

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

No. Labr/ 1042 /(LC-IR)/ 22025/123/2018

Date : 08/09/25

ORDER

WHEREAS under Labour Department's Order No. 31/IR/11L-145/2014 dated 07.01.2015 with reference to the Industrial Dispute between (1) M/s. S. B. Pigments (P) Ltd., Dhadka, P.O. – Kalla Central Hospital, Asansol, West Bengal, PIN- 713340 & (2) M/s. Reckitt Benckiser (India) Ltd., 227, Okhla Industrial Estate, Phase-III, Okhla, New Delhi, Pin- 110020 and its Workman represented by Reckitt Colman Workman Workers' Association, regarding the issues mentioned in the said order, being a matter specified in the Second Schedule of the Industrial Dispute Act' 1947 (14 of 1947), was referred for adjudication to the 4th Industrial Tribunal, Kolkata.

AND WHEREAS the 4th Industrial Tribunal, Kolkata, has submitted to the State Government its Award dated 29.08.2025 in Case No. VIII-09/2015 on the said Industrial Dispute Vide e-mail dated 02.09.2025 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/ 1042 /1(6)/(LC-IR)/ 22025/123/2018

Date : 08/09/25

Copy forwarded for information and necessary action to:

1. M/s. S. B. Pigments (P) Ltd., Dhadka, P.O. – Kalla Central Hospital, Asansol, West Bengal, PIN- 713340.
2. M/s. Reckitt Benckiser (India) Ltd., 227, Okhla Industrial Estate, Phase-III, Okhla, New Delhi, Pin- 110020.
3. Reckitt Colman Workman Workers' Association.
4. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
5. The O.S.D. & E.O. Labour Commissioner, W.B. New Secretariat Building, 1, K. S. Roy Road, 11th Floor, Kolkata- 700001.
6. 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/ 1042 /2(3)/(LC-IR)/ 22025/123/2018

Date : 08/09/25

Copy forwarded for information to :

1. The Judge, 4th Industrial Tribunal, Kolkata, N.S. Building, 1, K.S. Roy Road, Kolkata-700001 with reference to e-mail dated 02.09.2025.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata -700001.
3. Office Copy.


Assistant Secretary
to the Government of West Bengal

In the matter of an Industrial Dispute between M/s. S . B. Pigments (P) Ltd. and their workman represented by Reckitt Colman Workman Workers' Association.

(Case No. VIII-09/2015)

Reference No: 31/IR/11L-145/2014 dated 07.01.2015.

BEFORE THE FOURTH INDUSTRIAL TRIBUNAL, KOLKATA: WEST BENGAL

P R E S E N T

SHRI NANDAN DEB BARMAN, JUDGE

**FOURTH INDUSTRIAL TRIBUNAL
KOLKATA.**

Workman represented by Reckitt Colman Workman Workers' Association

..... Applicant / Union of Workmen

Vs.

- 1) M/s. S. B. Pigments (P) Ltd.,
Dhadka, P.O. – Kalla Central Hospital, Asansol, West Bengal,
PIN- 713340

..... Opposite Party No. 1

- 2) M/s. Reckitt Benckiser (India) Ltd.
227, Okhla Industrial Estate, Phase-III,
Okhla, New Delhi, Pin- 110020

..... Opposite Party No. 2

A W A R D

Dated: 29th August, 2025.

ISSUES UNDER REFERENCE TO BE ADJUDICATED

- (1) Whether the “Suspension of Workers” declared by the management of M/s. S. B. Pigments Private Ltd. from 04.11.2011 is justified?
- (2) What relief the workmen are entitled to?

The respective pleadings of the parties are as follows:

Written Statement of Union of Workmen represented by Reckitt Colman Workman & Workers' Association

- 1) That the above named Opposite Party Company is a Company within the meaning of Company's Act, 1956, having its office as referred.

- 2) That the above named employer's Establishment/Factory is also an Industry within the meaning of Section 2(j) and the Applicant / Workmen are employees within the meaning of section 2(s) of Industrial Dispute Act, 1947 and the admitted position is that the service of the said workmen were duly utilized by the Principal Employer as it appears from the Provident Fund Code Number and all are the unchallengeable position on record.
- 3) That the applicants workmen had been working more than 25 years or so and/or little more or less as reflected into the body of the Schedule exposing individual service period marking in Annexure "A" with the written statement and their individual wages so earned by the workmen putting their endorsement in respective wages register in accordance with the Factory Act, lying under the custody of the Employer/Management, containing page No. 1 to 11 (Annexure "A").
- 4) That the applicant / workmen had been in E.S.I. and Provident Fund coverage, so prescribed in Central Act and the respective code number as issued by the authority concerned are also ventilated into the body of the schedule marking as Annexure "A" with the Written Statement.
- 5) That the workmen were initially directly employed by M/s. Reckitt Colman Company Limited but subsequently the said Company was renamed as M/s. Reckitt Benckiser (India) Ltd., having its office located at 227, Okhla Industrial Estate, Phase-III, Okhla, New Delhi, Pin-110020.
- 6) That the above named Contractor, S. B. Pigments Private Limited was in operative position by virtue of an agreement so conferred by the above-named Principal Employer to the Contractor so reflected the name of the Contractor in the Order of Reference sent for adjudication, when specially the contract and conditions of employment as pre-existed with the principal employer from the very inception of true of employment in accordance with contract and conditions was remaining in unaltered position even till the date duly affirmed and sign either of the parties unconditionally wherein rights and privileges not to be arrogated either by the principal employer or by the indemnifier.
- 7) That being the Contractor under reference M/s. S. B. Pigments Private Limited, who was a coordinator so entrusted by the above named principal employer with effect from 10.08.06 had been taken service from the applicant / workmen for the interest and benefits of M/s. Reckitt Benckiser (India) Limited without an iota of blemish and / or any adverse report against them during their prolonged service period.
- 8) That a deed of indemnity was executed on 8th August, 2006 by M/s. S. B. Pigments Private Limited, as the indemnifier and such indemnification was in favour of M/s. Reckitt Benckiser (India) Limited, an existing Company within the meaning of the

Company's Act, 1956, herein after referred to as the indemnified in terms of the business purchase agreement, the indemnifier has indemnified inter-alia all the matters when the contract and conditions of the employee wherein the employment role to be in pre-existing position among the parties without any alteration.

- 9) That a Tripartite Memorandum of Settlement was initiated and was settled by and between the parties on 21.07.1999 in pursuance of Mrs. Manisha Bhattacharyaa, Assistant Labour Commissioner, Government of West Bengal, Asansol and the same was signed by the authorized representative of M/s. Reckitt Benckiser (India) Limited and the representing Union i.e., Reckitt Colman Workman Workers Association.
- 10) That with an ulterior motive the Company M/s. S. B. Pigments Private Limited notified suspension of work on 08.09.2009 without paying statutory entitlement of the workmen.
- 11) That the representing Union on behalf of the workmen protested such alleged anti-labour policy of the employer and requested the Management to make the industry viable considering the suffering conditions of the working class of the society but it yielded no effect on repeated requests on bipartite level.
- 12) That without finding any avenue, the Union on behalf of the workmen came in touch before the conciliatory Machinery. That after a protracted negotiations over the ipso-facto the matter was sorted out before the Deputy Labour Commissioner, Government of West Bengal, Asansol, who initiated this matter to restrain the Company and the Tripartite agreement was signed in presence of Mr. Partho Pratim Chakraborty, Deputy Labour Commissioner, Asansol by the parties.
- 13) That with a surreptitious motive the aforesaid company further declared "suspension of work" with effect from 04.11.2009 violating the pre-conditions and pre-requisites of the statute by way of cessation of employment even till date in spite of repeated approaches and requests to the Management by the Union all in vain due to stubborn and non-comprising attitude of the employer.
- 14) That as there was no way of hope for solution for settlement on bipartite level, the Union had no other alternative avenue left open to them but to take shelter before the Conciliatory Machinery and thereafter series of conciliation was held before the conciliatory machinery but failed to arrive at any settlement and in consequence of which the Deputy Labour Commissioner to send its failure report to the Government of West Bengal under Section 12(4) of the Industrial disputes Act, 1947.
- 15) That the above named employer opposite party company followed an anti-labour policy by way of violating the labour laws and took the advantage of poverty and

illiteracy of the working class of the society compelled the workmen applicants to work more than 48 hours in a week without payment of overtime and/minimum wages was at all paid to them and kept mum to pay all other statutory entitlement.

- 16) That the Applicant/workmen state that from the date of joining, they had been discharging their duties to the entire satisfaction of their superiors and the Management of the employer opposite party Company. They all along used to maintain a good, clean, spotless, meritorious record of service during the tenure of their employment till the unjustified pronouncement of “Suspension of work” on 04.11.2014 for indefinite period by the aforesaid employer opposite party Company.
- 17) That the workmen/applicants had raised their voice inter-alia challenging the arbitrary action by submitting “Demand of Justice” to the employer opposite party Company conveying repeatedly their grievances but it yielded no effect due to arrogant and non-compromise attitude of the Management of the opposite party Company, who were deaf-ear to consider the said Demand of Justice.
- 18) That the workmen/applicants without finding any alternative avenue left open to them, but to take shelter before the conciliatory machinery raising an Industrial Dispute before the Labour Commissioner, Government of West Bengal, vide their series of letters and the Assistant Labour Commissioner and Deputy Labour Commissioner, Government of West Bengal, was pleased to hold Conciliation Proceeding by fixing number of Joint Conferences but no such settlement arrive at due to non-compromising attitude of the employer opposite party Company.
- 19) Thereafter, the appropriate authority of Government of West Bengal sent an order of Reference being No. 31-I.R./11L-145/2014 dated 07.01.2015 before the Fourth Industrial Tribunal, West Bengal, Kolkata with aforesaid two issues for adjudication.
- 20) That the Union on behalf of the petitioner/applicants workmen submitted that the purported termination by way of suspension of work and refusal of employment under the veil of cessation of work by the opposite party Company is totally under the provisions of Industrial Disputes Act, 1947 for which the applicant / workmen are entitled to reinstatement in the service with full back wages and other consequential benefits thereto for the period of forced idleness.

Written Statement of the OP / Company M/s. S. B. Pigments Private Limited

Save and except their specific admitted facts the OP / Company M/s. S. B. Pigments Private Limited denying and disputing the allegations made against them

in the Written Statement of Applicant / Union of workmen made following statements in their Written Statement, contending inter-alia:

1. That the workmen have no cause of action against M/s. S. B. Pigments Private Limited (for short SBP) and the Written Statement discloses none.
2. That the claims filed by the workmen are beyond the term and scope of the Learned Tribunal and should not be entertained by the Learned Tribunal.
3. That the claims made by the workmen are vexatious, harassing, mala fide and should be dismissed.
4. That the claims made by the workmen are hit by the principles of waiver, acquiescence, and estoppel and / or principles analogous thereto.
5. That without prejudice to the aforesaid, SBP states as follows:
 - a) SBP is not a contractor as stated by the workmen in their Written Statement filed before this Learned Tribunal. SBP is the owner of the establishment as a part of a Slump sale in pursuance to Business Purchase agreement with Reckitt Colman Co. Ltd. dated 8th August, 2006. SBP has purchased the entire assets and liabilities from Reckitt Colman Co. Ltd.
 - b) Inasmuch as SBP acquired the business of the Reckitt Colman Company Limited, the employees of the Reckitt Colman Company Limited stood transferred in the name of the SBP. The transfer included all the benefits enjoyed by the employees and the liabilities borne by the Reckitt Colman Company Limited. These employees stand transferred since 2006. The P.F., ESIC, Bonus, Gratuity and all other workers benefits are being given by SBP to these workers.
 - c) Since 10th August, 2006 Reckitt Colman Company Limited has no say regarding the workers and thus has no role to play in this proceeding. The workers had been working for SBP after the agreement came into force and the term "Reckitt Colman Company Limited" stood defunct from that date.
 - d) SBP submits that the Reckitt Colman Company Limited should be removed from the cause title.
 - e) SBP states that, post 2006 the factory was running smoothly. However, frequent labour unrests and problems compelled the factory to be shut down on 9th September, 2009. Several discussions were thereafter held between the management and the worker's union. Ultimately on 18th November, 2009 a Memorandum of Settlement was executed narrating all the facilities which shall be enjoyed by the workers. The MOS was duly signed by the management, representatives of the union, Deputy Labour Commissioner and the Additional District Magistrate, Asansol. It was decided that the factory will start to run once again following the terms of settlement as laid down in the Memorandum of settlement. A copy of the

Memorandum of Settlement dated 18th November, 2009 has been annexed hereto as “Annexure-A”.

- f) SBP further states that though the factory was revived, there was unrest among the workers and the production came down gradually and the scale of production became weaker day by day. The management tried utmost to boost up the production but the workers failed to deliver and the production was systematically being reduced by the worker in a form of go slow. The profit also dwindled eventually because of the fall in production. It will be clearly evident from the Balance Sheet since 2008 filed by the company that the profit has come down drastically from the previous years.
- g) SBP submits that unruliness of the workers continued and it was getting difficult for the management to handle the same. Since 23rd September, 2011 the workers were not performing their functions well, causing disturbance and turmoil in the factory. The average production came down to 3-6 tons whereas the average production was 14/20 tons. The installed capacity of the plant is almost 25 tons per day. On 24th October, 2011 a meeting was held at the office of the Asst. Labour Commissioner, where the Union seemed to be very adamant and stubborn causing the meeting to be a failure. On 2nd November, 2011 SBP intimated the Labour Commissioner that due to increasing labour unrest and the worker creating problems with the help of the contractor workers the management was being compelled to shut down the factory. A copy of the notice dated 4th November, 2011 has been annexed and marked as “Annexure-B”.

Part B

Making para to para denial of the allegations of the Union of Workmen, the OP / Company M/s. S. B. Pigments Private Limited in their written statement further contended that it was only because of such labour unrest that the factory *had to be closed down* which had caused extreme hardship and prejudice to the company and its management have to bear the fixed overhead costs without earning anything there from. The claim of the company trying to sell the land is completely false to their knowledge as the entire plant was mortgaged to the Dena Bank at that point of time. It is denied that the company has ever acted surreptitiously or deliberately tried to deprive the workers from their entitlements as alleged or at all. In addition to their wages company has provided a lot of facilities like Company Accommodation, Electricity, Uniform for every worker, Winter Cloth, Soap, Glucon-D, Glycerin, Optical (Eye Glass) to each worker. In addition to these Facilities for shoe polish at the gate of factory. Inasmuch as due to labour unrest, the factory of the company *had to be closed down*, the laborers cannot claim any benefit from the company. It is denied that any anti-labour policy was followed by the company or that the company has violated any labour law or has taken the

advantage of the poverty or illiteracy of the workmen as alleged or at all. The reasons for such *suspension of work* are apparent and beyond the control of the company. The management of the company was unable to improve the situation despite holding several meetings with the workmen. That the company was constrained to issue the *suspension of work* notice due to the *sudden and unexpected fall in market demand of the products of the company* in which the company had role to play. The '*company could not have continued with the factory kept open inasmuch as the regular overhead expenses are enormous which the company would not have been able to bear*'. The suspension of work notice is a result of compulsion and not choice. The workers are not entitled to any relief for the period the *factory is closed*. It is denied that the company did not observe the statutory pre-conditions or pre-requisites or that the suspension of work can be termed to be termination of service of the workmen as alleged or at all. As such the claims of the workers are bad in law and are not maintainable and the proceedings should be dropped forthwith.

DECISIONS WITH REASONS

The Applicant Union of Workmen in order to establish their case adduced the oral evidence of two witnesses, including two workmen, namely Sri Kishan Bauri and Sri Saroj Mukherjee as PW-1 and PW-2 respectively and adduced so many documentary evidences, which have been exhibited as Exhibit-1 to Exhibit-26 respectively.

List of Exhibits

Exhibit-1	D-2 Form.
E x h i b i t (collectively)	Appointment letters issued by M/s. Reckitt & Colman of (I) Ltd. to the workmen
Exhibit-3	ESI Card issued by M/s. Reckitt & Colman of (I) Ltd.
Exhibit-4	Pay slip issued by M/s. Reckitt & Colman of (I) Ltd.
Exhibit-5	Letter addressed to President & Secretary dt. 21.08.2006.
Exhibit-6	Letter addressed to the Deputy Labour Commissioner, Asansol dt. 06.12.2010.
Exhibit-7	Letter addressed to provident fund commissioner dt. 30.04.2010.
Exhibit-8	Letter addressed to the D.L.C Asansol dt. 03.05.2010.
Exhibit-9	Letter addressed to the General Manager, M/s. S. B. Pigments Pvt. Ltd. Dt 28.04.2010.
Exhibit-10	Letter addressed to the additional commissioner cum Regional Director of ESI Corporation office dated 19.01.2011.
Exhibit-11	Letter addressed to the CEO M/s. S. B. Pigments Pvt. Ltd. Dt. 26.10.2010.
Exhibit-12	Letter addressed to the General Manager, M/s. S. B. Pigments Pvt. Ltd. Dt. 4 th August, 2010.
Exhibit-13	Letter addressed to C.E.O. M/s. S. B. Pigments dt. 7 th Jan, 2010.
Exhibit-14	Letter addressed to the General Manager, S. B. Pigments Dt. 11.02.2010.
Exhibit-15	Letter addressed to Hon'ble Law Minister, Govt. of W.B. Dt. 28.10.2011.
Exhibit-16	Letter Addressed to General Manager of S. B. Pigment Pvt. Ltd. Dt. 01.04.2011.
Exhibit-17	Letter Addressed to DLC dated 25.0.2011 Asansol for violation of agreement.
E x h i b i t (collectively)	Letter received from D.L.C. for tripartite mentions vide its letter of 14.10.2011, 21.12.2011, 28.12.2011, 03.01.2012, 24.02.2012, 10.04.2012, 26.08.2013.
Exhibit-19	Series of documents of the Company reflects relating to Shortage of raw materials i.e. Sulphur, Coal, Soda, China clay etc.
Exhibit-20	Letter addressed to the CEO M/s. S. B. Pigments Pvt. Ltd. Dt. 29.10.2011.
Exhibit-21	Letter addressed to 1(a) DLC 1(b) District Magistrate Dt. 12.08.2006 & 25.08.2006.
Exhibit-22	Letter addressed to the Factory Manager of S. B. Pigments Pvt. Ltd. 2(a) & 2(b) Dt. 11.08.2007 & 24.01.2008.
Exhibit-23	Letter addressed to the Factory Manager of S. B. Pigments Pvt. Ltd. 3(a) & 3(b) dated 28.11.2007 & 16.01.2008.

Exhibit-24	Letter addressed to the 4(a) C.E.O. 4(b) ADM and 4(c) DLC Dt. 17.12.2008, 19.12.08 and 19.12.2008 respectively.
Exhibit-25	The Management of S. B. Pigments Pvt. Ltd. served a notice in the Notice Board regarding “Rescue plan”
Exhibit-26	The Management of S. B. Pigments Pvt. Ltd. implemented Suspension of work on 9 th September 2009 for 3 months without having any notice in the notice board / Factory gate.

On the contrary the OP/Company S. B. Pigments Pvt. Ltd. to establish their case have examined one witness, namely Mr. Tarak Nath Kabiraj as O.P.W.-1 and also exhibited some documentary evidences as Exhibit-A to Exhibit-F respectively, which are as follows: –

Exhibit-A	Extract from the minutes of the meeting of the Board of Directors of S. B. Pigments Pvt. Ltd.
Exhibit-B	Business Purchase Agreement.
Exhibit-C	Employees Provident Funds Scheme.
Exhibit-D	Auditors Report.
Exhibit-E	A letter to the Officer-in-Charge of Asansol North PS Dt. 29.09.2011.
Exhibit-F	A letter to the DLC Govt. of W.B.
Exhibit-G	Copy of letter Dt. 26.11.2011 issued by AGM Dena Bank to S.B. Pigments.

Ld. Counsel representing the Applicant / Union of workmen has filed written arguments contending inter alia on different points relating to facts and relevant law and citation of different case to make it relevant to establish the case of applicant / Union of workmen.

According to his argument when the issue under reference is “Whether the *suspension of work* declared by the management of M/s. S. B. Pigments Pvt. Ltd. from 04.11.2011 is justified” and since the said suspension of work is admittedly declared by the management of M/s. S. B. Pigments Pvt. Ltd. then the management of the said OP/ Company has to prove and / or justified the said ‘*suspension of work*’ declared from 04.11.2011 by adducing relevant and reliable evidence. Failing which the said ‘*suspension of work*’ by the OP / Company is liable to be declared as unjustified and illegal. Consequently, the workmen under reference suffering from such illegal and unjustified act of the OP / Company are entitled to relief or reliefs as the Ld. Tribunal may deem fit and proper.

He further argued that the OP / Company has brought series of allegations against the employees and the concerned workmen of Union and declared suspension of work on the ground of labour unrest and acute financial crisis due to shortfall of production day by day for the labour unrest and hindrance but no such prior notice or letter issued by the OP / Company M/s. S. B. Pigments Pvt. Ltd. either to any authority or any Union or workmen before the said *suspension of work* was declared. The OP / Company also could not establish any such militant act or attitude of the labourers or Union of Workmen in discharging their duty or in undertaking the production of the Company by adducing any relevant or reliable evidence.

Ld. Counsel has argued that prolong suspension of work is an unfair labour practice and since 04.11.2011 till the year 2025 for about 14 years the Company never tried to reopen the factory which clearly indicates that the Company declared

the said *suspension of work* only with an intention to *close down* the factory without making payments of any compensation to the workers. In this regard he also stated that the employees under suspension of work have been deprived from last 2 months salary before declaration of said suspension of work.

Ld. Counsel further argued that once it was stated by the OP / Company M/s. S. B. Pigments Pvt. Ltd. that as Reckitt Benckiser has failed to transfer the office in favour of SBP. The SBP cannot be held liable for outstanding dues of the workers and to bear the liability alone. It was also stated by SBP that as Reckitt Benckiser stopped to give orders as per agreement, so there was no way but to declare suspension of work as the Company running huge loss. In this regard the argument of Ld. Counsel of the applicant Union of workmen is that for such act of Reckitt Benckiser the SBP cannot immune from bearing the expenses towards the liabilities of the workers concerned as SBP entered into a business purchase agreement dated 08.08.2006 with Reckitt Benckiser (India) Ltd. formerly known as Reckitt & Coleman (India) Ltd. by taking all liabilities including liabilities of the existing all employees of the former Company.

Relying upon the documents exhibited from their end the Ld. Counsel of the Applicant / Union of workmen further submitted that it would reveal from those documents that the Company under reference violated various statutory provisions for which the workers suffered much and ultimately with an ulterior motive to deprive the worker from their legitimate demands declared the aforesaid '*suspension of work*' since 04.11.2011.

Beside the above discussed arguments, the Ld. Counsel for the applicant / Union of workmen submitted additional written notes of argument by making reply about the various judgments relied upon by the OP / Company.

As regards the decisions of Tata Iron & Steel Company Ltd. Vs. State of Jharkhand & Ors, the Ld. Counsel for the Applicant / Union of workmen submitted that this case law is not applicable as the order of reference has been issued appropriately in this case and the strike called by the workers in that case but in this case no strike called by the workers. In that case there was transfer from one unit to another unit but in this case it relates to suspension of work. As regard Mahendra & Jain & Others Vs. Indore Development Authority it has been argued that the said case was relating to regularization of employment of the employees but in this case all employees are permanent. According to his further argument the decision of all other cases relied upon by the Ld. Counsel of OP / Company are not applicable and relevant to adjudicate the issues of this case, save and except the decisions of the case of B. V. Chavan and Ors. Vs. General Labour Union Bombay. Ld. Counsel of the Applicant / Union of workmen also relied upon the decision of this case of B. V.

Chavan and Ors. Vs. General Labour Union Bombay as reported in (1985) 1 SCC 312 para 10.

On the other hand, the arguments as advanced by the Ld. Counsel of OP No. 2, Reckitt Benckiser India Ltd. is that since the ownership of the Company has been transferred from Reckitt Benckiser to S.B. Pigments Pvt. Ltd. with all liabilities by executing agreement, then the OP No. 2 Reckitt Benckiser (India) Ltd. has no liability to indemnify the employees concerned working under the S. B. Pigments Pvt. Ltd.

The Ld. Counsel representing the OP / Company i.e. S. B. Pigments Pvt. Ltd. by submitting a written notes of argument submitted *inter alia* that on and from 23.09.2011 the workers were not performing their functions and had chosen to cause disturbance and turmoil at the factory of the OP / Company. Owing to such disturbance and turmoil caused at the instance of the workers the average production in the plant having installed capacity of 25 tonners per day came down to 3-6 tonners per day, whereas average production before such disturbance was 14-20 tonners per day. As a result of which the Company not only sustained losses for days after days but also had to stop the installation of a new Husk Filled Boiler where SBP had invested a large amount of money. Such type of unruliness and militant attitude of the worker continued and it became impossible for the management of the SBP being the owner of the factory concerned to handle the situation as losses kept skyrocketing on a day to day basis, as such, SBP called a meeting to be held on 24th October, 2011 at the office of the Assistant Labour Commissioner for settlement of the subsisting issues, where the worker and their Union chose to be adamant and drove yet another settlement meeting to failure. Owing to such disturbing situation and havoc loss caused to the SBP it intimated the Labour Commissioner on 04.11.2011 that owing to the increase labour unrest, strike of the workers and workers creating problems at the instructions of the members at the helm of affair of the Union the management of SBP was forced to *shut down* the factory as the same no longer remain a choice but now a compulsion.

It was further argued by the Ld. Counsel of SBP that no such evidence could be adduced by the Union of workmen, as to why the workers stopped from coming to work and / or absent from participating in the day-to-day commercial activity of the SBP. According to his further argument as the Company due to labour unrest under compelling circumstances declared '*suspension of work*' the said declaration of suspension of work cannot be in contravention of section 23 of Industrial Disputes Act. Thus, the suspension of work declared by the Company, S B. Pigments Pvt Ltd. cannot be termed as an illegal strike or an illegal lock-out without the meaning of Section 24 of the Act and accordingly the concerned workmen are not entitled to get any relief as prayed for.

The Ld. Counsel besides his above discussed argument also relied upon some decisions of the Hon'ble Courts which are as follows: -

- 1) **(1976) 3 SCC 819: Para 14**
- 2) **Tata Iron & Steel Co. Ltd. Vs. State of Jharkhand & Ors. (2014) 1 SCC 536 Para 16.**
- 3) **Mahendra L Jain & Ors. Vs. Indore Development Authority. (2005) 1 SCC 639 Para 34.**
- 4) **Mukand Ltd. Vs. Mukand Staff & Officers Association (2004) 10 SCC 460 Para 36.**
- 5) **Kiran Singh & Ors. Vs. Chamon Paswan & Ors. AIR 1954 SC 340**
- 6) **Rajasthan State Road Transport Corporation, Jaipur Vs. Phoolchand (2018) 18 SCC 299.**
- 7) **State of Madhya Pradesh Vs. Anees Khan (2014) 8 SCC 900.**
- 8) **Kendriya Vidyalaya Sangathan & Ans. Vs. SC Sharma (2005) SCC 363.**
- 9) **Management of India Radiators Ltd. & Management of Western Thompson India Ltd. Vs. Presiding Officer & Ans. (2003) 2 Labour Law Journal 615.**
- 10) **Hal Employees Union Vs. Presiding Officer & Ans. (1996) 4 SCC 233.**

Having heard the arguments of both sides Ld. Counsels and on careful perusal of the materials on record, including the oral as well as documentary evidence of both the parties, admittedly it appears that the relationship between the parties as Employer/Company and its permanent Workmen is not disputed.

Although, sometimes OP No.1, M/s. S. B. Pigments (P) Ltd. (in short SBP) tried to avoid their liability towards the workmen by making a claim that OP No. 2, Reckitt Benckiser (India) Ltd. being the principal employer of the workmen concerned is liable to indemnify the workmen at the same time in their pleadings admitted the fact that OP No.1, M/s. S. B. Pigments (P) Ltd. is not a contractor as stated by the workmen in their Written Statement filed before this Learned Tribunal. OP No.1, M/s. S. B. Pigments (P) Ltd. in their pleadings clearly admitted that OP No.1, M/s. S. B. Pigments (P) Ltd. is the owner of the establishment as a part of a Slump sale in pursuance to Business Purchase agreement with OP No. 2, Reckitt Benckiser (India) Ltd. dated 8th August, 2006. OP No.1, M/s. S. B. Pigments (P) Ltd. has purchased the entire assets and liabilities from OP No. 2, Reckitt Benckiser (India) Ltd. Inasmuch as SBP acquired the business of the OP No. 2, Reckitt Benckiser (India) Ltd. the employees of the OP No. 2, Reckitt Benckiser (India) Ltd. stood transferred in the name of the OP No.1, M/s. S. B. Pigments (P) Ltd. The transfer included all the benefits enjoyed by the employees and the liabilities borne by the OP No. 2, Reckitt Benckiser (India) Ltd. These employees stand transferred since 2006. The P.F., ESIC, Bonus, Gratuity and all other workers benefits are being given by OP No.1, M/s. S. B. Pigments (P) Ltd. to

these workers. Since 10th August, 2006 Reckitt Benckiser (India) Ltd. has no say regarding the workers and thus has no role to play in this proceeding. The workers had been working for OP No.1, M/s. S. B. Pigments (P) Ltd. after the agreement came into force and the term “Reckitt Benckiser (India) Ltd.” stood defunct from that date.

It was also submitted by the OP No.1, M/s. S. B. Pigments (P) Ltd. that the name of OP No. 2, Reckitt Benckiser (India) Ltd. should be removed from the cause title of the claim statement of this case.

However, from Exhibit-B i.e., ‘Business Purchase Agreement’ and ‘Buy Back Agreement’ as executed by and between Reckitt Benckiser (India) Ltd. (formerly known as Reckitt & Colman (India) Ltd.) and M/s. S. B. Pigments Pvt. Ltd. on 08.08.2006 unequivocally it is established that the ownership of the Company concerned has been transferred from OP No. 2, Reckitt Benckiser (India) Ltd. to OP No. 1, M/s. S.B. Pigments Pvt. Ltd. with all liabilities by executing the said agreements and then the OP No. 2 Reckitt Benckiser (India) Ltd. has no liability to indemnify the employees concerned working under the S. B. Pigments Pvt. Ltd.

OP No.1, M/s. S. B. Pigments (P) Ltd. further stated that, post 2006 the factory was running smoothly. However, frequent labour unrests and problems compelled the factory to be shut down on 9th September, 2009. Several discussions were thereafter held between the management and the worker’s union. Ultimately on 18th November, 2009 a ‘Memorandum of Settlement’ was executed narrating all the facilities which shall be enjoyed by the workers. The MOS was duly signed by the Management of the Company, Representatives of the Union, Deputy Labour Commissioner and the Additional District Magistrate, Asansol. It was decided that the factory will start to run once again following the terms of settlement as laid down in the ‘Memorandum of settlement’ dated 18th November, 2009 (Exhibit-26).

OP No.1, M/s. S. B. Pigments (P) Ltd. further stated that though the factory was revived, there was unrest amongst the workers and the production came down gradually and the scale of production became weaker day by day. The management tried utmost to boost up the production but the workers failed to deliver and the production was systematically being reduced by the worker in a form of go slow. The profit also dwindled eventually because of the fall in production. It will be clearly evident from the Balance Sheet since 2008 filed by the company that the profit has come down drastically from the previous years.

OP No.1, M/s. S. B. Pigments (P) Ltd. submitted that unruliness of the workers continued and it was getting difficult for the management to handle the same. Since 23rd September, 2011 the workers were not performing their functions

well, causing disturbance and turmoil in the factory. The average production came down to 3 to 6 tons, whereas the average production was 14 to 20 tons. The installed capacity of the plant was almost 25 tons per day. On 24th October, 2011 a meeting was held at the office of the Asst. Labour Commissioner where the Union seemed to be very adamant and stubborn causing the meeting to be a failure. On 2nd November, 2011 OP No.1, M/s. S. B. Pigments (P) Ltd. intimated the Labour Commissioner that due to increasing labour unrest and the worker creating problems with the help of the contractor workers the management was being compelled to *shut down* the factory. A copy of the notice dated 4th November, 2011 is exhibited and marked as “Exhibit-F”.

Whatever may be the above statements of the OP No. 1 S. B. Pigments Pvt. Ltd. is concerned, having perusal of their notice of ‘*suspension of work dated 04.11.2011*’ (Exhibit-F) clearly it goes to show that it was mentioned in the said notice addressed to Deputy Labour Commissioner, Govt. of West Bengal, Asansol that “*due to increase of Labour unrest day after day they were compelled to place this factory under works suspension.*” So the burden is upon the OP / Company S. B. Pigments Pvt. Ltd to prove that there was increasing labour unrest day after day before the said order of *suspension of work* which compelled them to place the factory under ‘*suspension of works*’. In order to establish their said contentions as well as allegations of increasing labour unrest day after day the OP / Company SBP has exhibited a document i.e. a complaint lodged to the O.C. Asansol North P.S on 29.09.2011, which has been exhibited as ‘Exhibit-E’. Having perusal of the contentions of the said written complain i.e. ‘Exhibit-E’, although it appears that so many allegations were made against one Laxman Bauri and his anti-social elements that they were not allowing unloading of raw materials from trucks resulting of halting of production activities and they have also threatened the outside contractors deployed in installation of Husk Fired Boiler, which was in commissioning stage. It was also stated in the said complaint that such kind of illegal and unlawful activities by Laxman Bauri will eventually halt the production and stoppage of plant and they will have no other option but to declare a lockout in the unit from 1st October, 2011. It was also requested in the said complaint to post a police picket at their cost onsite (S. B. Pigments Pvt. Ltd, Dhadka, Post- Kalla, C.H., Asansol) to prevent any untoward incident by Mr. Laxman Bauri and his anti-social elements, so that during the time of ‘*lock-out*’ no untoward incident can happen and safety of staff and their family should take place.

Having perusal of the pleadings of OP No. 1 SBP and the evidence of their witness through affidavit-in-chief it appears that nowhere in their pleadings or in the evidence, it was stated by the SBP that after lodging of the said complaint before the Police Station on 29.09.2011 any subsequent action was taken by the police or by any administrative authority with regard to the complaint of said labour unrest lead by Laxman Bauri. No such corroborative evidence could be adduced by

the OP / Company SBP to establish their said contentions of labour unrest under the leadership of Laxman Barui, which was making a compelling circumstances to declare '**lock-out**' in the Company, rather the said written complaint Dated 29.09.2011 i.e. 'Exhibit-E' goes to show that the management of the OP / Company SBP made their pre-occupied mind to declare '**lock-out**' of the unit from 1st October, 2011, for which they sought police picket at their cost onsite of their factory to prevent untoward incident during the time of '**lock-out**'. Ultimately they declared '**lock-out**' in the form of '**suspension of work order**' by issuing notice on **04.11.2011** on the ground of increasing labour unrest day after day but at that time or even in the said complaint before the police station no such plea was made from their end that due to some other grounds, like "*decrease in production and profit of the Company due to decrease of work order from the OP 2 Reckitt Benckiser (India) Ltd*". In order to establish their said plea of compulsion to declare '**lock-out**' in the Company due to day and day decrease in production for decrease in getting work order from the aforesaid OP No. 2, Reckitt Benckiser (India) Ltd. although the OP No. 1, M/s. S. B. Pigments (P) Ltd. exhibited some documents, like an auditor's report i.e. 'Exhibit-D' and a copy of letter Dated 26.11.2011 issued by AGM Dena Bank to M/s. S. B. Pigments (P) Ltd. i.e. 'Exhibit-G' but the same are not sufficient to justify the claim of the M/s. S. B. Pigments (P) Ltd. for their declaration of '**lock-out**' in the form of '**suspension of work since 04.11.2011**'.

Admittedly, till date there is no further development in respect of the said order of *suspension of work* declared by the M/s. S. B. Pigments (P) Ltd. on 04.11.2011. Neither the said order of *suspension of work* has been withdrawn nor any normalcy restored in the factory. There is no pleading or evidence from the end of the OP No. 1, M/s. S. B. Pigments (P) Ltd. that although they were compelled to declare '**lock-out**' in the form of '**suspension of work**' by issuing notice on 04.11.2011, but they ever paid any compensation, wages or back wages at any point of time to any workmen in compliance with the statutory mandate of Industrial Dispute Act, 1947.

It is a settled principle of law that a Tribunal cannot travel beyond the issue on dispute under reference as referred by the appropriate Government for adjudication. So, in this context I have to decide only whether the aforesaid 'suspension of work' declared by the management of M/s. S. B. Pigments (P) Ltd. from 04.11.2011 is justified or not?

I have already discussed earlier that the OP / Company M/s. S. B. Pigments (P) Ltd. is in no way could be discharged their burden by adducing relevant evidence to establish that their said order of '**suspension of work**' dated 04.11.2011 under reference was at all justified. On the other hand, from the evidence of witnesses of the Applicant / Union of Workmen and from the documentary evidences, adduced from their end it appears that in order to fulfill their demands

arising out of their “Memorandum of Settlement” dated 18.11.2009, the Union made several correspondences with the different authorities, including the Management of the OP / Company M/s. S. B. Pigments (P) Ltd. and also to the Govt. authority, including concerned departmental Minister of the Govt. of West Bengal, which have been exhibited as ‘Exhibit-6’ to ‘Exhibit-16’ respectively. From the ‘Exhibit-17’ i.e. a letter dated 25.05.2011, which was issued by the Secretary of Reckitt & Colman Workman & Workers Association to the Deputy Labour Commissioner, Govt. of West Bengal, Asansol, it appears that it was informed by the Secretary of the said Union to the Deputy Labour Commissioner, Asansol that the Management of M/s. S. B. Pigments (P) Ltd. is violating the aforesaid last Tripartite agreement held at ADM Office Asansol on 18th November, 2009, which was settled for 3 years in presence of Hon’ble ADM and DLC, Asansol. It was also informed by the said letter that the Management of the Company was not following any commitment which they have agreed in that “Memorandum of Settlement”. It was also informed in the said letter that in spite of several correspondences and discussions and meetings and the undertakings of the Management that they took 15 days time to resolve the matters but no fruitful result received by the Union. It was stated in the said letter that the Union raising their vigorous protest about the acts of serious carelessness of the Management. Ultimately, it was stated that although from the side of Union they are always trying at their level best for smooth running of the factory and trying to cooperate with the Management, but that cannot prevail for very long time without improving such condition and hence they are once again requested to take some appropriate steps for improvement of financial condition of the employees.

From ‘Exhibit-18’, it can be gathered that due to non-payment of pending ex-gratia and bonus a joint conference was called at his chamber on 19.10.2011 by the Conciliation Officer and Assistant Labour Commissioner, Asansol. From the other documentary evidence of the Applicant/Union it appears that they have tried their level best to establish that they tried to extend all possible cooperation from their end to keep normal condition and regular production process in the factory and also to increase the production of the Company.

So, keeping in view of the above discussed facts and circumstances and the materials on record it can safely be held that whatever may be their cause, the O.P-1, M/s. S. B. Pigments (P) Ltd. declared the ‘*suspension of work*’ on 04.11.2011 with their prior intention to ‘*close down*’ their undertaking/establishment in the form of ‘*lock-out*’, but they did not comply with the mandatory provision of the Industrial Disputes Act, 1947 before such declaration of ‘*suspension of work*’ w.e.f. 04.11.2011. No prior notice of 60 days or 90 days was served before effecting the said order of ‘*suspension of work*’. Admittedly, there is no case from either party of this case, that at any point of time less than 50 workmen were employed in the said undertaking/establishment or that workers were not working before the

preceding 12 months. Since, the O.P Company M/s. S. B. Pigments (P) Ltd. has not yet been reopened their undertaking/establishment and has already elapsed a decade without any further improvement, then there is a reasonable ground to draw a conclusion that the O.P Company No. 1 the O.P- 1, M/s. S. B. Pigments (P) Ltd. with an intention to '**close down**' their undertaking/establishment and in order to avoid to pay the legitimate compensation and other closure benefits to the workmen without prior statutory period of notice suddenly declared closer of their said undertaking/establishment in the form of declaration of '**suspension of work**'. There was no specific declaration in the purported notice i.e. in 'Exhibit-F', that how long the actual period of '**suspension of work**' will continue. It was not a case of '**lay-off**'. Having considered the above discussed facts and circumstances and arguments of the Ld. Counsels I am also of the considered view that the citations relied upon from the end of the O.P-1, M/s. S. B. Pigments (P) Ltd. are not fully relevant with the facts and nature disputes of this case.

So, in view of the relevant provision of the Industrial Disputes Act, 1947, like Section 25F, Section 25FFA and Section 25 FFF the affected workmen concerned are entitled to compensation and their back wages, as if **they had been retrenched**. The back wages should be for the period from the date as well as the month of the order of suspension till the restoration or reopening of the undertaking or reinstatement of the workman or till the date of retirement on superannuation of the concerned workman. In this case admittedly it is clearly evident that after closure of the undertaking/establishment of the OP / Company M/s. S. B. Pigments Pvt. Ltd. for an indefinite period from 04.11.2011 in the form of '**order of suspension of work**' till date the concerned O.P Company M/s. S. B. Pigments Pvt. Ltd. neither reopened/restored their undertaking/establishment nor they provided any alternative employment to the concerned workmen, who were affected badly by the said '**order of closure of the undertaking/establishment**' in the form of '**order of suspension of work**'.

As such all the concerned affected workmen under reference are entitled to get their back wages till the date of this award or till the date of retirement on superannuation, who by the passage of time already reached the age of retirement on superannuation. The concerned workmen are also entitled to get adequate compensation from the OP No. 1, M/s. S. B. Pigments Pvt. Ltd. due to the unfair labour practice adopted by the company in closing down their undertaking/establishment by depriving the legitimate rights of their concerned workers. There is no case from the end of the company that the concerned workers were gainfully worked during the above discussed period of their job less state.

So, keeping in mind the above discussed facts and circumstances and evidences on record, I am of the reasonable view that the impugned order of '**suspension of work Dated 04.11.2011**' declared by the OP No. 1, M/s. S. B.

Pigments Pvt. Ltd. was not justified and such act also can be treated as unfair labour practice adopted by the concerned Company M/s. S. B. Pigments Pvt. Ltd.

Accordingly, both the issues are adjudicated in favour of the Applicant Reckitt Colman Workmen Workers' Association.

Hence, it is,

ORDERED

That the order of "Suspension of Work" declared by the management of M/s. S.B. Pigments Pvt. Ltd. from 04.11.2011 is not justified.

The OP No. 1, M/s. S. B. Pigments Pvt. Ltd. is accordingly directed either to reopen/restore their undertaking/establishment and reinstate the concerned workmen within 60 days from this day or to pay full back wages for the period from 04.11.2011 till the date of this award or till the date of retirement on superannuation, who by the passage of time already reached the age of retirement on superannuation.

The OP No. 1 M/s. S. B. Pigments Pvt. Ltd. is also directed to pay compensation of Rs. 50,000/- each to the concerned workmen within 60 days from this date.

This is my award.

Let a copy of this order be sent on line in PDF form to the Secretary, Labour Department, Government of West Bengal, N.S. Buildings through the dedicated e-mail for information and doing subsequent action as per provision of law.

Dictated & corrected by me

Sd/-
Judge
Fourth Industrial Tribunal
Kolkata
29.08.2025

Sd/-
Judge
Fourth Industrial Tribunal
Kolkata