

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

No. Labr/ 1031 / (LC-IR)/ 22015(16)/36/2023

Date : 02-09-2025

ORDER

WHEREAS an industrial dispute existed between M/s Himalaya Wellness Company (formerly The Hmalaya Drug Company), Makali, Bengaluru, Pin – 562162, State office at Alampur, National Highway - 6, Near Indian Oil Petrol Pump, Howrah – 711302 and its workman Sri Mukesh Patra, 49/8/E, Dr.Sundar Gopal Dhar Lane, P.O. – Khagra, Dist – Murshidabad, Berhampore -742103, regarding the issues, being a matter specified in the second schedule of the Industrial Dispute Act' 1947 (14 of 1947);

AND WHEREAS the 2nd Industrial Tribunal, Kolkata has submitted to the State Government its Award dated 18.08.2025 in Case No. 18 of 2021 on the said Industrial Dispute Vide e-mail dated 25.08.2025 in compliance of Section 10(2A) of the I.D. Act' 1947.

NOW, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Dispute Act' 1947 (14 of 1947), the Governor is hereby pleased to publish the said Award in the Labour Department's official website i.e **wblabour.gov.in**

By order of the Governor,


Assistant Secretary
to the Government of West Bengal

No. Labr/ 1031 /1(5)/(LC-IR)/ 22015(16)/36/2023

Date : 02-03-2025

Copy forwarded for information and necessary action to :-

1. M/s Himalaya Wellness Company (formerly The Hmalaya Drug Company), State office at Alampur, National Highway - 6, Near Indian Oil Petrol Pump, Howrah – 711302.
2. Sri Mukesh Patra, 49/8/E, Dr.Sundar Gopal Dhar Lane, P.O. – Khagra, Dist – Murshidabad, Berhampore -742103.
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 request to cast the Award in the Department's website.


Assistant Secretary
to the Government of West Bengal

No. Labr/ 1031 /2(3)/(LC-IR)/ 22015(16)/36/2023

Date : 02-09-2025

Copy forwarded for information to :-

1. The Judge, 2nd Industrial Tribunal, N. S. Building, 1, K.S. Roy Road, Kolkata - 700001 with reference to e-mail dated 25.08.2025.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.
3. Office Copy.


Assistant Secretary
to the Government of West Bengal

Case No. 18 of 2021

Mukesh Patra

S/o. Durgesh Patra of 49/8/E, Dr. Sundar Gopal Dhar Lane,
P.O. – Khagra, District-Murshidabad, Berhampore-742103

-Vs-

M/s. Himalaya Wellness Co.

State Office at Alampur, National Highway-6, Near Indian Oil Petrol Pump, Howrah-711302

AND

Office at Makali Bengaluru, PIN Code-512162

Present: Sri Bibekananda Sur

Judge, 5th Industrial Tribunal , Kolkata

JUDGMENT

DATED 18th AUGUST 2025

The present review application preferred by the Management against the Award passed by the Ld. 2nd Industrial Tribunal, Kolkata dated 03.10.2024 praying for reviewing of the same as the applicant Company was not afforded any opportunity to argue its case.

The workman contested the application on the ground that there is no patent error and the present review application is not in the prescribed format as per rules and accordingly prayed dismissal of the same.

In view of contradicting argument the following point for consideration is required to be adjudicated.

POINT FOR CONSIDERATION

Whether there is any procedural defect in the award , to attract reviewing the same ?

DECISION WITH REASON

Management's case is that the Ld. 2nd Industrial Tribunal, Kolkata decided the case against the statute viz. Section 11 of Industrial Act and further erred to pass an award on merit, without affording any opportunity to the Company to argue the case and the record reflects that the Vakalatnama sent to Bangalore for necessary signing with the official seal and during transit of the same, the 2nd Tribunal hurriedly closed the case for the Company to argue and thereby the order was passed biasedly.

The Company argued that till date objection against review application has not been preferred and accordingly the review application should be taken up at par.

The Company further argued that without framing any issue the 2nd Industrial Tribunal illegally held unfair labour practice adopted by the Company and thereby procedural defects crept in by referring Civil Procedure Code.

Management's further case is that when there was no issue for unfair labour practice, there was no scope to hold that the company committed the mischief under Schedule V of Industrial Dispute Act.

And in support of the same the Management relied upon the case laws reported in (1973) 1 SCC 813 and (1973) 1 SCC 1227, unreported case bearing No. WPA 25857 of 2018 delivered by Hon'ble Justice Raja Gopal Basu Chowdhury against 7th Industrial Tribunal, Kolkata, (2023) SCC online SC 776, (2018) 18 SSC 299, (1976) 1 SCC 496, (2008) 1 SCC 1, (2002) SCC 542, (2021) 10 SCC 752.

The main contention made in the review application is the 2nd Industrial Tribunal erroneously considered the conduct of the OP Company by holding that the OP company committed unfair Labour practice to terminate the petitioner, without framing any issues.

On the other hand the workman through the Union strongly opposed the review application by the Management on following grounds:-

That there is no patent defect and no clear one month's notice prior to retrenchment issued to the worker and as such the **notice dated 12.01.2021 is bad in law for effecting termination of service on 30.01.2021.**

Workman relied upon the case reported in AIR 1971 Supreme Court (2204), 1997(9) Supreme Court (25), AIR 2016 Supreme Court, AIR 1956 Supreme Court (153).

The case laws relied upon by the respective parties do not fit with the facts and circumstances with the present case and has no bearing in the present context.

The Ld. Advocate for the workman Opposite Party submitted that the format of review application not followed in the present case which should be followed like the format of an appeal.

Further argued that there is no apparent error.

Further argued that under Section 25F of Industrial Dispute Act one month's notice is required but in the present case the notice was bad in law.

Further argued that no compensation has been paid.

Further argued that Company reduced the workforce on the plea of restructuring but there is no evidence as to restructuring. Further opposed the review application on the ground that other division of the company absorbed employees but the applicant's were not afforded any chance and thereby violated Section 25F and Section 25H of Industrial Dispute Act, 1947 and that apart intimation to Government about termination for reduction of workforce not made and provision of Section 25(O) of the Industrial Dispute Act not followed for closure.

Further argued that other Division of the Company Management absorbed employees but the applicant was not afforded any chance.

Further argued that Company violated the provision of Section 25F, 25H and 25T of I.D. Act. there was no notice for clear one month served upon the workman.

Further argued that the company retrenched the workman without holding any domestic enquiry or issued any show cause.

The contention of the Management that the 2nd Industrial Tribunal wrongly decided unfair labour practice on the part of the Management, without framing any appropriate issue and the contention of the workman that the case for reduction of workforce has not been proved by the company by necessary evidence in present case or the contention that provision of Section 25F or violation of Section 25H or violation of Section 25(O) of Industrial Dispute Act affects the merit of the case and does not come within the purview of any procedural defect to attract review for the award.

The contention of the company that the 2nd Industrial Tribunal did not frame any issue to examine the mischief of Schedule V of Industrial Dispute Act and thereby the 2nd Industrial Tribunal was barred to hold that the Company adopted unfair labour practices appears as an appealable ground and does not indicate to detect any procedural defect in the impugned Award.

That apart workman's plea as to absence of proof relates to restructuring of the company or relates to loss suffered by the company touch the merit of the case. The argument advanced by the parties does not touch any error or defect to attract Judicial review of the impugned Award.

In view of above discussion it appears that the plea of the company that the Company was not afforded an opportunity to argue the case before the 2nd Industrial Tribunal, Kolkata during transit of the vakalatnama sent in the Head Office in Bangalore or the plea that without framing any appropriate issue for adjudication as to unfair labour practice should not have been held by the 2nd Tribunal are all appealable ground and does not touch the basic principle of detecting any procedural defect in the impugned Award.

Accordingly the review application does not deserve to be favourably considered.

Hence, it is

O R D E R E D

The review application is dismissed of on contest.

Judge
Sd/-
(BIBEKANANDA SUR)
5TH I.T & I/C of 2nd I.T
Kolkata
Dated 18/08/2025

GOVERNMENT OF WEST BENGAL
DIRECTORATE OF INDUSTRIAL TRIBUNALS
NEW SECRETARIAT BUILDINGS
BLOCK – 'A', 2ND FLOOR
1, KIRAN SANKAR ROY ROAD
KOLKATA – 700001

Memo No.Dte/2nd I.T/24/2025

Dated Kolkata, the 21.08.2025

From: Shri Bibekananda Sur,
Judge,
5th Industrial Tribunal & I/C of 2nd I.T
Industrial Tribunal,
Kolkata – 1.

To : The Secretary to the
Govt. of West Bengal,
Labour Department,
New Secretariat Buildings, 12th Floor,
1, Kiran Sankar Roy Road,
Kolkata – 700 001.

Sub: The Award between M/s Himalaya Wellness Company (formerly The Hmalaya Drug Company) Vs Sri Mukesh Patra
(Case No. V – 18 of 2021 U/s 2A (2) (I.D.C Act 1947)

Sir,

I am sending herewith the Award passed in the matter of an industrial dispute between **M/s Himalaya Wellness Company (formerly The Hmalaya Drug Company), Makali, Bengaluru, PIN – 562162 (State office at Alampur, National Highway - 6, Near Indian Oil Petrol Pump, Howrah – 711302) and their workman Sri Mukesh Patra, 49/8/E, Dr.Sundar Gopal Dhar Lane, P.O. – Khagra, Dist – murshidabad, Berhampore -742103.**

Encl: As stated above.

Yours faithfully,

(Bibekananda Sur)
Judge,
Fifth Industrial Tribunal & I/C of 2nd I.T
Kolkata
20.08.2025

