

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

No. Labr/ 17 / (LC-IR)/ 22015(16)/1/2026

Date : 06-01-2026

ORDER

WHEREAS an industrial dispute existed between (1) M/S. Ambuja Cement Foundation, Jaladhulagori, PO- Dhulagori, PS- Sankrail, PIN-711302, District- Howrah and (2) Director of M/S. Ambuja Cement Foundation of Board of Director, 5th Floor, Elegant Business Park, MIDC Cross Road B of Andheri-Kurla Road, Andheri (East), Mumbai-400059 and its workman Anjura Khatun W/o. Habibuddin Sk. of village- Ajimtala, P.O.- Khejuriaghat, P.S.-Baishnabnagar, District-Malda, PIN- 732127, 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 07.08.2025 in Case No. 04 of 2023 on the said Industrial Dispute Vide e-mail dated 30.12.2025 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 labour.wb.gov.in

By order of the Governor,


Assistant Secretary

to the Government of West Bengal

No. Labr/ 17 /1(6)/(LC-IR)/ 22015(16)/1/2026

Date : 06-01-2026

Copy forwarded for information and necessary action to :-

1. M/S. Ambuja Cement Foundation, office at Jaladhulagori, PO- Dhulagori, PS- Sankrail, PIN-711302, District- Howrah.
2. Director of M/S. Ambuja Cement Foundation of Board of Director, 5th Floor, Elegant Business Park, MIDC Cross Road B of Andheri-Kurla Road, Andheri (East), Mumbai-400059.
3. Anjura Khatun W/o. Habibuddin Sk. of village- Ajimtala, P.O.-Khejuriaghat, P.S.-Baishnabnagar, District-Malda, PIN- 732127.
4. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
5. The OSD & EO Labour Commissioner, W.B., New Secretariat Building, 11th Floor, 1, Kiran Sankar Roy Road, 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/ 17 /2(3)/(LC-IR)/ 22015(16)/1/2026

Date : 06-01-2026

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 30.12.2025.
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 under Section 2A of Industrial Dispute Act filed on 27.03.2023 initiated by the Applicant Anjura Khatun W/o. Habibuddin Sk. of village- Ajimtala, P.O.-Khejuriaghat, P.S.-Baishnabnagar, District-Malda, PIN-732127 against (1) M/S. Ambuja Cement Foundation, office at Jaladhulagori, PO-Dhulagori, PS- Sankrail, PIN-711302, District- Howrah and (2) Director of M/S. Ambuja Cement Foundation of Board of Director, 5th Floor, Elegant Business Park, MIDC Cross Road B of Andheri-Kurla Road, Andheri (East), Mumbai-400059

(Case No. 04 of 2023)

**Present : Sri Bibekananda Sur, Judge
5th Industrial Tribunal
& Incharge of 2nd Industrial Tribunal, Kolkata**

A W A R D

DATED 07.08.2025

The present application under Section 2A of Industrial Dispute Act (hereinafter be referred as I.D. Act) is for setting aside the discharge letter dated 03.10.2022 and for reinstatement of the applicant with full back wages.

Petitioner's case is that her employment was for a fixed term period and on being confirmed, her service was extended on the basis of her Annual Performance Report and from 2018 onward her senior adversely remarked her and reported against her due to his some personal grudge and accordingly her performance was assessed as very poor for the consecutive five years and finally her service was terminated on 03.10.2022 without affording any notice thereof.

The OP argued that the present case is not maintainable as the OP is not an industry and the applicant was not a workman at all as she was Project Officer of Grade-3 and the Project Officer Grade-4 worked under the supervision of the applicant .

The case of the O.P is that termination was due to violation of terms and condition of the service coupled with the reason of misconduct of the applicant arising out of applicant's poor performance, indisciplined conduct, insubordination activity and for unbecoming behaviour of the applicant.

In view of above denial of the claim of the applicant , following issues were framed :

- 1) Is the case maintainable in its present form and law?
- 2) Has the petitioner any cause of action to file this case?
- 3) Is the case barred by the principle of resjudicata?
- 4) Is the petitioner entitled to get relief as prayed for?
- 5) To what other relief or reliefs, if any, is the petitioner entitled?

To prove the case , the applicant relied upon the following documents:-

Letter dated 14.12.2010 marked as Exhibit-1,

Letter dated 02.01.2013 marked as Exhibit-2,

Letter dated 06.01.2014 marked as Exhibit-3,

Letter dated 06.01.2015 marked as Exhibit-4,

Letter dated 01.09.2015 marked as Exhibit-5,

Letter dated 19.02.2016 marked as Exhibit-6,

Letter dated 01.03.2016 marked as Exhibit-7,

Letter dated 25.05.2017 marked as Exhibit-8,

Letter dated 16.05.2018 marked as Exhibit-9,

Letter dated 20.05.2019 marked as Exhibit-10,

Letter dated 20.08.2020 marked as Exhibit-11,

Letter dated 29.12.2020 marked as Exhibit-12,

Letter dated 31.01.2020 marked as Exhibit-13,

Picture of Google Map showing distance from Farraka, Malda to Jaitaran, Rajasthan and Howrah Station to Jaitaran, Rajasthan marked as Exhibit-14,

Email dated 10.11.2020 marked as Exhibit-15,

Email dated 12.11.2020 marked as Exhibit-16,

Email dated 08.12.2020 marked as Exhibit-17,

Email dated 31.12.2020 marked as Exhibit-18,

Email dated 11.11.2020 marked as Exhibit-19,

Email dated 23.11.2020 marked as Exhibit-20,

Email dated 14.12.2020 marked as Exhibit-21,

Letter dated 29.05.2021 marked as Exhibit-22,

Letter dated 29.05.2022 marked as Exhibit-23,

Email dated 09.06.2022 marked as Exhibit-24,

Letter dated 30.08.2022 marked as Exhibit-25,

Discharge Letter dated 03.10.2022 marked as Exhibit-26,

Representations dated 18.11.2023 to the Labour Commissioner, Kolkata marked as Exhibit-27,

Representation dated 05.01.2023 to the Labour Commissioner(P), Howrah marked as Exhibit-28 (all exhibits viz. Exhibits 01 to Exhibit 28 are marked on consent).

Documents relied upon by the OP Company marked as follows:-

The letter of authority dated 17.06.2023 marked as Exhibit-‘A’,

The Certificate of incorporation No. 21-59030 of 1993 marked as Exhibit-‘B’,

The Licence U/s. 25 of the Companies Act, 1956 dated 06.04.1993 marked as Exhibit-‘C’,

The Certificate of Registration of the Special Resolution conforming alteration of object clause (s) dated 27.10.2017 marked as Exhibit-‘D’,

The Certificate of Registration of the Regional Director order for change of state dated 12.06.2015 marked as Exhibit-‘E’,

The NGO details as printed out from the Official website of “NGO DARPAN” marked as Exhibit-‘F’,

The Company’s Master Data as printed out from the Ministry of Corporate Affairs Website alongwith the “Memorandum of Association (MOA) of the Ambuja Cement Foundation” marked as Exhibit-‘G’,

The appointment letter dated 01.03.2016 marked as Exhibit-‘H’,

The Page No. 16 of the Employee Handbook of the Opposite Party as on March, 2016 reflecting the Employee classification grades marked as Exhibit-‘I’,

The Salary Slip for the month of July, 2022, August, 2022 with Leave Encashment and September, 2022 and Gratuity Payment Advise and Full and Final Settlement dated 03.10.2022 alongwith Email dated 26.12.2023 marked as Exhibit-‘J’,

The TDS Certificate (Form – 16) for the Assessment year 2022-23 (Period 01.04.2021 to 31.03.2022) and the Assessment year 2023-24 (Period 01.04.2022 to 30.09.2022) marked as Exhibit-‘K’,

The copy of the Emails and letter issued to employee for poor performance, indiscipline and insubordination alongwith the Mid – year review for January, 2022 to June, 2022 marked as Exhibit – ‘L’,

The Copy of the Annual Appraisal Ratings for 2020 and 2021 are marked as Exhibit-‘M’ (all exhibits viz. Exhibits ‘A’ to Exhibit ‘M’ are marked on consent).

DECISION WITH REASONS

All the issues are taken up together for convenience.

To prove the case, Anjura Khatun adduced as PW-1.

PW-1 Applicant stated that since 2016 her service was confirmed, and she became a permanent employee .

The applicant stated that her service was permanent since 2016 due to confirmation and she was terminated without any notice and she was victimized due to personal grudge of the Reporting officer and as a result of that she got transferred to Rajasthan and against such transfer she made representation for her posting within West Bengal and on the basis of that representation, her transfer order was modified and her earlier transfer order to Rajasthan was cancelled and she was transferred to Howrah, West Bengal.

The applicant justified her poor performance in the company continuously for five years by levelling allegation against the Reporting Officer Debapriya Ghosh who indecently approached her. Genuineness relates to such wild allegation and imputation is discussed below.

The present applicant alleged that unfair labour practice committed by the OP and she denied her alleged supervisory duty and function and her further case is that annual increment was not awarded on the plea of poor performance below the level of expectation

PW-1 also stated that she being a workman comes in definition under Section 2S of I.D. Act and described the OP as Industry and she was inducted in service as a fixed term employee for six months on 15.12.2010 to 14.06.2011 as community mobiliser at SEDI, Farakka, Murshidabad and the employment was time to time extended till January, 2016 and subsequently, the company issued an appointment letter dated 01.03.2016 and after accepting the appointment she became a permanent employee and Mr. Sailendra Singh was her reporting authority and at the end of 2018 Mr. Debapriya Ghosh became the reporting authority and she alleged that her reporting authority Mr. Debapriya Ghosh had perverted mindset and made indecent proposal and she refused to oblige the reporting authority as a result of that her performance was assessed as “Does Not Meet Expectation” for the year 2018, 2019 , 2020, 2021 and 2022

PW-1 further stated that she was a newly married wife in the year 2018 and in 2020 she was badly engaged for her regular gynaecological treatment and also was engaged for rendering care and protection to her ailing widow mother and at that time she was transferred on 31.10.2020 to Rajasthan for which she made a representation on 10.11.2020 to recall her transfer order and due to her repeated request the OP Company allowed her to be transferred at Sankrail Howrah instead of Rajasthan.

PW-1 further stated that after joining in Sankrail Howrah, her reporting authority was Sri Partha Sarathi Mondal and afterwards Mr. Debapriya Ghosh.

PW-1 further stated that again her performance was assessed with the rating DME (Does Not Meet Expectation) for the year 2020 (duly communicated to her vide letter dated 29.05.2021) and thereafter on 29.05.2022 her performance was again assessed as DNME (Does Not Meet Expectation) for the year 2021 for which her increment was stopped and subsequently on 03.10.2022 Company decided to terminate the contract of employment with immediate effect.

The PW-1 further stated that her termination was illegal and malafide for which she was victimized and she suffered unfair labour practice and prayed to set aside the discharge letter dated 03.10.2022 and further prayed to be reinstated in her service with all back wages with consequential relief.

OP side challenged the present case by adducing evidence through Amitesh Chandra OPW-1 who stated that on 01.03.2016 Anjura Khatun was appointed as Project Officer in the Grade-O3 and further stated that Anjura Khatun was in Supervisory Grade belonging to Grade-

O3, above the rank of Supervisor of Grade-O4 and accordingly the Company disputed the rank of applicant as not a workman rather a Supervisor in Managerial Cadre drawing basic Salary of Rs.10,800/- per month with additional House Rent Allowance @ 25% of the basic salary and Rs.1,000/- as conveyance charge, and after adjustment of allowances and deduction the net salary was Rs.19,895/- per month and was much higher than Rs. 10,000/- per month reflected in the appointment letter dated 01.03.2016 marked as Exhibit 8 and Exhibit-9.

OPW-1 further stated that issuing placement letter and transfer order are routine business activity across the industry and offices in respective of Private/Government/PSU Unit and as such transfer of the applicant vide letter dated 31.10.2020 was very normal and was a common feature.

OPW-1's further case is that the applicant was always an underperformer, insincere, regular absentee and deliberately resorted to insubordination and the allegation and imputation levelled against the reporting authority Debapriya Ghosh was out and out false and baseless and the applicant's incapability to perform was attempted to cover up by such personal attack upon Mr. Debapriya Ghosh and such imputation was nothing but a device to bypass her misdeed and misconduct for which the applicant was placed for repeated counselling and in spite of repeated counselling her approach was very casual and she was indisciplined to perform his duty for which her outcome was very poor and her appraisal was below the expectation (reflected in Exhibit – 12 and Exhibit-13.)

OPW-1 further stated that the OP Company provided repeated counselling to the applicant in good faith but she did not care to improve her.

OPW-1 was cross examined by the applicant and during cross examination it is revealed that the petitioner joined in the OP Company on 03.03.2016 and prior to that she was a contractual project officer in the company from 15.12.2010 and subsequently vide Order No. 19 dated 20.08.2024 the Predecessor in the office of the Tribunal closed the evidence of OPW-1 and fixed the matter for argument.

Inefficiency of the applicant and her poor outturn consecutively for five years was the reason for which she did not touch the level of expectation of her performance. Such poor performance was brought to the notice of the applicant from time to time , for a continuous period of 5 (five) years and the management continuously provided repeated counselling for the applicant for upgrading her performance. But the applicant did not care to be a sincere to upgrade her performance ,inspite of best endeavour offered by the company.

That being so, the admitted position appears as follows :

A) That the applicant's performance was very poor for a continuous period of 5 years, since from 2018.

B) That the applicant was duly informed about her poor performance through emails and those emails have not been disclosed by the applicant in the present case.

C) Management arranged continuous counselling for upgrading the performance of the applicant.

D) In spite of repeated and continuous counselling, the applicant did not upgrade her performance.

E) Such admitted position revealed the actual state of affairs in following manner:

Poor performance was brought to the notice of the applicant through emails and those emails have been suppressed by the applicant, altogether reflects that the management offered the applicant to upgrade her performance repeatedly at a regular interval, for the sake of saving her service.

Management arranged continuous counselling for upgrading the performance of the applicant reflects that the management desired to save the service of the applicant with the company, otherwise such continuous counselling would not have been arranged attempting to upgrade her performance.

In spite of repeated and continuous counselling, the applicant did not upgrade her performance reflects that the applicant was not at all sincere to perform in a better manner.

F) applicant justified her poor performance as a result of Reporting officer's personal grudge against her coupled with the reason of applicant's prolonged gynaecological treatment together with her preoccupation for serving and rendering care to her ailing mother.

Such plea to justify her poor performance of the applicant reflects that the allegation of the management that the applicant was a habitual absentee and did not take care to upgrade her performance is meaningful to justify the assessment of poor performance of the applicant consecutively for the year 2018, 2019, 2020 and 2021.

It is pertinent to mention here that unbecoming behaviour of the applicant and her insubordination charge stand unchallenged against the applicant.

That apart the evidence of Anjura Khatun was that she performed well but she was biasedly assessed as the reporting officer Debapriya Ghosh made indecent proposal which was refused by her. Such attempt of the applicant to justify her poor performance is discussed in a prudent manner.

Admittedly, Debpriya Ghosh became the Reporting officer at the end of 2018 and during the year Daibaki Nanda and Sailendra Singh were also the Reporting officer and that

being so, the performance of the applicant during the whole year 2018 turned out as poor or below the expectation level when the applicant was on duty mostly under Daibaki Nanda, the then Reporting authority and Debpriya Ghosh had no nexus to induce the performance or to manipulate the assessment of the performance for the applicant during the year 2018.

It is surprising that the applicant made regular communication with the management authority through emails but she never made any imputation against Debpriya Ghosh , at the earliest.

There is no whisper from the side of the applicant as to why such allegations against reporting officer Debapriya Ghosh was suppressed by Anjura Khatoon for years together. It is also surprising as to her silence against such alleged indecent proposal of her reporting officer.

The PW-1 stated that her appraisal for 2017 (Vide letter dated 16.05.2018) reflects “Fully Meets Expectation” and her reporting authority for the year 2018 was Daibaki Nanda and at the fag end of 2018 Debapriya Ghosh was the reporting authority.

During cross examination of PW-1 she revealed that since 2018 to 2022 her performance was assessed and certified as ‘Bad Performance’ and due to such adverse assessment she sent emails to the OP Company.

The evidence of the Petitioner / applicant reflects that there was a series of emails sent to the applicant.

It further reflects that those emails were sent to the applicant for her continuous absence in duty, delayed joining and below expected performance for which the company arranged the applicant to undergo repeated sitting for her counselling and in spite of such repeated sitting of counselling the applicant did not care to improve her performance and such below expectation of performance, continuous absence from duty, delayed joining and applicant’s failure to perform in a better manner in spite of undergoing repeated counselling from time to time revealed through emails constitutes that the Management wholeheartedly desired to upgrade the performance of the applicant and PW-1 admitted during cross examination that she did not file all the emails exchanged in between her company and herself.

Exhibit 24 reflects that the applicant was a below performer and was not meeting the desired expectation at her work and that has been communicated severally formally and informally but the applicant instead of improving her performance sent frivolous emails to the company and despite ample opportunity to perform, she failed to perform.

The Exhibit 25 is a letter dated 30.08.2022 written by the applicant to the Director urging for release of her increment but there is no whisper in the letter as to her status of her performance.

Series of emails reflects that Anjura Khatun did not attend the office continuously and did not improve her performance in spite of all sorts of cooperation provided by the company.

It further appears that for the last five years her performance was below the expectation and her continuous absence and casual approach was not answered in a convincing and satisfactory manner.

That apart, the evidence of the PW-1 reflects that at the fag end of 2018 Debapriya Ghosh became the reporting authority of the applicant and that being so, Debapriya Ghosh and the applicant had no contact with each other during the year 2018 and in the absence of Debapriya Ghosh how her performance was not upto the mark, is still unanswered by the applicant.

There is no allegation either before the Local police station or before the company authority about alleged indecent proposal of the said Debpriya Ghosh, at the earliest. Imputation made against the Reporting authority Debpriya Ghosh to justify her poor performance and assessment to that effect does not inspire any confidence to believe the applicant in the absence of any credible materials.

Because the applicant admitted that she was a newly married lady and she was suffering from Gynaecological diseases and was undergoing medical treatment and she was badly engaged to render nursing and care to her ailing widow mother.

Such admission support the contention of the OP Company that the applicant was a habitual absentee in her duty and her approach was very casual and her indisciplined activity was prominent and she did not join in duty in time which altogether induced the applicant to perform in a very poor manner. In view of the above the admitted position is that the contention of OPW-1 is unchallenged.

There is no whisper as to why Anjura Khatun was silent against the alleged behaviour of Debapriya Ghosh , for years together either before the management authority or before the local police station.

Applicant's wild allegation against the Reporting authority has not been corroborated by any credible materials and evidence.

That apart , not a single scrap of paper produced and relied upon by the applicant to make it believe that she ventilated her grievance either with the office authority or with the local police station or with the person closely associated to her at the earliest. On the other hand the series of communication made by and between the applicant and other office colleagues clearly reflects that without any intimation she used to leave her job and did not attend the office regularly and punctually which altogether constituted the reason to justify her poor outturn and poor performance. Accordingly, the plea of the applicant that she

performed well but adversely remarked by the Reporting Officer appears to be a false and self contradicting plea of the applicant.

absence of credible material and uncorroborated imputation against the Reporting Officer Debpriya Ghosh demolishes the allegation itself.

For argument sake, if poor performance of the applicant is construed with her prolonged absence in duty , the plea of the applicant that she performed well but adversely assessed turns out as false and a concocted story , to cover up her act of misdeeds and misconduct for violating the terms and condition of her appointment.

On 3.10.2022 she was discharged. On 18.11.2022 she approached the office of the Labour Commissioner N.S Building 11 th Floor . Kolkata-1 and made allegation against Debpriya Ghosh for his alleged indecent proposal , for the first time .

The email of the applicant dated 09.06.2022 requesting for increment did not reflect that she performed well but adversely remarked by the Reporting officer due to his indecent proposal being turned down by the applicant . on the otherhand such wild allegation has not been substantiated by the applicant.

The record reflects that the applicant being an Independent Project Officer did not attend the office job and was found absent from time to time without any intimation and as a result of that again her performance became very poor and she was informed that her performance is far from satisfactory and does not meet expectation and for upgrading her performance, OP Management arranged repeated counselling but all went in vain and again applicant's performance became very poor and finally on 03.10.2022 she was terminated.

Dayanidhi Panda , Amitesh Chandra being the superior officers of the applicant also communicated her by emails that she failed to perform whereas the others project officer like the applicant , achieved their respective targets at the relevant time.

Applicant's emails dated 23.02.2022 addressed to Safakat Agashiwala and his reply dated 24.02.2022 clearly reflects that the applicant was absent for a long period in her duty , without intimation , for which she was unable to register her attendance and the applicant suffered such problem beforehand and the **management repeatedly allowed to condone her unauthorized leave from time to time** and this time management official Jisha Varghese informed the applicant and applicant's superior officer Safakat , Dayanidhi and Debapriya that her unauthorized leave be not regularized to register her attendance.

Emails dated 25.02.2022 reflects that the **applicant was violating the rules and discipline for registering her attendance on the portal.**

The Emails dated 19.11.2020 reflects that Reporting authority Debapriya Ghosh revealed it that inspite of her transfer in Howrah , **she ignored her transfer** and went to join in Farakka and that apart the applicant approached the MLA of Farakka who repeatedly attempted to induce the management to allow the applicant to resume her duty at Farakka ignoring her transfer in Howrah and that apart the applicant aggressively told the Reporting authority that she will not move anywhere and also asked to stop her transfer.

Exhibit 21 is the emIL of the management to the applicant which revealed that the **applicant made objectionable remarks to Debapriya Ghosh Programme Manager of Farakka to cancel her transfer order and also threatened him for dire consequences and she used her political connection.**

Such indisciplined conduct and behaviour of the applicant spoils the discipline amongst the employees and is contrary to favourable working condition and atmosphere in the company and is a great threat to the company for smooth functioning of its administration.

The appointment letter clearly reflects the transfer policy and after accepting the terms and condition of the service , the conduct and behaviour of the applicant reflects gross indisciplined conduct and unbecoming behaviour of the applicant , which spoils the tune of smooth running of the administration in the office, for violating the terms and condition constituting misconduct of the applicant.

Performance of Mid Year Review statement for January 2022 to June 2022 reflects that she had not done any SOT /UFL till date and she was not serious about conducting safety awareness programs and she did not develop any IEC on Safety. The applicant could not mobilize any farmers to start offseason vegetable cultivation till June 2022 . The applicant could not combine the 20 farmers against her target of 30 farmers. And the applicant was very casual about her duty and she did not bother to collect the feedback report. And that apart she used to feed wrong data and also skipped some data. And such report was prepared by Amitesh Chanda and it was brought to the knowledge of the applicant who also signed the said report. Lack of sincerity on the part of the applicant is apparent on the report.

The email of the applicant dated 10.11.2020 marked as Ext. 15 reflects that the applicant was aware about her poor performance , for which she promised to improve her performance .

Exhibit 17 is the email dated 08.12.2020 of the applicant disclosing that the applicant got married two years ago and she is serving her ailing mother and she was suffering from gynaecological problem.

This Ext.17 also revealed that the applicant was badly engaged for her mother and for her marriage since 2018. And **when such Ext.17 is construed with her performance , it will reveal that applicant's poor performance was the outcome for her frequent absence on her duty** started from 2018 **and such fact itself falsified the allegation of the applicant that she performed well** but Debapriya Ghosh adversely remarked her , due to Ghosh's indecent proposal being turned down by the applicant.

The applicant alleged that no notice was served upon her prior to her discharge is taken up for consideration.

Notice means knowledge. When such knowledge is brought to the notice of the party , it can not be said that no notice was issued. .

In the present case the management brought it to the notice of the applicant from time to time since from 2018 through series of emails that her outturn and performance was very poor below the level of the expectation and to upgrade her performance , repeated counselling was arranged by the management with the intention to apprise her actual state of affairs and consequence thereof. Series of emails communicated to the applicant reflects that her poor performance was far from satisfaction of the management .

Such emails issued to the applicant intimating her poor performance and the management repeatedly asked her to perform in a better and satisfactory manner **constitutes constructive notice brought to the knowledge of the applicant.**

That apart the terms and condition set forth in the appointment letter dated 1st March 2016 of the applicant reflects that in the event of breach of any Terms and condition of the

employment or misconduct, it shall be permissible for the management to proceed for termination, without service of notice under clause 5.2.

Prolonged unauthorized absence in the duty repeatedly for years together and ignoring the transfer order of the company, false imputation made against the Reporting authority to cover up the acts of her misdeeds and her poor performance altogether constitute misconduct on the part of the applicant who whimsically and unilaterally violated the terms and conditions of her appointment and does not attract any notice prior to her termination as set forth under clause 5.2 in the appointment letter.

The terms and condition set forth in the appointment letter was accepted by the applicant and now she should not be allowed to approbate and reprobate simultaneously and her termination without notice is found as valid.

Accordingly, applicant's plea that notice was not served on him prior to her discharge is discarded.

Whether the applicant is a workman?

Management argued that the applicant is not a workman who used to draw Salary more or less Rs.19,000/-per month and the amount was more than Rs. 10,000/- per month being beyond the limit of Section 2(S) and further argued that the applicant was not a workman and she used to get her remuneration to the extent of Rs. 19,000/- per month and further challenged the status of the applicant as alleged workman on the ground that the applicant was an Officer belonging to O3 Cadre and under her the officer belonging to O4 performed his or her duty.

This Tribunal thinks it fit to hold that the monthly remuneration of the applicant being more than Rs.10,000/- per month or her status belonging to O3 officer cadre should not be the criteria to discard the applicant's status as workman.

There is no material on record to show that the applicant had the authority to issue show cause notices upon others. In the absence of applicant's power to issue show cause upon others, the status of the applicant should not be considered beyond the purview of Section 2(S) of I.D Act.

Hence, it is held that the applicant is a workman.

In view of above discussion, it appears that the case is not maintainable and there is no valid cause of action and is not barred by the principle of resjudicate and the petitioner is not entitled to get any relief as prayed for.

Thus all the issues are decided against the applicant.

Hence, it is ordered

that the present case bearing no. 4 of 2023 is dismissed on contest without cost.

Dictated and corrected and Award Delivered by

(BIBEKANANDA SUR)
Judge, 5th Industrial Tribunal, Kolkata

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./50/2025

Dated Kolkata, the 29.12.2025

From: Shri Amit Chattopadhyay
Judge,
8th Industrial Tribunal &
I/C. of 2nd 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: Anjura Khatun W/o. Habibuddin Sk. of village- Ajimtala, P.O.-Khejuriaghat, P.S.-
Baishnabnagar, District-Malda, PIN-732127 against (1) M/S. Ambuja Cement
Foundation, office at Jaladhulagori, PO- Dhulagori, PS- Sankrail, PIN-711302,
District- Howrah and (2) Director of M/S. Ambuja Cement Foundation of Board of
Director, 5th Floor, Elegant Business Park, MIDC Cross Road B of Andheri-Kurla
Road, Andheri (East), Mumbai-400059 **(Case No. 04 of 2023 of the I.D. Act)**

Sir,

I am sending herewith the Award passed in the matter of an industrial
dispute between Anjura Khatun W/o. Habibuddin Sk. of village- Ajimtala, P.O.-Khejuriaghat,
P.S.-Baishnabnagar, District-Malda, PIN-732127 against (1) M/S. Ambuja Cement Foundation,
office at Jaladhulagori, PO- Dhulagori, PS- Sankrail, PIN-711302, District- Howrah and (2)
Director of M/S. Ambuja Cement Foundation of Board of Director, 5th Floor, Elegant Business
Park, MIDC Cross Road B of Andheri-Kurla Road, Andheri (East), Mumbai-400059 **(Case No.
04 of 2023 of the I.D. Act)** for information and necessary action.

Encl: As stated above.

Yours faithfully,

Sd/-
(Amit Chattopadhyay)
Judge
8th Industrial Tribunal
& I/C of 2nd Industrial Tribunal
Kolkata