

I/175234/2022

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

No. Labr/. 120/(LC-IR)/22025/75/2018

Date : 11/02/ 2022

ORDER

WHEREAS an industrial dispute existed between M/s. M. B. Builders, C/o. Electrosteel Castings Ltd. Village-Kasberia, P. O. Shibramnagar, Haldia, Dist. Purba Medinipur, Pin - 721635 and Sri Aloke Gupta, Son of Late Bama Charan Gupta, residing at C/o. Shri Sanat Nayek, Village-Basudebpur-Girish More (Pana Road), Post Office-Dorojoynagar, Haldia, District-Purba Medinipur, Pin - 721604 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 filled an application under section 10(1B)(d) of the Industrial Dispute Act, 1947 (14 of 1947) to the Judge, Second Labour Court, Kolkata specified for this purpose under this Deptt.'s Notification No. 1085-IR/12L-9/95 dated 25.07.1997.

AND WHEREAS, Second Labour Court, Kolkata heard the parties under section 10(1B)(d) of the I.D. Act, 1947 (14 of 1947).

AND WHEREAS Second Labour Court, Kolkata has submitted to the State Government its Award under section 10(1B)(d) of the I.D. Act, 1947 (14 of 1947) 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 dated 31/01/2022 as shown in the Annexure hereto vide memo no. 158- L.T. dated - 09/02/2022.

ANNEXURE

(Attached herewith)

By order of the Governor,

Sd/-
Joint Secretary
to the Government of West Bengal

I/175234/2022

: 2 :

No. Labr/ 120/115 (LC-IR)

Date : 11/02/2022

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

1. M/s. M. B. Builders, C/o. Electrosteel Castings Ltd. Village-Kasberia, P. O. Shibramnagar, Haldia, Dist. Purba Medinipur, Pin - 721635.
2. Sri Alope Gupta, Son of Late Bama Charan Gupta, residing at C/o. Shri Sanat Nayek, Village-Basudebpur-Girish More (Pana Road), Post Office-Dorojoynagar, Haldia, District-Purba Medinipur, Pin - 721604.
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, (11th Floor), 1, Kiran Sankar Roy Road, Kolkata - 700001.
5. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.


Joint Secretary

No. Labr/ / (LC-IR)

Date : 2022

Copy forwarded for information to :-

1. The Judge, Second Labour Court, West Bengal, with respect to his Memo No. 158 -L.T. dated 09/02/2022.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.


Join Secretary

In the matter of an application u/s. 10(1B)(d) of the Industrial Disputes Act, 1947 filed by Sri Aloke Gupta son of Late Bama Charan Gupta, residing at C/o Shri Sanat Nayek, Village-Basudebpur-Girish more (Pana Road), Post Office-Dorojoynagar, Haldia, District-Purba Medinipur, PIN-721 604 against (1) M/s. Electrosteel Casting Ltd. Village-Kasberia, P.O. Shibramnagar, Haldia, District-Purba Medinipur, PIN-721 635 and (2) M/s. M. B. Builders, C/o. M/s. Electrosteel Castings Ltd., Village-Kasberia, P.O. Shibramnagar, Haldia, Dist. Purba Medinipur, PIN- 721 635.

BEFORE THE JUDGE, SECOND LABOUR COURT, KOLKATA



Case No. 06/2014 u/s. 10(1B)(d)

Present: Shri Argha Banerjee, Judge
Second Labour Court,
Kolkata

Date: 31st January, 2022.

AWARD

This Industrial Dispute between Sri Aloke Gupta son of Late Bama Charan Gupta, residing at C/o Shri Sanat Nayek, Village-Basudebpur-Girish more (Pana Road), Post Office-Dorojoynagar, Haldia, District-Purba Medinipur, PIN-721 604 against (1) M/s. Electrosteel Casting Ltd. Village-Kasberia, P.O. Shibramnagar, Haldia, District-Purba Medinipur, PIN-721 635 and (2) M/s. M. B. Builders, C/o. M/s. Electrosteel Castings Ltd., Village-Kasberia, P.O. Shibramnagar, Haldia, Dist. Purba Medinipur, PIN- 721 635 in respect of the under mentioned issues.

ISSUES

- 1) Is the case maintainable in its present form and in law?
- 2) Whether the applicant Sri Aloke Gupta is a workman u/s. 2(s) of the Industrial Disputes Act, 1947.
- 3) Whether the service of the applicant was terminated by way of refusal of employment.

Contd....

- 4) Whether there is any employer-employee relationship by and between the O.P. No. 1 & 2 and the applicant.
- 5) Whether the applicant is entitled to get any relief as prayed for.
- 6) To what other relief/reliefs the applicant is entitled to.

Parties are present along with their Ld. Advocates and file a Memorandum of Settlement as per the provisions of Industrial Disputes Act, 1947 stating the fact that the instant matter has been settled amicably in regard to the Memorandum of Settlement which they have filed before this Court today. Further cross-examination of O.P.W.-1 Shri Saubhik Datta Gupta is resumed on 31.01.2022 by the respective Ld. Counsels appearing on behalf of the Applicant and the Company. It is agreed by and between the parties that the Employer M/s. M. B. Builders will pay a sum of Rs. 1,31,815/- (Rupees One lakh thirty one thousand Eight hundred and fifteen) only as back wages, due leave and bonus to the workman.

Accordingly, the employer hereby paid a sum of Rs. 1,31,815/- (Rupees One lakh thirty one thousand Eight hundred and fifteen) only to him by cheque being No. 001201 dated 10.10.2020 drawn on HDFC Bank, Durgachak Branch, Haldia, West Bengal. It is also agreed by and between the parties that the Employer M/s. M. B. Builders will pay a sum of Rs. 18,185/- (Rupees Eighteen thousand one hundred eighty-five) only as gratuity to the workman. Accordingly, the employer hereby paid a sum of Rs. 18,185/- to him by cheque being No. 001202 dated 10.10.2020 drawn on HDFC Bank, Durgachak Branch, Haldia, West Bengal. The applicant has further submitted that he has no further claim against the Company and does not want to proceed in the instant matter further.

It is seen from the records that the parties filed an application praying for an award in terms of Memorandum of Settlement. I have carefully examined the terms of Memorandum of Settlement and also have perused the signatures of the parties in the Memorandum of Settlement. Having regards to the facts and circumstances and considering the materials on record and the terms of settlement I am of the opinion that the terms and conditions of the Memorandum of Settlement dated 31.01.2022 by and between the parties in the instant matter is legally valid and proper. I do not find any legal impediment to accept the terms

Contd.....



and conditions of the settlement and thereby disposed of the case in between the parties.

Hence, it is

ORDERED

That the application filed today by the parties is allowed in presence of the parties of this proceeding and accordingly the case is finally disposed of in terms of Memorandum of Settlement dated 31.01.2022 and such Memorandum of Settlement may made part of this award.

This is my award.

Let a copy of this award be sent to the concerned department of Government of West Bengal.

Dictated & corrected by me

Sd/—
Judge



Sd/—
(Argha Banerjee)
Judge
Second Labour Court,
Kolkata
31.01.2022.

MEMORANDUM OF SETTLEMENT

- 1] Name and address of the Parties :
- (a) M/s. Electrosteel Casting Ltd.
Village-Kashberia, P.O. Shibramnagar,
Haldia, District-Purba Medinipur.
- (b) M/s. M.B. Builders
C/o. M/s. Electrosteel Casting Ltd.
- (c) Sri Aloke Gupta
C/o. Sanat Nayak
Village-Kashberia, P.O.
Durganagar, Haldia, Dist. Purba Medinipur.
- 2] Name of the person representing M/s. Electrosteel Casting Ltd. : Sri Saubhik Datta Gupta
- 3] Name of the persons representing the Contractor : Sri Aloke Kumar Jana
- 4] Name of the persons representing the Workman : The workman Sri Aloke Gupta himself
- 5]. Short recital of the case :

The Principal employer M/s. Electrosteel Casting Ltd. engaged M/s. M.B. Builders as contractor for supplying of labours. The Contractor engaged Sri Aloke Gupta as Fitter in the Boiler & Maintenance Dept. w.e.f. 23.01.2006. Sri Aloke Gupta absented from duties w.e.f. 14.03.2013 and he never turned up to join his duty. He raised an industrial dispute before the Labour Directorate, Govt. of West Bengal for his alleged termination of service. Thereafter he filed the case before the Learned Second Labour Court, West Bengal and the said case registered as Case No. 06/2014 U/s. 10(1B)(d). During the course of the proceedings the workman requested for amicable settlement of the dispute. All the parties started further negotiation at bi-partite level and after protracted negotiation the matter has been settled amicably by and between the parties on the following terms and conditions :-

Made a part of award.
Sd/—
Judge
Second Labour Court W.B.
31-01-2022

Saubhik Datta Gupta

Aloke Kumar Jana

Aloke - Gupta

5] Terms of settlement :

- (a) It is agreed by and between the parties that the Employer M/s. M.P. Builders will pay a sum of Rs. 1,31,815/- (Rupees One lakh thirty one thousand Eight hundred and fifteen) only as back wages, due leave and bonus to the workman. Accordingly the employer hereby paid a sum of Rs. 1,31,815/- to him by cheque being No. 001201 dated 10.10.2020 drawn on HDFC Bank, Durgachak Branch, Haldia, West Bengal.
- (b) It is also agreed by and between the parties that the Employer M/s. M.P. Builders will pay a sum of Rs. 18,185/- (Eighteen thousand one hundred eighty-five) only as gratuity to the workman. Accordingly the employer hereby paid a sum of Rs. 18,185/- to him by cheque being No. 001202 dated 10.10.2020 drawn on HDFC Bank, Durgachak Branch, Haldia, West Bengal.
- (c) It is further agreed that by the aforesaid terms of settlement all the back wages, leave and bonus of the workman is fully and finally settled and the workman concerned shall not claim any further or other monetary benefits from the employer in any form or manner of whatsoever in nature including reinstatement in service in future.

Alok Kumar Jena
For the company

Alake - Gupta
For the workman

Witnesses :

- (1) *SK Sabir Ali*
 (2) *Sansin Jaisan*

Copy to :

- (1) Assistant Secretary to the Government of west Bengal, Labour Department, Writers' Buildings, Kolkata - 700 001,
- (2) Conciliation Officer, Labour Department, Haldia, Purba Medinipur,
- (3) Labour Commission, Govt. of West Bengal, New Secretariat Buildings, 11th floor, Kolkata - 700 001.