

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

2321
No. Labr/...../(LC-IR)/22015(16)/118/2018

20-12-
Date :2021.

ORDER

WHEREAS under the Government of West Bengal, Labour Department Order No. 1880-I.R. dated 05/10/2021 the Industrial Dispute between M/s Akzonoble India Ltd. Geetanjali apartment, 1st Floor, 8-B, Middleton Street, Kolkata-700071 and Shri Prabal Chakraborty, A/2 Baidyabati Government Quarter, P.O. – Baidyabati, Dist. - Hooghly 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 First Industrial Tribunal, West Bengal, has submitted to the State Government its award dated 18/11/2021 on the said Industrial Dispute vide memo no. 1436 - L.T. dated – 06/12/2021.

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

2321/1(5)
No. Labr/...../(LC-IR)

20-12-
Date :/2021.

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

1. M/s Akzonoble India Ltd. Geetanjali apartment, 1st Floor, 8-B, Middleton Street, Kolkata-700071.
2. Shri Prabal Chakraborty, A/2 Baidyabati Government Quarter, P.O. – Baidyabati, Dist. - Hooghly .
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.

2321/2(2)
No. Labr/...../(LC-IR)

20-12-
Date :/2021.


Joint Secretary

Copy forwarded for information to :

1. The Judge, First Industrial Tribunal, West Bengal with reference to his Memo No. 1436 – L. T. dated. 06/12/2021.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata -700001.

Joint Secretary

In the matter of an Industrial Dispute existing in between M/s I.C.I. (India) Ltd., Rishra, Hooghly now known as M/s Akzonobel India Ltd. having its new Corporate Office at Magnum Towers, 9th & 10th Floor, Sector-5B, Golf Course ext. Road, Gurugram, Harayana-122011 and also having its registered office at Geetanjali apartment, 1st Floor, 8-B, Middleton Street, Kolkata – 700 071 and their workman Shri Prabal Chakraborty, A/2 Baidyabati Government Quarter, P.O. – Baidyabati, Dist. – Hooghly.

[Case No. VIII – 221/2001]

Before the First Industrial Tribunal, West Bengal

PRESENT

Shri Uttam Kumar Nandy, Judge
First Industrial Tribunal,
Kolkata

AWARD

Dated : 18.11.2021

In the matter of an industrial disputes in between M/s I.C.I. (India) Ltd., Rishra, Hooghly now known as M/s Akzonobel India Ltd. having its new Corporate Office at Magnum Towers, 9th & 10th Floor, Sector-5B, Golf Course ext. Road, Gurugram, Harayana-122011 and also having its registered office at Geetanjali apartment, 1st Floor, 8-B, Middleton Street, Kolkata – 700 071 and their workman Shri Prabal Chakraborty, residing at A/2 Baidyabati Government Quarter, P.O. – Baidyabati, Dist. – Hooghly, arose on 03.12.2001 before this Tribunal vide G.O. No. 1880-I.R., dated 05.10.2021 for adjudication in the matter of prayer of the Workman for his reinstatement in service with full back wages and other consequential benefits.

The present case being No. VIII – 221/2001 under Industrial Disputes Act, 1947 as amended being stated by applicant Workman inter-alia in a nutshell to the effect that the concerned Workman joined the opposite party Company at the Rishra Factory on 25.05.1992 and in the year 2005 the same has been taken over by M/s PMC Rubber Chemicals Pvt. Ltd. The Workman, Shri Chakraborty was served with a chargesheet followed by suspension on 02.05.2000 alleging that on 28.04.2000 at 07:20 AM the Workman along with a few employees, outsiders and around 15 other women locally gheraoed Mr. Srikanta Chowbey and other managerial persons and thereafter led the crowd to detain wrongfully Mr. Chowbey and others and also led the crowd to physically assault Mr. Chowbey (Site and Service Manager) and in connection therewith the Workman submitted his reply on 04.05.2000.



Thereafter enquiry proceeding started and during such proceeding the Workman defended himself. The Enquiry Officer after completion of the enquiry submitted his report on 16.12.2000 holding the Workman is found guilty of the charges being framed against him and ultimately, he was dismissed from his service after due compliance of the procedural aspects. The Workman, Shri Chakraborty thereafter, raised an industrial dispute challenging the order of dismissal before the Labour Directorate, Government of West Bengal, where the matter could not be settled and thereafter the appropriate Government by an order of reference, dated 05.10.2001 has referred the matter to this Tribunal for adjudication determining the following issues:

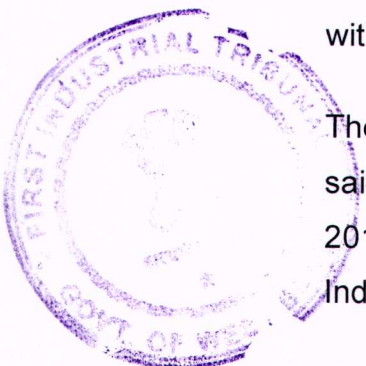
“ISSUES”

- 1) Whether the dismissal of Shri Prabal Chakraborty with effect from 18.12.2000 is justified?
- 2) What relief, if any is he entitled to?

On the other hand, the opposite party / Company had appeared through their Ld. Counsel and file written statement on 02.05.2002 which was received by the Ld. Counsel for the Workman on 16.05.2002 denying the material allegations by stating inter-alia that the application was filed by the Workman is not maintainable and the same is mischievous, being suppressed, misstated, misrepresented and concealed the material facts and details for which the applicant is liable to be dismissed.

During the proceedings the learned Tribunal by an order No. 103, dated 27.02.2009 was placed to hold the enquiry conducted by the erstwhile management was fair and proper. Thereafter, the matter was taken up for hearing on merit and ultimately by an Award dated 14.12.2012, the learned Tribunal directed the company to reinstate the Workman, Shri Chakraborty in service and also to pay him back wages @25% per month from the date of his termination that is 18.12.2000 till reinstatement. It has been further directed that the six increments of the Workman, Shri Chakraborty shall be withheld with effect from 2001.

The Company approached the Hon'ble High Court, Calcutta challenging the said Award dated 14.12.2012 in a writ proceeding being W.P. No. 312 of 2013 2013 [ICI India Ltd. now known as M/s. Akzo Nobel India Ltd. Vs. First Industrial Tribunal & Ors.]. The Hon'ble Court by a judgement and order



dated 04.09.2015 has been pleased to set aside the said Award impugned and remanded the matter with the directions made therein.

The Workman, Shri Chakraborty preferred an appeal being APO 128 of 2016 before the Hon'ble Division Bench and the same has been dismissed on 13.12.2017 as none appeared in support of the said Appeal.

The Workman, Shri Chakraborty thereafter approached this learned Tribunal in deference to the solemn direction of the judgment and order dated 04.09.2015 of the Hon'ble Single Bench as aforesaid by filing an application on 04.09.2018.

During the pendency of the matter before this Leaned Tribunal, a proposal has come from the Workman, Shri Chakraborty for an amicable settlement of the pending matter. Accordingly, discussions were held in an atmosphere of cordiality between the parties for an amicable settlement of the matter and thereafter the same has been settled by and between the parties.

And one Memorandum of Settlement along with Annexure – A to A3 have been filed followed by a joint petition on behalf of both parties. Praying that the Ld. Tribunal to pass necessary order / orders after accepting the said Memorandum of Settlement (Annexure-A) and accordingly for disposal of the matter in terms of settlement terms and conditions of the Memorandum of Settlement, dated 18.11.2021.

That apart a Demand Draft being No. 340694, dated 03.11.2021 amounting to Rs. 15,00,000/- (Rupees fifteen lakh) only drawn on Deutsche Bank, Brooke House, Shakespeare Sarani, Kolkata, which has already been handed over and paid to the Workman, Shri Prabal Chakraborty in full and final settlement of his all dues and claims statutory or otherwise against the Company.

Thereafter evidences from both parties are taken. The applicant, Shri Prabal Chakraborty has been examined in full as PW-1. The Memorandum of Settlement, dated 18.11.2021 is marked as Exhibit-1.

The photocopy of Demand Draft of Rs. 15,00,000/- (Rupees fifteen lakh) only as a settlement money being No. 340694, dated 03.11.2021 amounting to Rs. 15,00,000/- (Rupees fifteen lakh) only drawn on Deutsche Bank, Brooke House, Shakespeare Sarani, Kolkata has been marked as Exhibit-2 and the original draft of the same is handed over to the witness on dock.



The photocopy of Money Receipt, dated 18.11.2021 has been marked as Exhibit-3 and the original Money Receipt is handed over to the Company.

On the other hand, Shri Rohit Aryan, HR Advisor, East of the Company has been examined on behalf of the Company who also certified the exhibits as true and that apart his authorization letter in order to dispose of on behalf of the Company to this Tribunal has been marked as Exhibit-A.

On perusal of the evidences laid by the parties to the case and the contents of the Memorandum of Settlement and after considering the submission of the Ld. Counsels for the parties to the case, I am of the opinion that the statement has been reached in between the contending parties amicably and so there lies no more conflicts in between them.

That the settlement has been voluntarily affected, the settlement is genuine one. As per the terms and conditions of the Settlement the Workman, Shri Prabal Chakraborty has already received the settlement money amounting to Rs. 15,00,000/- (Rupees fifteen lakh) only through a Demand Draft (Exhibit-2) in full and final settlement of the present dispute and the Workman, Shri Prabal Chakraborty has accepted the order of dismissal imposed upon him which was issued to him by the Company by a letter with effect from 18.12.2000.

The Workman, Shri Prabal Chakraborty hereby states, declares and confirms that the Company stands discharged from all liabilities and obligations owed to him 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.

Be it mention here that in respect of P.F. amount, if any, it is settled and declared by the Workman, Shri Prabal Chakraborty himself to the effect that he shall write a letter to the management, who has assured him that they will extend all possible help towards him (Workman) to settle the matter in regard to P.F. amount if anything is found ultimately with the Company's record.

As the settlement is voluntary one and there remains no more disputes in between the parties this Tribunal is of firm opinion that the Memorandum of Settlement i.e. Annexure-1 should 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. VIII-221/2001 under Industrial Disputes Act, 1947 is disposed of on the basis of Memorandum of Settlement including the terms and conditions as stated therein (Exhibit-1) and considering all aspects and having heard the Ld. Counsels for the parties, the prayer made in joint petition coupled with Memorandum of Settlement is allowed.

An 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 the disputes and after consideration of the evidences laid by the parties on dock along with the exhibited documents and said Memorandum of Settlement (Exhibit-1) 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

JUDGE
FIRST INDUSTRIAL TRIBUNAL
WEST BENGAL

