

I/113245/2021

OFFICE OF INDUSTRIAL TRIBUNALS
 Year: 2021
 No. 40/1(5)/(LC-IR)
 Date: 07/01/2021

Government of West Bengal
 Labour Department, I. R. Branch

N.S. Buildings, 12th Floor
 1, K.S. Roy Road, Kolkata - 700001

No. Labr/40/1(5)/(LC-IR)/22015(16)/15/2020

Date: 07/01/2021

ORDER

WHEREAS under the Government of West Bengal, Labour Department Order No. Labr./831 - IR dated 15.07.2005 the Industrial Dispute between M/s Hawcoplast Chemical Ltd., Sagar Estate, 3rd Floor, Room No. 7 at 2, N. C. Dutta Sarani, Kolkata - 700 001 and their workman Smt. Sandhya Dey, 35, Laxminarayan Motilal Road, Kolkata - 700 061 regarding the issue mentioned in the said order, being a matter specified in the Second Schedule to the Industrial Dispute Act, 1947 (14 of 1947), was referred for adjudication to the Judge, First Industrial Tribunal, West Bengal.

AND WHEREAS the Judge of the said First Industrial Tribunal, West Bengal, has submitted to the State Government its award 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 as shown in the Annexure hereto.

ANNEXURE

(Attached herewith)

By order of the Governor,

Sd/-

Deputy Secretary

to the Government of West Bengal

Date: 07/01/2021

No. Labr./40/1(5)/(LC-IR)

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

1. M/s Hawcoplast Chemical Ltd., Sagar Estate, 3rd Floor, Room No. 7 at 2, N. C. Dutta Sarani, Kolkata - 700 001.
2. Smt. Sandhya Dey, 35, Laxminarayan Motilal Road, Kolkata - 700 061.
3. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The Labour Commissioner, W.B. New Secretariat 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.

Sd/-

Deputy Secretary

Date: 07/01/2021

No. Labr./40/1(2)/(LC-IR)

Copy forwarded for information to :

1. The Judge, First Industrial Tribunal, West Bengal with reference to his Memo No. 574 - L.T. dated 22.09.2020.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata -700001.

Sd/-

Deputy Secretary

In the matter of an Industrial Dispute exists between M/S Hawcoplast Chemical Limited, Sagar Estate, 3rd Floor, Room No. 7 at 2, N. C. Dutta Sarani, Kolkata -700 001 presently situated at Brabourne Stadium, Gate No. 10, First Floor, 87, Nariman Road, Mumbai – 400 020 and their Workman Smt. Sandhya Dey, 35, Laxminarayan Motilal Road, Kolkata – 700 061 relating to the under-mentioned issues. Being referred to this Tribunal vide Government Order No. 831-I.R./IR/11L-43/2005, dated 15.07.2005 from the Labour Department, Govt. of West Bengal.

(Case No. VIII-66/2005)

Before the First Industrial Tribunal, West Bengal

PRESENT

Shri Uttam Kumar Nandy, Judge
First Industrial Tribunal,
Kolkata

AWARD

Dated : 15.09.2020

In the matter of an industrial dispute existing in between M/S Hawcoplast Chemical Limited, Sagar Estate, 3rd Floor, Room No. 7 at 2, N. C. Dutta Sarani, Kolkata -700 001 presently situated at Brabourne Stadium, Gate No. 10, First Floor, 87, Nariman Road, Mumbai – 400 020 and their Workman Smt. Sandhya Dey, 35, Laxminarayan Motilal Road, Kolkata – 700 061 and in the matter of industrial dispute U/S 10 read with Section 2A of the ID Act, 1947 to this Tribunal for adjudication upon the matter on the following issues:

- 1) Whether the dismissal of the workman Smt. Sandhya Dey by the management of M/S Hawcoplast Chemical Ltd. from her service w.e.f. 20.11.2002 is justified?
- 2) What relief if any, is she entitled to?

The fact of the case is that Smt. Sandhya Dey was working in Hardcastle & Waud Mfg. Co. Ltd. as 'Steno-Typist' on and from 01.04.1994 at Kolkata office, situated at 2, N. C. Dutta Sarani, Kolkata – 700 001.

During the period 1999-2000 through a Scheme of Arrangement of Demerger by and between the said HAWCO and Vesna Agencies Private Limited (Vesna Agencies assumed a new name Hawcoplast Chemicals Limited and it was again changed to Hawcoplast Investments and Trading Limited), now known as Hawcoplast Investments & Trading Ltd., (hereinafter referred to as "the Company") as approved by the Bombay High Court a portion of business of HAWCO was transferred to the Company. Due to the said Scheme of Demerger, Smt. Sandhya Dey was transferred from HAWCO to the Company.

Thereafter in the year 2002, due to sale of business by the Company to Asian Paints Industrial Coating Ltd., services of Smt. Sandhya Dey was transferred by the Company from Kolkata to the Mumbai Office vide letter dated 08.03.2002. However, Smt. Sandhya Dey did not comply with the transfer instructions of the Company.

Due to non-compliance by Smt. Sandhya Dey of the said transfer instructions, the Company issued a show cause notice to her followed by a charge sheet dated 07.05.2002. Thereafter a domestic enquiry was conducted and she was found guilty of the charges by the enquiry officer and accordingly she was dismissed from service of the Company by letter dated 20.11.2002.

Thereafter, Smt. Sandhya Dey being aggrieved of her dismissal from the Company, raised an industrial dispute before the Labour Commissioner, Government of West Bengal which was registered as File No. 46 of 2003. The Company duly participated in conciliation proceeding but the conciliation failed and the Conciliation Officer sent a failure report to the Labour Department, Government of West Bengal. Subsequently, the instant matter has been referred to the First Industrial Tribunal, West Bengal for adjudication by G.O. No. 831-IR, dated 15.07.2005.

In the mean time during pendency of the above said dispute, parties herein discussed for amicable settlement and after protected negotiation the dispute between the parties is settled and one Memorandum of settlement, dated 14.09.2020 has already been signed between the parties and filed the same before this Court.

It appears from the facts stated in the Memorandum of settlement that the dispute was regarding the dismissal of Smt. Sandhya Dey from the Company followed by a non-compliance of transfer order vide letter, dated 08.03.2002 for which Smt. Dey raised an industrial dispute before the Labour Commissioner, Govt. of West Bengal.

The conciliation proceeding was done. Both parties had participated in conciliation proceeding, but the same failed and the conciliation officer sent the failure report to the Labour Department, where from the instant matter has been referred to this Tribunal. However, the bone of contention has been settled in view of the joint petition being filed by the parties to this Tribunal and supported by evidence led by them. The Memorandum of settlement is signed by one person from the side of the management of the Company and also by Smt. Sandhya Dey, the aggrieved worker of the said management. They have filed 7 (seven) copies of Agreement and 7 (seven) copies of Joint Petition.

On perusal of their evidence and the contents of the Memorandum of settlement and from the submission of the Ld. Advocates for the management of the Company and Smt. Sandhya Dey being represented herself, I am of the opinion that the settlement has been reached in between contending parties amicably and so there lies no more conflict in between the parties.

The settlement has been voluntarily effected, the settlement is genuine one and as per the terms of the settlement Smt. Sandhya Dey shall accept the order of dismissal imposed upon her, which was imposed by letter dated 20.11.2002 and on the other hand it has been mutually decided and agreed by and between the parties that the Company shall pay a sum of Rs. 7,00,000/- (Rupees seven lacs) only to Smt. Sandhya Dey as a consideration for future and final settlement of the present dispute by way of a Demand Draft issued in favour of Smt. Sandhya Dey being Demand Draft. No. 275711, dated 01.09.2020 drawn on Bank of Baroda, payable at Personal Banking Branch, Mumbai - 400 023. With the Concerned advocates the Company shall also arrange and hand over the filled-up form of Provident Fund for final withdrawal.

Smt. Sandhya Dey hereby states, declares and confirms that the Company stands discharged from all liabilities and obligations including payment of remuneration of leave encashment, ex-gratia and post-retirement benefits etc. owed to Smt. Dey in relation to and arising out of the aforesaid dispute whether in present or in future and that she shall not make any claim further against the Company in any manner or whatsoever and Smt. Dey shall withdraw the case pending before this Tribunal and the Company undertake to cause their representatives to do needful before this Tribunal.

As the settlement is voluntary one and there remains no more dispute in between the parties, this Tribunal is of firm opinion that the Memorandum of Settlement shall be accepted and accordingly Memorandum of Settlement is accepted.

Hence it is

AWARDED

that in pursuance of the observations made above this case bearing No. VIII-66/2005 referred under Section 10 read with Section 2A of Industrial Dispute Act 1947 is disposed of on the basis of Memorandum of Settlement. Considering all aspects and having heard Ld. Counsels for the management of the Company and Smt. Sandhya Dey, who herself represented, the prayer made in the joint petition is allowed and Award is being passed on the basis of terms and conditions being contended in the Memorandum of Settlement as prayed for being filed by the parties to this dispute and hence the Memorandum of Settlement be made part of this Award. Thus, the instant case is disposed of.

This is my Award.

The Award be sent to the Government.

Sd/-

Dictated & corrected by me.

Sd/-

(Uttam Kumar Nandy)
Judge

(Uttam Kumar Nandy)
Judge
First Industrial Tribunal
Kolkata

15.09.2020

JUDGE

FIRST INDUSTRIAL TRIBUNAL
WEST BENGAL



**BEFORE THE LEARNED FIRST INDUSTRIAL TRIBUNAL
KOLKATA, WEST BENGAL**

CASE NO. VIII-66/2005;

IN THE MATTER OF:

G.O. NO.831-IR DT. 15-07-2005

And

IN THE MATTER OF:

M/s. Hawcoplast Investments & Trading
Limited, (formerly known as
Hawcoplast Chemicals Limited), 'Sagar
Estate', 3rd Floor, 2, N.C. Dutta Sarani,
Kolkata – 700 001.

V/s.

Their workman, Smt. Sandhya Dey,
35, Laxminarayan Motilal Road
Kolkata – 700 061.

And

IN THE MATTER OF:

The humble joint petition on behalf of
the parties.

Most Respectfully Sheweth;

1. That the above dispute is pending before your Honour for adjudication.
2. That during pendency of the above said dispute the parties herein discussed the matter for amicable settlement and after protracted negotiations the dispute between the parties is settled and one Memorandum of Settlement dated 14 September 2020 has already been signed between the parties.
3. That in terms of settlement Smt. Sandhya Dey has received the settlement amount as full and final settlement and she has no further claim against the Company herein.
4. That original copy of Memorandum of Settlement and receipt and a copy of Demand Draft are enclosed herewith for your kind consideration and necessary order.

M/s. Hawcoplast Investments & Trading

Empst. List attached

Signature

Sandhya Dey

5. That the petition is bonafide and made for the ends of justice.

It is, therefore, prayed that your Honour would be pleased to pass an Award on the basis of Memorandum of Settlement dated 14 September 2020 signed between the parties and /or pass such other order or orders as your Honour may deem fit and proper.

And for this act of kindness your petitioner as in duty bound shall ever pray.

Ganpat Lal Dadhich
Authorized Signatory

Sandhya Dey

VERIFICATION

I, Ganpatlal Dadhich, Authorised Representative of the Company herein do hereby declare that the statements made in foregoing paragraphs are true to my knowledge and rests are my humble submission before this Learned Tribunal.

Ganpat Lal Dadhich
(GANPATLAL DADHICH)

VERIFICATION

I, Sandhya Dey, the workman in the instant case do hereby declare that the statements made in foregoing paragraphs are true to my knowledge and rests are my humble submission before this Learned Tribunal.

Sandhya Dey
(SANDHYA DEY)

MEMORANDUM OF SETTLEMENT

1. Name of the Parties : Smt. Sandhya Dey
35, Laxminarayan Motilal Road
Kolkata – 700 061

AND

M/s. Hawcoplast Investments & Trading Ltd.
(formerly known as Hawcoplast Chemicals Limited),
“Sagar Estate’ 3rd Floor, 2, N.C. Dutta Sarani, Kolkata
– 700 001

2. Person representing
Employer : Mr. Ganpatlal Dadhich, Authorised
Representative.
3. Person representing
Employee : Smt. Sandhya Dey herself

4. SHORT RECITAL OF THE CASE:

Smt. Sandhya Dey was working in Hardcastle & Waud Mfg Co. Ltd (HAWCO) as ‘Steno - Typist’ on and from 01.04.1994 at Kolkata Office which was situated at 2, N.C. Dutta Sarani, Kolkata – 700 001. During the period 1999-2000 through a Scheme of Arrangement of Demerger by and between the said HAWCO and Vesna Agencies Private Limited (Vesna Agencies assumed a new name Hawcoplast Chemicals Limited and it was again changed to Hawcoplast Investments and Trading Limited), now known as Hawcoplast Investments & Trading Ltd. (hereinafter referred to as “the Company”) as approved by the Bombay High Court a portion of business of HAWCO was transferred to the Company. Due to the said Scheme of Demerger, Smt Sandhya Dey was transferred from HAWCO to the Company.

~~For M/s. Hawcoplast Investments & Trading Ltd.~~

Ganpat Lal Dadhich

Authorised Signatory,

Sandhya Dey

Thereafter in the year 2002, due to sale of business by the Company to Asian Paints Industrial Coating Ltd, services of Smt Sandhya Dey were transferred by the Company from Kolkata to the Mumbai Office vide letter dated 08.03.2002. However, Smt. Sandhya Dey did not comply with the transfer instructions of the Company.

Due to non-compliance by Smt. Sandhya Dey of the said transfer instructions, the Company issued a show cause notice to her followed by a charge sheet dated 07.05.2002. Thereafter a domestic enquiry was conducted and she was found guilty of the charges by the Enquiry Officer and accordingly she was dismissed from service of the Company by letter dated 20.11.2002.

Thereafter, Smt. Sandhya Dey being aggrieved of her dismissal from the Company, raised an industrial dispute before the Labour Commissioner, Government of West Bengal which was registered as File No. 46 of 2003. The Company duly participated in conciliation proceeding but the conciliation failed and the Conciliation Officer sent a failure report to the Labour Department, Government of West Bengal. Subsequently, the instant matter has been referred to the First Industrial Tribunal, West Bengal for adjudication by G.O. No. 831-IR dated 15.07.2005.

In the meantime, during pendency of the above said dispute the parties herein discussed the matter for amicable settlement and after protracted negotiations the dispute between the parties is settled on the following terms and conditions;

5. **TERMS & CONDITIONS;**

- i) That Smt. Sandhya Dey shall accept the order of dismissal imposed upon her which was imposed by letter dated 20.11.2002.
- ii) It has been mutually decided and agreed by and between the Parties that the Company shall pay a sum of Rs 7,00,000 (Rs Seven Lakhs Only) to Smt.

Champak Lal Sankhach

Sandhya Dey

Sandhya Dey as a consideration for full and final settlement of the subject dispute.

- iii) The Company has in full and final settlement of the dispute deposited the above agreed consideration payment of a sum of Rs 7,00,000 (Rupees Seven Lakhs Only) by way of Demand Draft issued in favour of the Smt. Sandhya Dey being Demand Draft No. 275711 dated 01.09.2020 drawn on bank of Baroda payable at Personal Banking Branch, Mumbai 400023, with the concerned advocates. The Company shall also arrange and handover the filled up Form of Provident Fund for final withdrawal. Both the original Demand Draft and Form of Provident Fund for final withdrawal will be handed over to her at the time of signing of settlement or before the Learned Industrial Tribunal.
- iv) Smt. Sandhya Dey hereby states, declares and confirms that the Company stands discharged from all liabilities and obligations including payment of remuneration, leave encashment, ex-gratia and post-retirement benefits etc. owed to Smt. Sandhya Dey in relation to and arising out of the aforesaid dispute whether in present or in future and that she shall not make any claim further against the Company in any manner whatsoever.
- v) It is agreed that after signing this Memorandum of Settlement, Smt. Sandhya Dey shall withdraw the Case No. 66 of 2005 pending before the Learned First Industrial Tribunal, West Bengal. Smt. Sandhya Dey and the Company undertake to cause their lawyers to appear before the Learned First Industrial Tribunal, West Bengal and make necessary submissions in support of the above.
- vi) The Parties hereby agree and decide to submit this **MEMORANDUM OF SETTLEMENT** before First Industrial Tribunal, West Bengal for passing an award of settlement. Neither of the Parties herein shall have any claim, cause of action and the like against each other from the date of signing this

Foreign Investment & Trading

Completed Dadhich

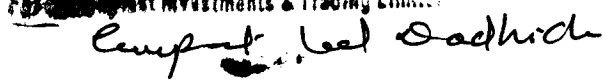
United States Secretary

Sendhya Dym


MEMORANDUM OF SETTLEMENT, especially as regards the above referred industrial dispute, its subject matter and/or part thereof.

vii) That this settled the dispute fully and finally.

IN WITNESS WHEREOF the Parties hereto have set and subscribed their signatures on this the 14th day of September, 2020.

~~For Management Investments & Trading Limited~~

Authorized Signatory,

SIGNATURE OF THE EMPLOYER


SIGNATURE OF THE EMPLOYEE

WITNESS: