2013 to Shri S. K. Basu, Joint Labour Commissioner.
Exhibit-3	Letter to M/s. Bharat Battery Mfg. Co. Pvt. Ltd. by Shri S. K. Basu.
Exhibit-4	Letter dated 19.11.13 to the Company by Shri S. K. Basu.
Exhibit-5	Another letter to the Company by Shri S. K. Basu, copy of which was forwarded to the President of applicant Union dated 26.09.13.

Exhibit-6	Letter dated 27.11.13 to Shri S. K. Basu by Shri Shovan Deb Chattopadhyay, President of applicant Union.
Exhibit-7	Letter dated 19.11.13 to the said President by Shri S. K. Basu.
Exhibit-8	Another letter dated 07.11.13 to Shri S. K. Basu by one Shri Samerandra Prasad Saha, Director of the Company.
Exhibit-9	Letter dated 16.12.13 to Shri S. K. Basu by the GS of the applicant Union.
Exhibit-10	Letter dated 27.01.2024 to the Company by Shri S. Khatua, JLC.
Exhibit-11	Another letter to the Company dated 24.02.14 by Shri S. Khatua.
Exhibit-12	Letter dated 24.03.14 to the GS of applicant Union by Shri A. Mullick, Factory Manager of the Company.
Exhibit-13	Minutes of the Meeting held on 09.04.14 between the management and the representative of applicant Union.
Exhibit-14	Another Minutes of Meeting dated 19.07.14.
Exhibit-15	Letter dated 23.07.14 to the President of the applicant Union by Shri S. Khatua.
Exhibit-16	Another letter dated 12.09.14 to the President of the applicant Union by Shri S. Khatua.
Exhibit-17	Another letter dated 13.10.14 to the Company by Shri S. Khatua.
Exhibit-18	Another letter dated 14.10.14 to the Company by Shri Asim Ghosh, Assistant Secretary to the applicant Union.
Exhibit-19	Letter dated 12.11.14 to the Manager of the Company by Shri Gurupada Bhattacharya.
Exhibit-20	Letter dated 12.11.14 to the Company by Shri S. Khatua.
Exhibit-21	Letter to the Manager of the Company by Shri Asim Ghosh, Assistant Secretary of the applicant Union.
Exhibit-22	Letter to the Company by Shri S. Khatua dated 04.02.15.
Exhibit-23	Letter dated 19.02.15 to JLC by P.W.-1 Shri Gurupada Bhattacharya in the capacity of Secretary of the applicant Union.
Exhibit-24	Letter dated 08.04.15 to Smt. Sharmila Khatua by Shri Shovan Deb Chattopadhyay as President of the Union.
Exhibit-25	Letter dated 22.08.15 to the Manager of the Company by P.W.-1 GS of the Union.
Exhibit-26	Memo dated 26.05.15 for consumer price index No. for industrial workers.
Exhibit-27	A certificate of recommendation as sole bargaining agent to Bharat Battery Mfg. Co. Mazdoor Union.
Exhibit-28	Resolution dated 18.02.14 taken in the appropriate meeting.
Exhibit-29	Letter dated 26.09.13 to Shri S. K. Basu by Bharat Battery Sharamik Karmachari Union.

Exhibit-30	The pay slips of one Shri Prasanta Santra.
Exhibit-31	Two pay slips of Shri Somnath Bhattacharya of Exide Industries Limited.
Exhibit-32	Pay slips of February, 2014.
Exhibit-33	Salary statement of P.W.-1 for the period of March, 2013 to February, 2014.
Exhibit-34	Letter dated 04.05.2017 to the Labour Commissioner.
Exhibit-35	Letter dated 01.08.2017 to the Manager of the Company by Ma Tara Caterer.
Exhibit-36	Letter dated 14.07.2017 to the Director of the Company by the workmen of the Company.
Exhibit-37	Notice dated 03.08.17 by Factory Manager of the Company.
Exhibit-38	Notice dated 10.08.17 by the Factory Manager of the Company.
Exhibit-39	Letter dated 14.08.17 to the Manager of the Company.

On the contrary the OP/Employer Bharat Battery Mfg. Co. Pvt. Ltd. to establish their case have examined one witness Shri Amlan Chandra Mitra as O.P.W.-1 and also exhibited some documentary evidences as Exhibit-A to Exhibit-CC respectively, which are as follows:–

Exhibit-A	Letter dated 22.08.2015 to the Company by the applicant Union.
Exhibit-B	Letter dated 09.09.2014 to the applicant Union by the Factory Manager of OP Company.
Exhibit-C	Pay slip of Shri Gurupada Bhattacharya.
Exhibit-D	Letter dated 25.10.2013 to the Company by Bharat Battery Mfg. Co. Mazdoor Union.
Exhibit-E	Authorization letter to Mr. Amlan Chandra Mitra by the Secretary of OP Company.
Exhibit-F	Form-J.
Exhibit-G	Letter dated 04.01.2011 to the OP Company by the Registrar of Trade Union, West Bengal.
Exhibit-H	Form-N.
Exhibit-I	Form-M.
Exhibit-J	Charter of Demand dated 23.05.2011 to the OP Company by the Asst. General Secretary of Bharat Battery Mfg. Co. Mazdoor Union.
Exhibit-K	Charter of Demand dated 30.04.2013 to the OP Company by the President of Bharat Battery Shramik Karmachari Union.
Exhibit-L	Letter dated 13.06.2013 to JLC by the General Manager of the OP Company.
Exhibit-M (series)	Letters to JLC by the OP Company.
Exhibit-N	Letter dated 24.03.14 to the applicant Union by the OP Company.

Exhibit-O	Minutes of Meeting dated 09.04.14.
Exhibit-P	Minutes of Meeting dated 19.07.14.
Exhibit-Q	Letter dated 24.11.2014 to the JLC by the OP Company.
Exhibit-R	Letter dated 15.12.2014 to the JLC by the OP Company.
Exhibit-S	Memorandum of Settlement.
Exhibit-T	Letter dated 02.04.15 to the JLC by the OP Company.
Exhibit-U	Letter dated 20.04.15 to the JLC by the Company.
Exhibit-V	Letter dated 27.08.15 to the applicant Union by the OP Company.
Exhibit-W	Inspection notice dated 23.07.15 issued to the OP Company by Inspector Minimum Wages and Payment of Wages Act.
Exhibit-X	Salary statement of Shri Gurupada Bhattacharya.
Exhibit-Y	Pay slip of some employees of the OP Company.
Exhibit-Z	Memorandum of Settlement over Charter of Demand of workmen employed in engineering unit other than Central Public Sector Undertakings in West Bengal.
Exhibit-AA	Chart showing increase in payment of workmen belonging to the concerned Union.
Exhibit-BB	Synopsis of Minimum Wages in schedule employment in West Bengal as on 01.01.2016.
Exhibit-CC	Address of communication dated 09.08.2017 to the OP Company by the workmen belonging to majority Union.

Now, let us to discuss about the arguments of the concerned parties to this case. In this regard, the order sheets of this case records goes to show that the evidence of this case was closed after cross-examination in full of O.P.W.-1 on 07.06.2018 by fixing the next date on 04.07.2018 for argument. The record also goes to show that since 04.07.2018 no complete and fruitful argument was advanced from the end of the applicant Union till the closure of argument stage on 16.08.2024. On several pretext arguments of applicant Union was deferred on different dates during the said long period. On the other hand, the Ld. Counsel for the OP/Company concluded his arguments by submitting written notes of argument on 16.08.2024.

At the very outset Ld. Counsel of the OP/Company in his oral as well as written notes of argument submitted that the OP/Company is registered under NSIC as a small-scale unit and produces tailor made lead acid batteries and compelled to work with minimum normal profit for survival and existence and business position of the Company is bad for last 9 to 10 years as the Indian Railway is the only customer of the Company. In spite of that the Company is paying the worker much more than the minimum wages notified by the Government of West Bengal and also much more than any small-scale industry not only in the region but also in the State of West Bengal. The applicant Union viz. Bharat Battery Shramik Karmachari Union was registered in December 2009 but prior to that only Bharat Battery Mfg. Co. Mazdoor Union was the only Union, operating in the Company. After formation of Bharat Battery Shramik Karmachari Union, the said Union applied to the Register of Trade Union for recognition in the Company and accordingly the Register of Trade Union held an election in the year 2010 at the behest of Bharat Battery Shramik Karmachari Union and in the said election the other Union viz. Bharat



Battery Mfg. Co. Mazdoor Union secured 68.29% of the votes casted and was recognized as the sole bargaining agent in the Company, vide certified in Form-N, valid for 2 years. But thereafter the applicant Union viz. Bharat Battery Shramik Karmachari Union never applied for recognition of trade Union.

The Bharat Battery Mfg. Co. Mazdoor Union submitted a Charter of Demand on 23.05.2011 and the applicant Union Bharat Battery Shramik Karmachari Union submitted another Charter of Demand on 30.04.2013 and thereafter several bipartite and tripartite meetings were held on the issues of respective Charter of Demands and the dispute could not be settled at the said bipartite and tripartite level, even then with the intervention of the Conciliation Officer. After having series of meetings before the Conciliation Officer the then Conciliation Officer advised the management to sit at bipartite level meetings with the Unions to resolve the dispute and as per advice of the Conciliation Officer the dispute with regard to Charter of Demand was settled with the majority Union viz. Bharat Battery Mfg. Co. Mazdoor Union by signing a Memorandum of Settlement dated 31.03.2015 where 79 out of 120 workers signed the same.

The applicant Bharat Battery Shramik Karmachari Union subsequently lodged a protest, even though the members of the said Union accepted the enhanced wages and arrear in accordance with the said Memorandum of Settlement without any protest. Over the said dispute the appropriate Government sent the instant Order of Reference dated 01.07.2015 for adjudication before this Industrial Tribunal at the instance of applicant Bharat Battery Shramik Karmachari Union and in the said Order of Reference another Union Bharat Battery Mfg. Co. Mazdoor Union was also made a party to the dispute. Then the said Union i.e. Bharat Manufacturing Co. Mazdoor Union submitted an application before this Tribunal stating that their Union has settled the issue of Charter of Demand with the OP/Company and as such, they have no dispute in this regard with the OP/Company.

It was further argued by the Ld. Counsel of the OP/Company that the dispute regarding Charter of Demand has been settled with the majority of workmen through the Memorandum of Settlement dated 31.03.2015, in which 79 out of 120 workmen put their signature and on production of the said document i.e. Memorandum of Settlement (Exhibit-S) during cross-examination of P.W.-1 i.e. witness as well as General Secretary of applicant Bharat Battery Shramik Karmachari Union admitted the same. Thus, the scope of this Tribunal in adjudicating the issue became infructuous, even though the Tribunal might think that the workers deserve marginally higher emoluments.

Ld. Counsel of the OP/Company relied upon some case laws i.e. 1978-I-LLN-Pg 542 Supreme Court, para 11 and 12, in New Standard Engineering Co. Ltd. versus M L Abhyankar and Ors., 1981-II-CLJ-Pg 429 Supreme Court para 10 Tata Engineering and Locomotive Company Limited versus Workmen, 1985 of (50) of FLR-Pg 186 Supreme Court para 12 and 24, Ld. Counsel of the OP Company further submitted that in the aforesaid case laws three Judges bench of Hon'ble Supreme Court observed that, "it is now well settled that where there are multiple Unions, the Union having largest membership of the workmen must be clothed with the status of recognized Union and where a settlement has been made with the Union representing very much majority of the workmen of the Company with their eyes open and was also accepted by them in its totality, it must be presumed, to be fair and just and not liable to be ignored merely because a small number of workers were not party to it or refused to accept, even though the Tribunal thought that the workers deserve marginal higher emoluments". In this regard he also argued that since the members of the applicant Bharat Battery Shramik Karmachari Union accepted the benefits arising out of Memorandum of Settlement (Exhibit-S) which was settled in between the OP/Company and the Union having much majority of the workmen, then the said settlement must be presumed, to be fair and just and not liable to be ignored merely because a small number of workers were not party to it or even after getting benefits subsequently raised a formal protest against it.

The OP/Company has also challenged the locus standi of the applicant Union viz. Bharat Battery Shramik Karmachari Union, to act as a sole bargaining agent as there is no resolution of the workers to that effect. According to his further argument, since the applicant Union has no representative character to act as a sole bargaining agent, then the alleged dispute arising out of their Charter of Demand cannot be treated as an industrial dispute.

He further relied on the decisions of case laws of 1993-I-LLJ Pg 146 Cal HC para 11 and 12 M/s. Mitsubishi Shoji Kaisha Limited versus 4<sup>th</sup> Industrial Tribunal, W.B., 1975-II-LLN Pg 168 Cal HC Deepak Industries Ltd and Anr. versus State of West Bengal and Ors., 1983-LB-IC-NOC 93 Cal HC Savera and Co. Ltd. 7<sup>th</sup> Industrial Tribunal and Ors.

It was his further submission that by accepting the benefits including accrued arrear arising out of the settlement between the majority Union and the Company, the applicant Union i.e. Bharat Battery Shramik Karmachari Union acquiesced and waived their Charter of Demand and is estopped from claiming any benefits with regards to their Charter of Demand. In this regard Ld. Counsel of the OP Company has relied on the decisions of 2004-SCC (L&S) Pg 1086 Supreme Court Krishna Bhadur versus Purna Theatre and Ors., 2006 – (III) – FLR- 372 Cal SC Waxpol Industries Ltd. versus State of West Bengal and Ors.

It was argued by the Ld. Counsel that in adjudicating the Charter of Demand case, the following factors to be looked into:

- (i) Whether the wages are less than the minimum wages declared by the Government.
- (ii) Wages prevailing in the region or in the comparable industries.
- (iii) Paying capacity of the employer.

In this regard his further submission is that the notification of Minimum Wages of the Government of West Bengal showing Minimum Wages i.e. Exhibit-BB shows that the highest Minimum Wages of skilled workmen was Rs.8,750/- per month at the relevant period of the dispute and the workers of the OP/Company were getting Rs.11,000/- per month, which have been reflected in Exhibit-X, Y and Exhibit-AA respectively. Although the applicant Union submitted a pay slip for the month of February, 2014 of one Shri Somnath Bhattacharya of Exide Industries Ltd. as Exhibit-32, but the same does not bear any signature of Shri Somnath Bhattacharya, neither the document is proved by him nor it shows that Shri Somnath Bhattacharya of Exide Industries Ltd. and Shri Gurupada Bhattacharya (P.W.-1) of Bharat Battery Mfg. Co. Ltd. belonging to same category of workman. Moreover, the basic pay of said P.W.-1 was more than the basic pay of Shri Somnath Bhattacharya of Exide Industries Ltd.

Having heard the arguments of Ld. Counsel of the OP/Company and on careful perusal of the materials on record, including the oral as well as documentary evidences of both the parties, admittedly it appears that the relationship between the parties is not disputed.

There is no dispute that total 120 workers were employed under the OP/Company at the relevant period of dispute.

Admittedly, another Union of workmen i.e. Bharat Battery Mfg. Co. Mazdoor Union submitted a Charter of Demand to the OP/Company on 23.05.2011 (Exhibit-J) and subsequently the applicant Union i.e. Bharat Battery Shramik Karmachari Union submitted another Charter of Demand on 30.04.2013 (Exhibit-1) before the selfsame OP/Company i.e. M/s. Bharat Battery Mfg. Co. Ltd. There is no doubt or dispute that so many bipartite and tripartite meetings were held with the Management and before the Conciliation Officer and Joint Labour Commissioner for settlement with regard to the respective Charter of Demands of both the two Unions.

Having considered the respective pleadings and evidences of the parties admittedly it appears that in spite of such type of bipartite and tripartite meetings between the Unions and the OP/Company no settlement with regard to the Charter of Demands (Exhibit-1) of the applicant Union i.e. Bharat Battery Shramik Karmachari Union could be arrived at. On the other hand,



from the undisputed evidences of OP/Company as reflected in Exhibit-S i.e. Memorandum of Settlement, clearly it is established that both two Charter of Demands dated 23.05.2011 and 30.05.2011 of both two respective Unions of workmen were taken together for settlement by holding several bipartite and tripartite level meetings before the Joint Labour Commissioner, Labour Department, Government of West Bengal and when no negotiations or agreement could be reached at, then the said JLC decided to discuss the matter separately with all the parties. After conducting the said separate discussions the said JLC decided to sit with the said two Unions separately in presence of the Management and accordingly on 19.02.2015 the said JLC fixed the meetings time with both the Unions in presence of the Management one after another. First meeting was held with the applicant Bharat Battery Shramik Karmachari Union but during the said meeting with the applicant Bharat Battery Shramik Karmachari Union and the Management no conclusion or agreement could be arrived at due to totally divergent view point of both the parties. In the next meetings with the representative of another Union i.e. Bharat Battery Mfg. Co. Mazdoor Union and the Management, the proposals of both the parties were discussed in details and the parties agreed on principle on most of the issues. At the conclusion of the meetings the said JLC advised both the parties to sit in bipartite level meeting and to resolve the matter to the satisfaction of both the parties at the earliest. As per said advice of JLC the representative of Bharat Battery Mfg. Co. Mazdoor Union and the representative of the Management had several bipartite level meetings and ultimately able to resolve the matter of some terms and conditions, which were formulated in the said Memorandum of Settlement (Exhibit-S) on 31-03-2015 and 79 out of total 120 workers signed the same. There is no iota of evidence in the said Memorandum of Settlement (Exhibit-S) that any such signatory worker out of the said 79 signatories put any objection or mark of protest therein.

There is no doubt that P.W.-1 i.e., witness of the applicant Union in his evidence during cross-examination clearly admitted that he has been attached with the applicant Union as its general secretary. Even though he admitted that he was the general secretary of the applicant Union, he admitted in his evidence adduced for his said applicant Union that they have availed the benefits of that settlement but without knowing that those were settled. In this regard it was his further admission that generally the company does not enhance the salary of the workmen unilaterally. His evidence also clearly goes to show that he admitted that their union applied to the Registrar of Trade Unions for playing the role of sole bargaining agent of their union. After the said application an election was held and their union could not succeed in the said election and the rival union namely Bharat Battery Manufacturing Co. Mazdoor Union was successful in the said election by getting majority and accordingly declared as a sole bargaining agent. It was also admitted by him in his evidence during cross-examination that subsequent to that defeat in the election their union never applied before the Registrar of Trade Unions for declaring their Union as the sole bargaining agent. He made it clear by his evidence that their applicant Union is not holding the majority. Beside his above discussed evidence and evidence of another witness of the applicant Union that is P.W-2 Shri Gautam Ganguly also in his evidence during cross-examination admitted that after settlement the arrear was paid to their bank accounts and they have accepted the same. He made it clear that he did not refuse to accept it. It was admitted by him that he does not know the Minimum Wages rate fixed by the Government of West Bengal and in this regard, he admitted that all the workmen in the company were getting wages above Rs.8000/- per month. As regards the issue of the demand of leave encashment, it was admitted by him that in their Charter of Demand i.e., Exhibit-1, there was no such demand of Leave Encashment. He also made it clear that in the said Charter of demand there was no mention about the Consumer Price Index number for payment of the year as he mentioned in his Affidavit-in-Chief.

Keeping in mind the arguments of Ld. Counsel of the OP/company and the relevant case laws as relied upon by him and keeping in view the above discussed admissions in the evidence of P.W.s and the observation in the case law as reported in 1978 I LLN Pg 542 Supreme Court para 11 and 12 in New Standard Engineering Company limited versus M L Abhyankar and others, that in the event of settlement under consideration became success of the company with

an Union i.e., Bharat battery Manufacturing Co. Mazdoor Union, who is represented a very large majority of the workmen of the company and the majority workmen have signed the settlement and have also accepted and no refund of the amounts which had already been paid to the workmen on that understanding it is a significant fact that the bona fides of that union have not been challenged. There is, therefore, no reason to find that the settlement is not just and fair and should not be accepted.

In 1981 II LLJ Pg 429 Supreme Court para 10 Tata Engineering and Locomotive Co. Ltd. versus Workmen, three Judges' bench of the Hon'ble Supreme Court observed that, "a settlement cannot be weighed in any golden scale and the question whether it is just and fair has to be answered on the basis of principles different from those which came into play where an industrial dispute is under adjudication. If the settlement has been arrived at by a vast majority of workmen with their eyes open and was also accepted by them in its totality, it must be presumed to be fair and just and not liable to be ignored merely because a small number of workers were not parties to it or refuse to accept it or because the Tribunal thought that the workers deserved marginally higher emoluments than they do themselves thought they did".

In another case that is 1985(50) FLR Pg 186 Supreme Court para 12 and 24, it was observed by the three Judges' bench of Hon'ble Supreme Court that, "when a settlement is reached in a proceeding under the Industrial Disputes Act in which a representative union has appeared the same is to be binding on all the workmen of the undertaking. This means that neither the representative union nor the employer can discriminate between members of the respective union and other workmen who are not members. Both the benefits, advantages, disadvantages or liabilities arising out of the settlement in any proceeding under the Industrial Dispute Act to which a representative union is a party shall be equally applicable to each workman in the undertaking. There shall not be the slightest trace of discrimination between both the members and non-members as regards the advantages and also as regards the obligations and liabilities".

Having heard the submission of the Ld. Counsel and on perusal of the evidence of the OP/Company in its Exhibit-BB, admittedly it appears that at the relevant point of time highest Minimum Wages prevailing in West Bengal was Rs. 8,750/- for skilled workmen. From the documentary evidence of OP/Company i.e., Exhibit- X, Y and Exhibit-AA, it also clearly revealed that at the relevant point of time the workers of the OP/Company, including P.W.-1 Shri Gurupada Bhattacharya were getting wages more than Rs. 11,000/-. So, in no way it can be observed that the workers of the OP/Company were getting a wage below to the Minimum Wages prevailing at that relevant point of time. Accordingly, in no way it can be held that the settlement (MOS Exhibit-S) arrived at between the OP/Company and another union i.e., Bharat Battery Manufacturing Co. Mazdoor Union was not just and fair.

It is true that P.W.-1 Shri Gurupada Bhattacharya admitted in his evidence on 28-03-2017 that Exhibit-31, which was submitted from their end reflects the increase in their salary. He also admitted that Exhibit-32 does not bear the signature of Shri Somnath Bhattacharya of Exide Industries Ltd. He also admitted that his basic pay as shown in Exhibit-31 is more than that of Somnath Bhattacharya as shown in Exhibit-32. It is also admitted by him that Bharat Battery used to make batteries to supply to Indian Railways only. It was admitted by him that the turnover, manpower of said Exide Industries Ltd. is much more than their company viz. Bharat Battery Manufacturing Co. Ltd. Admittedly, the applicant Union submitted a pay slip for the month of February, 2014 of one Shri Somnath Bhattacharya of Exide Industries Ltd. as Exhibit-32, but the same does not bear any signature of Shri Somnath Bhattacharya, neither the document is proved by him nor it shows that the Somnath Bhattacharya of Exide Industries Ltd. and Shri Gurupada Bhattacharya (P.W.-1) of Bharat Battery Mfg. Co. Ltd. belonging to same category of workman. Moreover, the basic pay of said P.W.-1 Shri Gurupada Bhattacharya was more than the basic pay of Shri Somnath Bhattacharya of Exide Industries Ltd.

As regards the claim of applicant Union that they demanded Rs.5000/- and the same after discussion with the management came down to Rs.3000/-, on perusal of Exhibit-1 i.e., Charter of Demand of applicant Union coupled with the evidence of P.Ws admittedly it appears that, both the two P.Ws in their evidence admitted that there was no such demand in the said Charter of Demand, demanding Rs.5,000/-.

On consideration of all the above factors and discussions this Tribunal is of the view that the applicant Union i.e., Bharat Battery Shramik Karmachari Union has failed to establish its locus standi to act as a sole bargaining agent with the OP/Company and since the settlement of the alleged disputes in between OP/Company and the majority Union i.e., Bharat Battery Mfg. Co. Mazdoor Union having status as a sole bargaining agent has arrived at under their Memorandum of Settlement (Exhibit-S) and the benefits of which were given to all the workmen in the Company without any discrimination, then there is no other alternative but to hold that there is “no existence of any Industrial Dispute” between the conflicting parties i.e., applicant Union Bharat Battery Shramik Karmachari Union and the OP/Company i.e., Bharat Battery Mfg. Co. Pvt. Ltd.

Issues under reference are all fails and the case is awarded accordingly.

Hence, it is

### ORDERED

That in view of the Memorandum of Settlement there is no further industrial dispute in existence and no further effective relief as claimed for.

This is my award.

Let PDF copy of this Award be sent on line by e-mail to the Secretary, Labour Department, Government of West Bengal for information.

Dictated & corrected by me.

**Sd/-**  
Judge

**Sd/-**  
Judge  
Fourth Industrial Tribunal  
Kolkata  
26.11.2024.