

Government of West Bengal

Labour Department

I. R . Branch

N.S. Buildings, 12th Floor

1, K.S. Roy Road, Kolkata - 700001

1569
No. Labr/...../(LC-IR)/22020/59/2018

02/09/2021
Date : ... / ... 2021

ORDER

WHEREAS an industrial dispute existed between M/s Bentley Systems India Pvt. Ltd. DLF Building, Tower C, 9th Floor, AF Block (Newtown), Action Area I, Newtown, West Bengal, Pin – 700156, and Sri Joydeep Banerjee, S/o Late Sudipta Banerjee, residing at Boral Rakshiter more, P.O. -Boral, South 24 Parganas, Kolkata – 700154. 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 (14of 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, First Industrial Tribunal, Kolkata heard the parties under section 10(1B)(d) of the I.D. Act, 1947 (14of 1947).

AND WHEREAS First Industrial Tribunal, Kolkata has submitted to the State Government its Award under section 10(1B)(d) of the I.D. Act, 1947 (14of 1947) on the said Industrial Dispute.

Now, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Dispute Act, 1947 (14of 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

Ananda (IT)
For uploading in
the Deptt website.
SKL

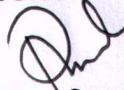
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1569
No. Labr/...../(LC-IR)

Date : 02/09/ 2021

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

1. M/s Bentley Systems India Pvt. Ltd. DLF Building, Tower C, 9th Floor, AF Block (Newtown), Action Area I, Newtown, West Bengal, Pin - 700156.
2. Sri Joydeep Banerjee, S/o Late Sudipta Banerjee, residing at Boral Rakshiter more, P.O. -Boral, South 24 Parganas, Kolkata - 700154 .
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.


Deputy Secretary

1569
No. Labr/...../(LC-IR)

Date : 02/09/ 2021

Copy forwarded for information to :-

1. The Judge, First Industrial Tribunal, West Bengal, with respect to his Memo No. 937 -L.T. dated 24/08/2021.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.

Deputy Secretary

In the matter of an Industrial Dispute existing in between M/S Bentley Systems India Pvt. Ltd. having their registered Head Office at 203, Okhla Industrial Estate Phase 3 Rd, Okhla Phase III, Okhla Industrial Area, New Delhi, Delhi – 110 020 , and Kolkata office at DLF Building, Tower C, 9th Floor, AF Block (Newtown), Action Area I, Newtown, New Town, West Bengal, Pin – 700 156 and their Workman Sri Joydeep Banerjee, S/o Late Sudipta Banerjee, residing at Boral Rakshiter More, P.O. – Boral, South 24 Parganas, Kolkata – 700 154.

[Case No. 02/2021 u/s 10(1b)(d)]

Before the First Industrial Tribunal, West Bengal

PRESENT

Shri Uttam Kumar Nandy, Judge
First Industrial Tribunal,
Kolkata

AWARD

Dated : 28.07.2021

Received an application, dated 01.03.2021 u/s 10(1b)(d) of the Industrial Dispute Act, 1947 as amended from the Workman Sri Joydeep Banerjee, S/o Late Sudipta Banerjee, residing at Boral Rakshiter More, P.O. – Boral, South 24 Parganas, Kolkata – 700 154 against his employer named Bentley Systems India Pvt. Ltd. having their registered Head Office at 203, Okhla Industrial Estate Phase 3 Rd, Okhla Phase III, Okhla Industrial Area, New Delhi, Delhi – 110 020 , and Kolkata office at DLF Building, Tower C, 9th Floor, AF Block (Newtown), Action Area I, Newtown, New Town, West Bengal, Pin – 700 156 in connection with termination of his service by his employer, with a prayer before this Tribunal to pass Award holding that the aforesaid termination of service with effect from 16.01.2020 without any prior notification by the employer (opposite party hereinafter) is arbitrary, unjustified and illegal and to pass an order granting reinstatement in service with full back wages / salary along with all consequential benefits.

The present case as stated by the applicant / Workman in a nutshell is that the concerned Workman entered into an employment agreement dated 21st August 2017 as subscription renewal representative with M/s. Bentley Systems India Pvt. Ltd. (in short, the Company). But a letter dated January 16, 2020, he was intimated that as per his contract of employment his service was no longer required by the management with an immediate effect. As per the management although Sri Banerjee being the employee of the Company did not come within the purview of Industrial Disputes Act, 1947 but by a representation dated 8th July, 2020 he raised a dispute with the Labour Department, Government of West Bengal. Ultimately, he filed an application under Section 10(1b)(d) of the Industrial Disputes Act, 1947 relating to his separation of employment with the Company. The said case has been registered as case No. 02/2021 under Section 10(1b)(d) of the Industrial Disputes Act.

It is prayed by the applicant to the effect that the opposite party may be directed for reinstatement of his service with all back wages / salaries of him since the day of illegal termination of service till the day of reinstatement of his service and pay a compensation for such illegal termination of service and harassment along with any other relief or reliefs as the Tribunal may deemed fit and proper for the interest of administration of justice.

On the other hand, dated 29th July, 2021 was fixed for appearance of the Company and filing of W/S by the Company in this respect. In this juncture a put-up petition has been filed jointly by the parties to the case on 28.07.2021 with a prayer that the matter has been settled out of this Tribunal for which they have filed a joint application and memorandum of settlement along with other necessary documents for the disposal of the case on the strength of memorandum of settlement.

Accordingly, the record is taken up for settlement and for disposal of the case on the strength of joint petition for taking the evidence from both sides after hearing Ld. Counsels for the parties to the case.

Mr. Joydeep Banerjee, the applicant / Workman has been examined as PW-1 and he has filed some documents such as

- 1) The memorandum of settlement dated 28.07.2021, which has been marked as Exhibit-1(a).
- 2) The xerox of money receipt i.e. demand draft of Rs. 5 lakhs (Rupees five lakhs), which has been marked as Exhibit-1.
- 3) The money receipt duly signed by the applicant dated 28.07.2021, which has been marked as Exhibit-2.

He also undertakes that he shall not institute any case or any proceeding before any court of law or any authority against the opposite party of the instant case i.e. Bentley Systems India Private Limited regarding the present case being No. 02/2021 u/s 10(1B)(d).

On the other hand, one Mr. Saura Kanti Basu Roy on behalf of the Company has also been examined as O.P.W.-1 along with some documents being filed on behalf of the company as follows:

- 1) The original authorization letter which has been marked as Exhibit-A.
- 2) Joint application which has been marked as Exhibit-B in which his signature and the signature of Mr. Joydeep Banerjee has been marked as Exhibit-C and C/1 respectively and he prays for disposal of the case on the basis of joint application i.e. memorandum of settlement, dated 28.07.2021.

On perusal of the above evidence on record and on hearing of the Ld. Counsels from both sides it appears that the bone of contention has been settled in view of the joint petition being filed by the parties to the case to this Tribunal and supported by evidence led by them and the joint petition on behalf of the parties, dated 28.07.2021 goes to show that the settlement discussion were held in a cordial atmosphere between the parties and the matter has been settled between them upon some terms as follows:

- 1) That the workman Sri Joydeep Banerjee has got no dispute with the management of the Company regarding the severance of employer – employee relationship between himself and the Company with effect from January 16, 2020 and he accepts the same without any reservation in any manner whatsoever.
- 2) That the entire dispute has been resolved out of the Learned Tribunal without creating any liability on the management of the Company in connection with Sri Joydeep Banerjee the workman in any manner whatsoever.
- 3) That he shall not pray for reinstatement /re-employment in the Company in any manner whatsoever.
- 4) That he shall not file any representation without informing the authority concern in any manner and in any case whatsoever.
- 5) That the workman would be paid a sum of Rs. 5,00,000/- (Rupees five lakhs) only by the Company, in full and final settlement of his all dues and claims statutory or otherwise against the Company including any claim for reinstatement, re-employment or fresh employment along with back wages or any claim in any manner whatsoever.
- 6) That the aforesaid amount has been paid to him vide one Demand Draft being No. 054728, dated 16.07.2021 drawn on the Hongkong and Sanghai Banking Corporation Limited, New Delhi, OFF GK1 in full and final settlement of his all dues and claims statutory or otherwise against the Company arising out of the said severance of employer – employee relationship.
- 7) That the workman Sri Joydeep Banerjee shall handover a receipt as a token of his acceptance of the said amount in full and final settlement of his all dues and claims against the Company, **which he has already been handed over to the company.**
- 8) That Mr. Banerjee would be provided with necessary certificate from the management of the Company in connection with his tenure of employment with the Company correlated with his service tenure in the Company and experience.

- 9) That he is not interested to proceed with the Case No. 02/2021 u/s 10(1b)(d) of the Industrial Disputes Act, 1947 in any manner whatsoever.
- 10) That Mr. Banerjee has accepted Rs. 5,00,000/- (Rupees five lakhs) only, by the management in connection with case No. 02/2021 u/s 10(1b)(d) of the Industrial Disputes Act, 1947 pending before the learned First Tribunal, Government of West Bengal. This settles all the disputes and differences between the parties fully and finally.
- 11) Sri Joydeep Banerjee by and for himself and on behalf of his heirs, successors, and assigns, fully and forever releases and discharges M/s Bentley Systems India Pvt. Ltd., their employees, officers, subsidiaries, directors, shareholders, partners, members, predecessors, successors, affiliates, assigns, insurers and trustees as well as its or their present and former officers, directors, trustees, employees and agents, individually and in their official capacities from any and all claims, rights, liens, demands, liabilities, obligations, damages, actions, and cause of action, of every kind and nature, in law, equity, or otherwise, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of any act, omission, event or transaction, including without limitation, all past, present, and future claims and demands arising out of, or having a basis in whole or in part of, any claim or causes of action arising from or relating to the claim contemplated herein this settlement.
- 12) Sri Joydeep Banerjee warrants that he has not assigned, pledged, or otherwise sold or transferred any right, title, or interest which Sri Joydeep Banerjee had or may have in the claims hereby released.
- 13) That he shall keep the terms and conditions of this settlement confidential and not to disclose the same to any employees (whether present or former) of the Company or any third party (ies) from the date of execution of the foregoing settlement.

Finally this settlement settles all disputes and demands arising out of the Case No. 02/2021 u/s 10(1b)(d) of the Industrial Disputes Act, 1947 pending before the Learned First Industrial Tribunal, Government of West Bengal fully and finally and connected proceedings including any order passed in connection thereof.

On perusal of their evidence and the contents of the memorandum of settlement and from the submission of Ld. Counsels for the parties to the case, I am of the opinion that the settlement has been reached in between the contending parties amicably and so there lies no more conflict/s in between the parties.

The settlement has been voluntarily effected that the settlement is genuine one and as per the terms of the settlement Mr. Joydeep Banerjee, the employee has already received an amount INR 5,00,00/- vide one Demand Draft being No. 054728, dated 16.07.2021 drawn on the Hongkong and Shanghai Banking Corporation Limited, New Delhi, OFF GK1, which is attached as Exhibit-1 as full and final payment on behalf of the company as a consideration for future and final settlement of the present dispute and on the other hand Mr. Joydeep Banerjee had accepted the order of termination imposed upon him, which was issued to him by the company by letter, dated 16.01.2020 and with effect from 16.01.2020.

Mr. Joydeep Banerjee hereby states, declares and confirms that the company's stands discharged from all liabilities and obligations owed to Mr. Banerjee in relation to and arising out of the aforesaid dispute, whether in present or in future and that he shall not make any claim further against the company in any manner whatsoever.

As the settlement is voluntary one and there remain no more disputes in between the parties, this Tribunal is of firm opinion that the memorandum of settlement shall be accepted and accordingly the same is accepted.

Hence it is

AWARDED

that in pursuance of the observations made above, the instant case being No. 02/2021 u/s 10(1b)(d) of the Industrial Disputes Act, 1947 is disposed of on the basis of memorandum of settlement (Exhibit-1(a) from the side of the Workman and Exhibit-B from the side of the Company) and considering all aspects and having heard the Ld. Counsels for the parties the prayer made in joint petition coupled with settlement agreement 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 jointly filed by the parties to this dispute and the same (settlement of agreement) be made part of this Award.

Thus, the instant case is disposed of.

This is my AWARD.

The Award be sent to the Government.

Dictated & corrected by me.

Sd/-

(Uttam Kumar Nandy)
Judge

Sd/-
(Uttam Kumar Nandy)
Judge
First Industrial Tribunal
Kolkata