

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

No. Labr/167/(LC-IR)/22015(16)/598/2019

Date : 07-03-2022.

ORDER

WHEREAS under the Government of West Bengal, Labour Department Order No. Labr/7140/I.R/IR/11L-100/2018 dated 07/08/2009 the Industrial Dispute between M/s. Emami Ltd. 13, B. T. Road, Belghoria, Kolkata - 700056 and its workman Shri Jagdish Tiwari, Uttar Nimta Golbagan, Pally Unnayan Samity, P. O. Nimta, Distt.-North 24-Parganas, Kolkata - 700049 regarding the issue mentioned in the said order, being a matter specified in the Second / Third Schedule to the Industrial Dispute Act, 1947 (14 of 1947), was referred for adjudication to the Judge, Second Industrial Tribunal, West Bengal.

AND WHEREAS the Second Industrial Tribunal, West Bengal, has submitted to the State Government its award dated 17/02/2022 on the said Industrial Dispute vide memo no. 217 - L. T. dated. 18/02/2022.

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,

Joint Secretary

to the Government of West Bengal

No. Labr/167/1(5)/(LC-IR)

Date : 07/03/2022.

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

1. M/s Emami Ltd. 13, B. T. Road, Belghoria, Kolkata - 700056.
2. Shri Jagdish Tiwari, Uttar Nimta Golbagan, Pally Unnayan Samity, P. O. Nimta, Distt.-North 24-Parganas, Kolkata - 700049.
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, 11th Floor, Kolkata- 700001.
- ✓ 5. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.

No. Labr/167/2(2)/(LC-IR)

Joint Secretary
Date : 07-03-2022.

Copy forwarded for information to :

1. The Judge, Second Industrial Tribunal, West Bengal with reference to his Memo No. 217 - L. T. dated. 18/02/2022.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata -700001.

Joint Secretary

Before the Ld. 2nd Industrial Tribunal, Kolkata

Case No. VIII-29 of 2009

Under section 10(2A) of The Industrial Disputes Act, 1947

M/s. Emami Limited

-Vs-

The workmen, Shri Jagdish Tiwari

A W A R D

This industrial dispute between M/s. Emami Limited, 13, B. T. Road, Belghoria, Kolkata – 700 056 and its workman, Shri Jagdish Tiwari, Uttar Nimta Golbagan, Pally Unnayan Samity, P.O. Nimta, Distt.-North 24-Parganas, Kolkata – 700 049 has been referred by the Labour Department, Government of West Bengal, I.R. Branch, N.S. Buildings, 12th Floor, Kolkata-700 001 to the Second Industrial Tribunal vide, G. No. 714-IR/IR/11L-100/08 dated 07.08.2009 for adjudication upon the under mentioned issues:-

I S S U E S

- 1] Whether the termination of service of Shri Jagdish Tiwari w.e.f. 28.04.2008 by the management of M/s. Emami Limited was justified?
- 2] To what relief is he entitled?

Both parties are present. Ld. Advocate for the M/s. Emami Limited as well as the workman, Shri Jagdish Tiwari are also present. A joint application has been filed by both the parties contending the fact that the dispute in the present case has been mutually settled out of the Court/Tribunal and a memorandum of settlement dated

P.T.O...2/-

15.02.2022 has been prepared by both the parties and finalised the dispute in terms of the memorandum of settlement. Under the circumstances, both the parties have prayed for disposal of the case in terms of the memorandum of settlement dated 15.02.2022.

The Retainer/Manager Personnel & IR of the company; M/s. Emami Limited in this case, Shri Saibal Dutta is examined as O.P.W.-I [the authorisation letter is marked as Exbt. A and the Photostat copy of AADHAAR Card is marked as Exbt. B]. He has categorically stated about the settlement by and between the parties and has agreed for disposal of the case in terms of such settlement. Shri Jagdish Tiwari is also examined as P.W.-I [the Photostat copy of AADHAAR Card is marked as Exbt.1], who is the workman of M/s. Emami Limited and also has admitted and agreed about the terms of settlement and prays for disposal of the case in view of memorandum of settlement.

The Tribunal has carefully examined the terms of memorandum of settlement and also has scrutinised the signatures appeared in the memorandum of settlement by both the parties.

Having regard to the facts and circumstances and considering the materials on record and the terms of the settlement, the Tribunal is of the opinion that the terms and condition of the memorandum of settlement dated 15.02.2022 by and between the parties of this case is legally valid and proper. There is no legal impediment to accept the terms and conditions of the settlement and to dispose of the case between the parties.

Hence, it is

ORDERED

that the joint applications dt. 15.02.2022 filed by both the parties are allowed in presence of both the parties of this proceeding and accordingly the case is finally disposed of in terms of memorandum of settlement dated 15.02.2022 and the said memorandum of settlement be made part of the award.

This is the Award of this Tribunal.

Dictated & corrected by me.

Sd/-
Judge

Sd/-
(Kamal Sarkar)
Judge
In-Charge of 2nd Industrial Tribunal



BEFORE THE LEARNED JUDGE, SECOND INDUSTRIAL TRIBUNAL

KOLKATA, WEST BENGAL

Case No. VIII-29 of 2009

In the matter of:

An order of Reference no. 714-I.R./IR/111-
100/08 dated 7th. August 2009

In matter of :

An Industrial Dispute

Between

M/S Emami Ltd,

134. B.T.Road, Kolkata 700056.

.....Company

AND

In the matter of

Their Ex-Workman Shri Jagdish Tiwari,
UttamNimta golbagan, Pally Unnayan Samiti,
P.O. Nimta, Dist. North 24 Parganas Kolkata
700049.

.....Workman

AND

In the matter of:

MEMORANDUM OF SETTLEMENT

Under Section 18(3) of the Industrial

Disputes Act, 1947 and Rule - 68 of the West

Bengal Industrial Disputes Rule, 1958

Jagdish Tiwari

FOR EMAMI LIMITED
Sarad Datta
Manager - Personal & IR

Names of Parties:

Representing Employer

Saibal Datta

Retainer/Manager Personnel cum IR

Emami Ltd.

13, B.T. Road

Kolkata

Representing Workman

Jagdish Tiwari

Workman [in person]

Short Recital of the Case:

1. The Workman had been appointed as a clerk on 27th June 1990 as per terms and conditions as stipulated therein.
2. In 2005 the Workman was asked to go to Pondicherry on deputation and report on Duty on 1st December 2005. The Workman refused to accept deputation;
3. Despite repeated requests and payment of ex- gratia by the Employer the Workman refused to go to Pondicherry.
4. The Workman was duly show-caused, charge-sheeted followed by disciplinary enquiry proceedings. Pursuant to the Report of the

Jagdish Tiwari

FOR EMAMI LIMITED
Saibal Datta
Manager - Personal & IR

Enquiry Officer the Workman was served with the Second Show Cause Notice and after due consideration of the Reply to the Second Show Cause Notice he was terminated vide Company's Letter dated 28th.April' 2008.

5. The Workman raised a purported Industrial Dispute before the Deputy Labour Commissioner. Thereafter, the matter was referred to the 2nd Industrial Tribunal for adjudication of the alleged Dispute.
6. The Workman filed an application for interim relief u/s 15[2][b] of the Industrial Disputes Act, 1947. The Learned Tribunal after hearing the parties at length and upon examination of witnesses produced by both parties was pleased to pass an order dated 31st. March 2014 dismissing the application for interim relief u/s 15[2][b] of the Disputes Act, 1947.
7. The Workman filed a writ petition before the Hon'ble High Court challenging the order dated 31st. March 2014 dismissing the application for interim relief u/s 15[2][b] of the Disputes Act, 1947.
8. The Writ Petition being WP No. 1013 [w] of 2015 was dismissed for non prosecution on 27.09.2019 by His Lordship the Hon'ble Justice Shekhar B. Saraf.
9. The Workman thereafter appeared before the Learned Tribunal on dates fixed and sought adjournments on several and most of the dates.

Jagdish Triwan

FOR EMAMI LIMITED
Sachin Dutta
Manager - Personal & IR

10. The matter was fixed on 13.01.2022 for further proceedings of the case, However due to the prevailing Covid-19 PANDEMIC situation the matter was adjourned and fixed on
11. The Workman Jagdish Tiwari approached Mr. Saibal Dutta, requesting an amicable settlement of the case.
12. Mr. Saibal Dutta discussed the matter with the senior officers of Emami Ltd. The Management opined that though admittedly the Workman had no merit in his case. However considering the extreme prevailing Covid-19 PANDEMIC situation and loss of sources of livelihood of many at large and the Workman having an invalid daughter, the Management agreed to consider the Workman's approach for Settlement of the Case, as there was no point to keep it dragging. The matter was discussed at Bi-partite level between the parties and after protracted negotiation a settlement was finally arrived at between the parties herein under the following terms and conditions.

TERMS of SETTLEMENT

- i. That the Employer has released and the Workman has already received all his service dues including PF etc due and payable by the Employer, along with the letter of Termination and there is nothing due and payable by the Employer to the Workman on account of service lien or otherwise in any manner whatsoever;
- ii. That the Employer has agreed to pay a sum of Rs. 9,00,000/- [Rupees Nine Lakhs only] as to the Workman on

Jagdish Tiwari

FOR EMAMI LIMITED
Saibal Dutta
Manager - Personal & IR

Humanitarian grounds coupled with an urgent need to close on litigation files.

- iii. The Workman has accepted the offer of Rs. 9,00,000/- [Rupees Nine Lakhs only] inclusive of all his retiral benefits and gratuity and has agreed not to proceed further in the matter being Case No. VIII-29 of 2009 arising out of the order of Reference no. 714-I.R./IR/111-100/08 dated 7th. August 2009 pending before The Learned Judge, Second Industrial Tribunal Kolkata, West Bengal since there is no industrial dispute exist between the parties and to pass no dispute award.
- iv. The Workman has agreed that he shall not raise any demand or demands against the Employer arising out of order of Reference no. 714-I.R./IR/111-100/08 dated 7th. August 2009, in future and or at any time whatsoever or under any other pretext or grounds and has accepted his termination of service from the Company, as legal and binding;
- v. The Employer has handed over a Cheque drawn on the HDFC Bank Ltd. against bank A/C No.00080310001578 Cheque bearing No. 002730 dated 20.01.2022 for Rs. 9,00,000/- [Rupees Nine Lakhs only] in favour of and to Sri Jagdish Tiwari which he shall be at liberty to encash in accordance with law;
- vi. It is agreed that after encashment of above stated amount Sri Jagdish Tiwari shall not make any further claim against the Company in many manner whatsoever and of any

Jagdish Tiwari

FOR EMAMI LIMITED
Sachin Datta
Manager - Personal & R

nature including the claim of reinstatement in service and his retiral benefits.

- vii. It is agreed that this Memorandum of Settlement is valid subject to the encashment of the above stated account payee cheque.
- viii. That these terms of settlement are deemed to settle the instant reference and also all or any dispute, between the parties, fully and finally.
- ix. That a copy of this settlement shall be forwarded to the appropriate Authorities under the provisions of Rule 68(3) of West Bengal Industrial Disputes Rules 1958.
- x. This settles the disputes of termination from service and full and final settlement of legal dues including Gratuity of Sri Jagdish Tiwari fully and finally.
- xi. The Management and the Employee have subscribed their signature hereto on this the day of January, 2022.

FOR EMAMI LIMITED

S. K. Datta
SIGNATURE OF THE EMPLOYER

Jagdish Tiwari

SIGNATURE OF THE

EMPLOYEE

WITNESS:

1. Name: Prakash Adhikary

Address: PURBASA, PARASAT, 224 Pgs.

Signature Prakash Adhikary

RECEIPT

I, Jagdish Tewari have received a sum of Rs. 9,00,000/- (Rupees Nine Lakhs) only from Emami Limited by Cheque drawn on the HDFC Bank Ltd. against bank A/C No.00080310001578 Cheque bearing No. 002730 dated 20.01.2022 for Rs. 9,00,000/- [rupees nine lakhs only] as my full and final settlement of service dues in terms of Memorandum of Settlement dated Day of January 2022 and I have no claim whatsoever in nature over Emami Limited including of gratuity and re-employment.

Dated: 22.01.2022

Jagdish Tewari
(JAGDISH TEWARI)



HDFC BANK LTD. STEPHEN HOUSE,
4 B.B.D. BAG - EAST, KOLKATA-700 001, WEST BENGAL
RTGS / NEFT IFSC : HDFC0000008

20012022
D D M M Y Y Y Y
Valid for 3 months only

Pay Jagdish Tiwari.

Or Bearer

Rupees रुपये Nine Lacs Only

या धारक को

अदा करें

₹ 9,00,000/-

SEB/VA/C/CTS-2010 020921

Ac. No.
खाता नं.

00080310001578

Brn: 0008 Pdt:031
C/A

Payable at par through clearing/transfer at all branches of HDFC BANK LTD

For EMAMI LIMITED

Authorised signatories

Please sign above / कृपया यहाँ हस्ताक्षर करें

A/c. Payee Only.

⑈002730⑈ 700240002⑈ 908288⑈ 30