

File No.LABR-22015(16)/33/2022-IR SEC-Dept. of LABOUR
I/208734/2022

Government of West Bengal
Labour Department, I. R. Branch
N.S. Building, 12th Floor, 1, K.S. Roy Road, Kolkata - 700001
No. Labr/714/(LC-IR)/22015(16)/33/2022 Date : 22-07-2022

ORDER

WHEREAS an industrial dispute existed between M/s Green Earth Commerce Pvt. Ltd., P.O. & P.S.- New Town, Dist.- North 24 Parganas, Pin - 700135 and its workman Shri Naresh Nath, S/o Late Sailendra Nath, Vill & P.O.- Chandpur, P.S.- Rajarhat, Dist.- North 24 Parganas, Pin - 700135 regarding the issues, 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 (14 of 1947) to the First 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 said First Industrial Tribunal, Kolkata has submitted to the State Government its Award dated 29.06.2022 under section 10(1B)(d) of the I.D. Act, 1947 (14 of 1947) on the said Industrial Dispute vide Memo No. 1080 - L.T. dated 13.07.2022;

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,

sd/

Joint Secretary

to the Government of West Bengal

No. Labr/714/1(5)/(LC-IR)

Date : 22-07-2022

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

1. M/s Green Earth Commerce Pvt. Ltd., P.O. & P.S.- New Town, Dist.- North 24 Parganas, Pin - 700135.
2. Shri Naresh Nath, S/o Late Sailendra Nath, Vill & P.O.- Chandpur, P.S.- Rajarhat, Dist.- North 24 Parganas, Pin - 700135.
3. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The OSD & EO Labour Commissioner, W.B., New Secretariat Building, (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.

sd/

Joint Secretary

No. Labr/714/2(3)/(LC-IR)

Date : 22-07-2022

Copy forwarded for information to :-

1. The Judge, First Industrial Tribunal, Kolkata, with respect to his Memo No. 1080 - L.T. dated 13.07.2022.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.
3. Office Copy.

sd/

Joint Secretary

In the matter of an Industrial Disputes exists between Sri Naresh Nath, S/o Late Sailendra Nath, P.O. & Village – Chandpur, P.S.-Rajarhat, Dist. – North 24 Parganas, Pin – 700 135 against his employer M/s Green Earth Commerce Pvt. Ltd., P.O. & P.S. – New Town, North 24 Parganas, Pin – 700 135.

Case No. 01/2019 u/s 10(1b)(d) of the Industrial Dispute Act 1947

BEFORE THE FIRST INDUSTRIAL TRIBUNAL: WEST BENGAL

PRESENT

**SHRI UTTAM KUMAR NANDY, JUDGE
FIRST INDUSTRIAL TRIBUNAL, KOLKATA**

Date of Order: 29.06.2022

Case No.: 01/2019 u/s 10(1b)(d)

The instant case has been initiated on filing an application u/s 10(1b)(d) of the Industrial Disputes Act, 1947 as amended from the Workman Sri Naresh Nath, S/o Late Sailendra Nath, P.O. & Village – Chandpur, P.S.-Rajarhat, Dist. – North 24 Parganas, Pin – 700 135 against his employer M/s Green Earth Commerce Pvt. Ltd., P.O. & P.S. – New Town, North 24 Parganas, Pin – 700 135 in connection with the termination of service of the Applicant by the aforesaid Company before this Tribunal to adjudicate the dispute and to pass an Award holding that the aforesaid termination of service by the Opposite Party is arbitrary, unjustified and illegal and also to pass an order granting reinstatement in service with full back wages along with all consequential benefits.

The facts of the case as stated in the claimed statement of the Applicant in a nutshell is that the Applicant / Workman joined the service of the Opposite Party / Company M/s Vedic Reality Private Limited (parent organization) in 2003 as a labour and had served the Company upto March, 2012.

Then on subsequent period vide order No. VRPL/2012/E-119, dated 01.04.2012 the Workman was transferred from M/s Vedic Reality Private Limited to their associated Company M/s Green Earth Commerce Private Limited i.e. Opposite Party of the instant case and the Workman was engaged in its Sanjibani Project situated at Sanjiba Town at Coachpukur, P.O. & P.S. – New Town, District – North 24 Pargans, Pin – 700 135, whereat the Workman was working as a labour without any allegation from any corner and earned full satisfaction and appreciation of the project authorities.

But surprisingly on 04.12.2013 the Workman was debarred from putting his signature in the attendance register on the instruction of Santanu Chatterjee, the Assistant General Manager, Sanjibani Project without any reason and on enquiry the Workman was informed that the same had been done as per instruction from the head office.



Thereafter, the Workman on the same day requested the management to allow him to sign on the attendance register, but was not allowed even to enter into the premises of Sanjibani Project by the security staff when the Workman visited his office gate almost on everyday.

So, it was considered by the Workman that he was terminated from his service on and from 04.12.2013 without assigning any reason and without giving any opportunity of being heard.

Thereafter the Workman made a representation through his Advocate on 30.01.2014 being addressed to the Managing Director of the Company/Opposite Party and since no response has been received the Workman further made a representation on 18.04.2014, 21.05.2014 and 08.07.2014 to the Managing Director of the Company/Opposite Party with the copy endorsed to the Director, Vedic Reality Private Limited and the Project Manager, Sanjibani Project, Sanjiba Town, Coahpukur (Near Acquatica) against such illegal termination of the service and also has stated his stringent condition resulting almost starvation due to non receipt of salary for months together. It is further stated by the Workman that his last salary was Rs. 10,000/- (Rupees ten thousand) only per month.

It is further stated by the Workman that at the time of transfer order dated 01.04.2012 issued by Vedic Reality Private Limited, clearly spells out that "Green Earth Commerce Private Limited i.e. the present Company/Opposite Party have accepted your service as per terms and conditions of your original appointment and there will be no break in continuity of your service due to this transfer within our group" and if that be so the Workman claimed that he worked for more than 10 (ten) years as labour in the Company/Opposite Party.

Thereafter, the Workman espoused the industrial dispute through his representation dated 21.05.2014 praying an intervention of the Labour Commissioner in getting him reinstate in service by revoking his illegal termination and consequently a number of conciliation meetings were convened by Deputy Labour Commissioner / Assistant Labour Commissioner as Conciliation Officer but the Management of the Opposite Party Company did not turned up except one authorized representative of the Company/Opposite Party who handed over a letter dated 24.06.2014 to the Conciliation Officer and left the conciliation meeting. The Workman emphatically stated that the charges labeled against him in the said letter are all baseless, concocted, fabricated, pre-conceived and pre-determined which were never raised on any earlier occasion when the Workman was in continuous service for more than a decade and was performing his job being assigned to him with entire satisfaction of his superiors.



It is further stated that the Workman had countered those false allegations by denying each and every allegations vide his letters dated 03.07.2014 and 08.07.2014 which will speak for itself.

The Workman demanded that he being a permanent employee cannot be terminated from his service simply on verbal instruction without issuing any charge-sheet for the so called allegations or without initiating any disciplinary proceeding, which as per demand of the Workman is not only patently illegal but also violation of the principles of natural justice and it is also an unfair labour practice.

It is further stated that an amount of Rs. 780/- (Rupees seven hundred eighty) only as P.F., Rs. 175/- (Rupees one hundred seventy five) only as ESI and Rs. 110/- (Rupees one hundred ten) only as Professional Tax have been deducted from his salary per month as per service rules upto November, 2013. But from the month of December, 2013 neither he has been paid any salary nor has been paid any amount on such illegal termination of his service.

And

Lastly the Workman has prayed before this Tribunal to pass an order holding that the termination of his service by the Company/Opposite Party is bad, illegal and unjustified and to direct the Opposite Party/Company to reinstate him in his service along with full back wages from the date of termination till the date of reinstatement to pass such other order/orders as the Ld. Tribunal may deem fit and proper.

On the other hand since inception of this case i.e on and from 05.03.2019 in spite of repeated notices/summons through court were served upon the Opposite Party/Company, the Company/Opposite Party did not appear before this Tribunal though on every occasion S/R was received sometimes with postal remark "not known", "insufficient address" and lastly the S/R was returned with the note of process server to the effect that Officer in Charge of the Company has denied to received the same and, therefore, it is considered and ordered that the service upon the Company should be deemed to be 'a good service' and this Tribunal has constrained to hold that the case should be heard on exparte and accordingly date was fixed for hearing of the case on exparte on 09.06.2022 when the Workman was present and adduce oral and documentary evidence in support of his case.

In view of the aforesaid facts and circumstances this Tribunal has framed the following issues for adjudication of the present dispute.



Issues

- 1) Whether termination of service of the Workman named Sri Naresh Nath by the Company / Opposite Party named M/s Green Earth Commerce Private Limited with effect from 04.12.2013 is valid and justified?
- 2) To what are the relief / reliefs is the Workman entitled?

Decision with Reasons:

In support of his case the Workman Sri Naresh Nath has been examined himself as PW-1. He has filed the following documents which have been marked as follows:

- 1) Photocopy of Transfer of Services dated 01.04.2012 issued by the Vedic Reality Private Limited. This is marked as **Exhibit – 1**.
- 2) Photocopy of Lawyer's notice dated 30.01.2014 to the Managing Director of the Company (2 sheets) . This is marked as **Exhibit – 2**.
- 3) Photocopy of representation in Bengali by the applicant to the Company under reference dated 18.04.2014. This is marked as **Exhibit – 3**.
- 4) Photocopy of representation in Bengali by the applicant to the Labour Commissioner dated 21.05.2014. This is marked as **Exhibit – 4**.
- 5) Photocopy of representation in Bengali by the applicant to the Deputy Labour Commissioner dated 08.07.2014 (2 sheets). This is marked as **Exhibit – 5**.
- 6) Photocopy of a letter in Bengali by the applicant dated 13.02.2017 to the Deputy Labour Commissioner. This is marked as **Exhibit – 6**.
- 7) Photocopy of a letter dated 24.06.2014 issued from the Company under reference to the Assistant Labour Commissioner (2 sheets). This is marked as **Exhibit – 7**.
- 8) Photocopy of a letter dated 03.07.2014 by the Workman to the Deputy Labour Commissioner (2 sheets). This is marked as **Exhibit – 8**.
- 9) Photocopy of a letter dated 09.08.2017 by the Assistant Labour Commissioner, Government of West Bengal to the Company under reference. This is marked as **Exhibit – 9**.
- 10) Photocopy of a letter dated 02.07.2014 from the Deputy Labour Commissioner to the applicant. This is marked as **Exhibit – 10**.



- 11) Photocopy of a letter dated 17.06.2014 by the Deputy Labour Commissioner to the Company under reference. This is marked as **Exhibit – 11.**
- 12) Photocopy of a letter dated 06.06.2014 by the Deputy Labour Commissioner to the Company under reference. This is marked as **Exhibit – 12.**
- 13) Photocopy of Pass Book of State Bank of Mysore in the name of the applicant on behalf of Vedic Village Development Pvt. Ltd. (4 sheets). This is marked as **Exhibit – 13.**
- 14) Photocopy of Debit Vouchers dated 06.07.2013 for the salary month of June 2013 and dated 04.09.2013 for the salary month of August 2013 issued by the Company under reference in favour of the applicant (2 sheets). This are marked as **Exhibit – 14 & 14/1.**
- 15) Photocopy of Annual Statement of Accounts of EPFs of the applicant Naresh Nath for the period from 2005-2006 and 2007-2008. This are marked as **Exhibit – 15 & 15/1.**
- 16) Photocopy of ESI Card in connection with the Employee Naresh Nath and Employer Vedic Village Development Pvt. Ltd. (2 sheets) This are marked as **Exhibit – 16 & 16/1.**

After completion of evidence the record is taken up for hearing of argument. Ld. Counsel for the Workman argues that the Workman has joined firstly in the service of M/s Vedic Reality Private Limited in the year 2003.

Then the Workman was transferred vide **Exhibit-1** to its associated Company with effect from 01.04.2012.

Ld. Counsel for the Workman also argues that **Exhibit – 3, 4, 5 & 6** shall prove the case of the Workman, as pleaded in his statement of claim.

Exhibit-7 i.e. a letter dated 24.06.2014 issued from the Company to the Assistant Labour Commissioner, wherein the Company has stated the present Workman was a Supervisor and never considered as Workman under Industrial Disputes Act rather the Workman was considered as absenting and deserted employee and raised some false allegations. But the Company did not appear to prove the same against the Workman at any point of time. Therefore, these allegations should be considered as false, baseless and fabricated having no evidentiary value.



Ld. Counsel for the Workman further argues that **Exhibit-13** which is a photocopy of Passbook of State Bank of Mysore in the name of the Applicant on behalf of the Vedic Village Development Private Limited goes to show that the Workman was in the service of erstwhile Company in the year 2008 and **Exhibit-14** as well as **Exhibit-14/1** goes to show that the Workman was paid salary for the month of June and August, 2013 to the tune of Rs. 10,000/- (Rupees ten thousand) only.

Exhibit-15 as well as **Exhibit-15/1** which are photocopy of annual statement of Accounts of Employees Provident Fund of the Applicant Sri Naresh Nath for the period from 2005-2006 and 2007-2008 goes to show that at the relevant point of time the Workman was the employee of Vedic Village Development Private Limited, a group of the Company / Opposite Party

Exhibit-16 as well as **Exhibit-16/1** which are the photocopy of ESI Card in connection with the employee Sri Naresh Nath and employer Vedic Village Development Private Limited goes to show in 2008-2009 the Workman was the employee of Vedic Village Development Private Limited, a group of the Company / Opposite Party

It is also claimed by the Ld. Advocate for the Workman to the effect that the Vedic Reality Private Limited is the parent organization of the employee whereas Vedic Village Development Private Limited and Green Earth Commerce Private Limited, Sanjibani Project are the sisters concern of the Group of Companies under Vedic Reality Private Limited.

So, according to the Ld. Counsel for the Workman it is claimed that Workman is able to prove his case in all respect and he is entitled to relief / reliefs as prayed for, especially when the Company after presenting **Exhibit-7** before the Assistant Labour Commissioner did not appear before this Tribunal to prove their allegation against the Workman/Applicant, for the reasons best known to them.

I have perused the record carefully. I have also perused the evidence of WW-1, named Naresh Nath coupled with the documents being marked as **Exhibit - 1 to 16/1** and after considering those unchallenged oral and documentary evidences and after hearing the submission of Ld. Counsel for the Workman, I find no reason to disbelieve the case of the Workman/Applicant specially when the company did not appear in spite of having well knowledge regarding the dispute from the Assistant Labour Commissioner and from the S/R which has been denied to accept by the Manager of the Company.

In view of the above facts and circumstances I am of firm opinion that it is a fit case to pass an Award in favour of the Applicant named Sri Naresh Nath against the Company/Opposite Party named M/s Green Earth



Commerce Private Limited who has terminated their employee Sri Naresh Nath from his service on 04.12.2013 without assigning any reason and without affording him any opportunity of being heard or without issuing any charge-sheet or without holding any domestic enquiry against the Workman which is against the cardinal principles of the natural justice in regard to the provision of Industrial Dispute Act 1947.

Hence it is

ORDERED

That the instant case being No. 01/2019 u/s 10(1b)(d) be and the same is allowed on exparte against the company M/s Green Earth Commerce Limited with cost of Rs. 10,000/- (Rupees ten thousand) only to be paid by the Company named M/s Green Earth Commerce Private Limited to the Workman named Sri Naresh Nath. The Company M/s Green Earth Commerce Private Limited is hereby directed to reinstate the Applicant/Workman named Sri Naresh Nath to work under the Opposite Party as if he was never terminated from his service with full back wages along with all consequential benefits therein.

The Opposite Party / Company is also directed to pay the Applicant/Workman a compensation of Rs. 1,00,000/- (Rupees one lakh) only for his mental agony.

It is further ordered that the Company shall execute / Comply the order of this Tribunal within 3 (three) months from the date of this Award failing which the Opposite Party/Company would be liable to pay an interest @ 9% per annum upon the all monetary benefits till the date of realization of the due amount and the Applicant/Workman shall also be at liberty to put the Award into execution as per law.

This is my AWARD.

The AWARD be sent to the Government.

Sd/-

(Uttam Kumar Nandy)
Judge
First Industrial Tribunal
Kolkata

JUDGE
FIRST INDUSTRIAL TRIBUNAL
WEST BENGAL

Dictated & corrected by me.

Sd/-

(Uttam Kumar Nandy)
Judge

JUDGE
FIRST INDUSTRIAL TRIBUNAL
WEST BENGAL

