

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

No. Labr/ 29 /(LC-IR)/ 22015(16)/7/2026

Date : 07-01-2026

ORDER

WHEREAS an industrial dispute existed between M/s. Eskag Pharma Private Limited, AG-112, Salt Lake City, Sector-I, Suite No. 804 & 805, Baisakhi, Kolkata - 700091 and its workman Sri Rana Halder, S/o. Sri Anath Baran Halder, 37/4, Ram Mohan Mukherjee Lane, Shibpur, Howrah- 711102, regarding the issues, being a matter specified in the second schedule of the Industrial Dispute Act' 1947 (14 of 1947);

AND WHEREAS the 7th Industrial Tribunal, Kolkata has submitted to the State Government its Award dated 31.12.2025 in Case No. 10/2016 on the said Industrial Dispute Vide e-mail dated 02.01.2026 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/ 29 /1(5)/(LC-IR)/ 22015(16)/7/2026

Date : 07-01-2026

Copy forwarded for information and necessary action to :-

1. M/s. Eskag Pharma Private Limited, AG-112, Salt Lake City, Sector-I, Suite No. 804 & 805, Baisakhi, Kolkata - 700091.
2. Sri Rana Halder, S/o. Sri Anath Baran Halder, 37/4, Ram Mohan Mukherjee Lane, Shibpur, Howrah- 711102.
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/ 29 /2(3)/(LC-IR)/ 22015(16)/7/2026

Date : 07-01-2026

Copy forwarded for information to :-

1. The Judge, 7th Industrial Tribunal, N. S. Building, 1, K.S. Roy Road, Kolkata - 700001 with reference to e-mail dated 02.01.2026.
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 SEVENTH INDUSTRIAL TRIBUNAL, KOLKATA
WEST BENGAL
New Secretariat Buildings, Kolkata**

**Present: Miss Yogita Gaurisaria, Judge,
Seventh Industrial Tribunal,
Kolkata.**

CASE No. 10/2016

Under Section 2A(2) of the Industrial Disputes Act, 1947

Sri Rana Halder,
S/o. Sri Anath Baran Halder,
37/4, Ram Mohan Mukherjee Lane,
Shibpur, Howrah- 711102

...Applicant

-Versus-

M/s. Eskag Pharma Private Limited,
AG-112, Salt Lake City, Sector-I,
Suite No. 804 & 805, Baisakhi,
Kolkata- 700091.

....Opposite Party /Company

**This Award delivered on Wednesday, this the 31st day of
December, 2025**

A W A R D

1. The applicant has filed the present application before this Tribunal under Section 2A(2) of the Industrial Disputes Act, 1947 challenging the termination of the service of the applicant with prayer for reinstatement with full back wages and consequential benefits. The applicant had originally arrayed one Subhro Sengupta as OP no.2 in this case but he expired during the pendency of the instant case and on the petition of the applicant, his name was expunged vide order dated 27.07.2023 passed by this Tribunal.
2. **Case of the applicant**

The applicant's case is that the Opposite Party/ Company has its office located at AG-112, Salt Lake, Sector

– I, Suit No. 804 and 805 , Baisakhi, Kolkata – 700 091 which is within the jurisdiction of this Tribunal. The OP/Company is covered under the purview of the Company's Act, 1956 and also covered under sub-section 2 of Section 2A of the West Bengal Shops and Establishment Act, 1965 as well as the applicant/employee is well covered under Section 2(s) of the Industrial Disputes Act, 1947 being an operational and technical employee with the aforesaid employer with continuity of clerical nature of work as and when prompted and dictated by the management of the O.P./Company.

The applicant was appointed vide appointment letter Ref No. EPPL/RH/0657 dated 29.07.2014 with effect from resumption of duty from 03.07.2014 so ventilated into the body of the said appointment letter. The applicant had been in continuous employment on and from the date of resumption of work till 30.11.2015 and the salary was elevated to Rs. 29,000/- (Approx.) or be the same little more or less) as remitted in his salaried account credited in the Axis Bank , Branch Lake Town , Kolkata from the very inception of his joining in this organisation till the date of cessation of work on 30.11.2015. The O.P./Company has given him a colourful designation but the same is mismatched with the nature of work as the applicant had to perform various nature of work as and when prompted and so dictated by the management and the nature of work was utilized mainly for the purpose of manual, technical, operational as well as clerical nature of work and the applicant had no power of any administrative or managerial or supervisory capacity to act during the span of his employment and the applicant offered honest and sincere services with the employer without an iota of blemish during his tenure of employment as a permanent employee since crossed the service period more than 240 days without any interruption which to be treated a s regular employment

being a permanent employee so prescribed in the statute. The applicant further stated that on 26.11.2015, Mr. Subhro Sengupta, Marketing Manager of the O.P. Company with a malafide intention pressurized him to submit a resignation letter and created an unpleasant situation. The applicant without finding any alternative avenue had to raise his voice inter alia challenging the Company's unfair measure of policy by registering a Demand Justice for the consideration of the Company vide his letter dated 08.12.2015 (sent vide registered post being R.L.D.A No. RW 546677089 IN) but it yielded no effect ; he as well as sent an Advocate's letter dated 29.12.2015 under Registered Cover, but all were in vain. The said Subhro Sengupta, Marketing Manager created a pressure on the applicant to submit his resignation letter otherwise penal measures to be taken and intimidated to the applicant.

The Company with a motivated presumption issued a letter dated 31.12.2015 despite the matter before the quasi judicial forum being before the conciliatory machinery duly which received the said letter dated 28.12.2015. In such circumstances, the Company's letter dated 31.12.2015 (received by the applicant on 8th January 2016 when the matter was under the appropriate authority to that effect) is belated, after thought, concocted, imaginary as well as misnomer when specially it has no leg to stand on, as well as arbitrary. The applicant/ employee fervently requested the management on several dates to make the payment of the salary and withdraw the alleged termination of service by way of refusal of employment due to non-submission of forced resignation so ventilated in the " Demand of Justice" on 08.01.2015 but it yielded no effect due to vindictive attitude of the O.P.

The applicant had no other way left open to him but to inform the same to the Labour Commissioner, Govt. of West Bengal, Kolkata – 28.12.2015. In accordance with the

Industrial Dispute so raised by the applicant employee and 45 days have already completed, the applicant filed the instant case under Sub-Section 2A of Section 2 (as amended) of the Industrial Disputes Act, 1947.

The applicant/employee further stated that the employer O.P. /Company did not follow any disciplinary proceeding against your applicant/employee did not avail any opportunity for his self defence, if any, conduct, is answerable to the management of the O.P./Company.

The applicant prayed for reinstatement in his service with full back wages and other consequential benefits too and that the applicant is not gainfully employed else where after his alleged termination of service.

The applicant further stated that the purported termination of his service is in essence a case of retrenchment as defined under Section 2(oo) of the Industrial Disputes Act, 1947 and in this case of retrenchment, the employer O.P./Company did not observe the statutory pre-conditions as provided in Section 25F of the Industrial Disputes Act, 1947. It is well settled principle of law under section 25F of the Industrial Disputes Act, 1947 that he cannot be retrenched without any payment at the time of his retrenchment compensation as prescribed therein read with Section 2(oo) of the Industrial Disputes Act, 1947 and that “ Terminationfor any reason, whatsoever are the key words – “ whatever the reason, every termination spells out retrenchment”. He further stated that the purported “ Termination of Service” of the applicant is void , ab initio , irregular, illegal and inoperative and the applicant employee is entitled to reinstatement in his service with full back wages and other consequential benefits thereto

The applicant prayed to hold the termination of the service of the applicant by the management of the OP/Company with effect from 01.12.2015 as illegal and

unjustified and prayed for granting the relief of reinstatement of service with full back wages along with all consequential relief.

Case of the OP /Company

3. The OP/Company after service of notice, entered appearance and filed written statement wherein they have denied each and every allegation brought against them. The OP/Company stated the applicant has no cause of action to file this application and is not maintainable and the same is liable to be dismissed in-limine with costs. The application is based on false and fabricated facts and that this Ld. Tribunal does not have jurisdiction to entertain and try this application and on this ground the application is liable to be dismissed. The OP/Company stated that the function of Divisional Sales Manager could not be of clerical nature and is a total failure on part of applicant to perform his job. The applicant had worked with OP/Company till 30.11.2015 and had also been paid salary for two extra months i.e for December, 2015 & January, 2016 as per terms of his appointment which the applicant had accepted. The applicant had accepted the appointment letter and he cannot go beyond the same. The OP/Company further stated that the applicant even after working for 17 months could not perform his job for which he was recruited and was complete failure to comply with his responsibility. The applicant had willfully misrepresented at the time of interview that he is competent to work as Divisional Sales Manager. The applicant was paid two months salary in terms of clause 5 of appointment letter which he had accepted. The applicant was given enough opportunity to improve but he failed to do so. The OP/Company further stated that the things which the applicant was supposed to do was sales in nature which includes sales management to

lead a team. As such, he cannot be covered under the said Act. The OP/Company further stated that ample opportunity was given to the applicant to improve upon and to do his job properly but on failure on the part of the applicant, it compelled the OP/Company to terminate the applicant from his service. In the circumstances, the OP/Company has prayed for an order to dismiss the instant case with costs.

ISSUES

4. Considering the pleadings of both the parties, the following issues are framed and recast for proper adjudication of this case :-

ISSUES

1. Whether the Ld. Tribunal has jurisdiction to entertain the instant case?
2. Whether the alleged termination of service of Sri Rana Halder under the veil of refusal of employment w.e.f. 01.12.2015 is justified or not ?
3. To what relief the applicant is legally entitled to get within the area of the statute ?

Additional Issues framed—

4. Whether the instant case is maintainable both in its facts and/or in law?
5. Whether the applicant is a workman or not within the meaning of Section 2(s) of the Industrial Disputes Act, 1947 or not ?

EVIDENCES

(i) Evidences for the Applicant

In support of his case, the applicant Rana Halder examined himself as PW-1 and was cross-examined.

The following documents were marked as Exhibits on his behalf—

<u>Serial No.</u>	<u>Description</u>	<u>Exhibit No.</u>
1.	Photocopy of letter of appointment dated 29.07.2014.	Exbt.-1
2.	Photocopy of salary slip for month of November,2015	Exbt.-2
3.	Photocopy of passbook of ICICIBank showing deposit of salary	Exbt-3
4.	Photocopy of passbook of Axisbank with Salary Account	Exbt-4

(ii) Evidences for the OP no.1/Company

In support of its case, the OP/Company examined one Subhro Sengupta, Marketing Manager of OP/Company as OPW-1 and was cross-examined.

The following documents were marked as Exhibits on behalf of OP/Company—

<u>Serial No.</u>	<u>Description</u>	<u>Exhibit No.</u>
1.	Photocopy of letter of offer dated 01.07.2014.	Exbt.-A
2.	Appointment letter dated 29.07.2014	Exbt-B
3.	Email dated 26.12.2015 by the applicant to the OP/Company	Exbt-C
4	Copy of letter dated 30.11.2015 issued by the OP to the applicant alongwith Postal receipt	Exbt-D
5	Copy of letter dated 31.12.2015 issued by the OP to the applicant alongwith Postal receipt	Exbt-E
6	Copy of the statement of ledger account of applicant maintained by OP/Company	Exbt-F

6. The Ld. Advocate for the applicant as well as OP/Company filed written notes of arguments in support of their respective case.

The Ld. Advocate for the applicant relied on the following citations in support of the case of the applicant –

1. (1979) 2 SCC 80 (Hindustan Tin Works P Ltd vs Employees)
2. 1998 (1) LLJ 1116
3. 2015 LLR 309
4. 1976 LLJ 1 page 478
5. 2015 LLR page 225

The Ld. Advocate for the OP/Company relied on the following citations in support of the case of the OP/Company –

1. Judgment delivered by Hon'ble Apex Court in SLP(C) Nos. 5660 of 2023 (2024 INSC 802) (Lenin Kumar Ray vs Express Publications (Madurai) Ltd);
2. 1998 SCC OnLine Bom 6 (G M Pillai vs A P Lakhanikar)

DECISION WITH REASONS

Issue No. 4, 5 & 1 :

--Whether the instant case is maintainable both in its facts and/or in law?

-- Whether the applicant is a workman or not within the meaning of Section 2(s) of the Industrial Disputes Act, 1947 or not?

-- Whether the Ld. Tribunal has jurisdiction to entertain the instant case?

7. The Issues no. 4 & 5 alongwith Issue no.1 are taken up first for adjudication in view of the prayer of the Ld. Advocate for

the OP/Company to decide the same first in view of its petition dated 27.12.2024.

8. As regards territorial jurisdiction of this Tribunal to entertain the instant case, I find that the office of the OP / Company is situated at Salt Lake , Sector II, Kolkata which is within the territorial jurisdiction of this Tribunal. As such, this Tribunal holds that it has territorial jurisdiction to entertain the instant case.

The applicant has filed the instant application u/sec. 2A(2) of the Industrial Disputes Act, 1947. The same is enabling provision which enables the workman to file application before this Tribunal on expiry of forty-five days before the Conciliation Officer as laid down therein. The applicant has filed the instant application after exhausting the stage of Conciliation Officer . I find that the instant application of the applicant is well within the competence of this State Industrial Tribunal u/sec. 2A(2) of the Industrial Disputes Act, 1947 read with the said West Bengal Amendment.

- 9 Now, I move on to another aspect i.e whether the applicant is a workman within the definition of workman u/sec. 2(s) of the Industrial Disputes Act, 1947 as amended.

From the offer letter (Exbt-A) read with appointment letter (Exbt-B), it reveals that the applicant was appointed as Divisional Sales Manager with the main jobs mentioned in Annexure-B of appointment letter (Exbt-B) which are-

1. To meet atleast 14 doctors per day
2. To visit 6 chemists per day
3. To do POB for Rs 2500/- per day
4. To do RPM for atleast three important chemists

While working individually in any territory, if advised by H.O

1. To meet atleast 13 doctors per day
2. To visit 5 chemists per day
3. To do POB for Rs 2000/- per day
4. To do RPM for atleast three important chemists

There is no whisper of any supervisory power vested in applicant vide the said appointment letter. The primary and essential duty of the applicant in the OP/Company as transpiring from the said Exbt-A & B transcends to Sales Promotion Employee who are within the definition of workman as laid under section 2(s) of the Industrial Disputes Act, 1947 read with the West Bengal Amendment Act 33 of 1986 (with effect from 21.08.1984) and West Bengal Act 57 of 1980 (with effect from 30.11.1981).

The OP/Company in its written Statement in para 9 categorically stated that the things which the applicant was supposed to do was sales in nature. The OPW-1 in his affidavit-in-chief filed on behalf of OP/Company in paragraph 13 thereof also stated that the job of the applicant was supposed to do was sales in nature.

The **Hon'ble Supreme Court** in the judgment reported in the judgment reported in **(1970) 3 SCC 248 (Anand Bazar Patrika (P) Ltd vs The Workman)** while addressing the issue whether a person was clerk or was working in a supervisory capacity, the Hon'ble Apex Court applying the criteria that the principal work of clerical nature falls within Section 2(s)(iv) of the Act, observed that few minor duties of supervisory character cannot convert his office of senior clerical-in-charge that of supervisor. The Hon'ble Apex Court inter alia observed—

“... His principal work was in maintaining and writing cash book and of preparing various returns. Being the senior-most clerk he was put in charge of the Provident

Fund Section and was given a small amount of control over the other clerks working in the section. He was to allocate work between them, to permit them leave during the office hours and to recommend their leave applications.”

The Hon’ble Apex Court in the said Anand Bazar case relied on the decision of Apex Court in *Burma Shell Oil Storage and Distributing Company of India Ltd vs Their Employees* and underscored the relevance of the substantial work consideration and further held-

“.....if the main work done is of clerical nature, the mere fact that some supervisory duties are also carried out incidentally or as a small fraction of the work done by him will not convert his employment as a clerk into one of supervisory capacity.”

The judgments relied upon by the Ld. Advocate for the OP/Company of Hon’ble Apex Court and that of Hon’ble Delhi High Court are hardly of any help to the case of the OP/Company in the facts and circumstances of the instant case where the definition of workman as amended by the West Bengal Amendment Act includes Sales Promotion employees.

In view of the above, it melts down to conclusion that the principal duty of the applicant was of Sales promotion and incidental trappings of any other function does not oust him from the said coverage of Sales Promotion employee who are held to be workman in West Bengal under the definition of workman under section 2(s) of the Industrial Disputes Act, 1947 as amended vide West Bengal amendment.

10. The Hon’ble Apex Court also held that if the primary and essential duty of employee is falling within the definition of workman u/sec. 2(s) of Industrial Disputes Act, 1947 as

amended, the incidental work of supervisory nature does not bring him out of the definition of workman in view of the primary & essential work being within its four corners.

The definition of workman as laid down under section 2(s) of the Industrial Disputes Act, 1947 lays down definition of workman as under-

Sec. 2(s) -- "workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-

- i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
- (ii) who is employed in the police service or as an officer or other employee of a prison, or
- (iii) who is employed mainly in a managerial or administrative capacity, or
- (iv) who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties

attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

The WB Amendment of Sec 2(s) Industrial Disputes Act inserted “or any work for the promotion of sales” . As such, the exception (ii) of Sec. 2(d) of Sales Promotion Employees (Conditions of Service) Act, 1976 is also of no help to the cause of the OP/Company.

I further find that the applicant does not fall within the two exceptions provided under section 2(d) of Sales Promotion Employees (Conditions of Service) Act, 1976 and also not within the exceptions laid under section 2(s) of Industrial Disputes Act, 1947.

I find that the applicant was not employed in a supervisory capacity, rather he was employed for Sales Promotion with designation of Divisional Sales Manager, as such the incidental work of supervisory nature, if any, does not exclude him from purview of definition of workman. As such, the exception (i) of section 2(d) of Sales Promotion Employees (Conditions of Service) Act, 1976 is not applicable in the instant case.

The monetary salary limit in case of Sales Promotion employee is immaterial. As such, the exception as laid under section 2(s)(iv) is immaterial in the instant case.

The nature of job of applicant is akin to Sales Promotion Employees. This fortifies that the nature of job performed by the applicant was of Sales Promotion employee. The Sales Promotion employees are also within the definition of workman in view of West Bengal Amendment. The applicant is thus within the definition of workman as above.

In view of the above and settled principles of law, I find that the applicant falls within the definition of workman as laid under section 2(s) of the Industrial Disputes Act, 1947 read with the West Bengal Amendment Act 33 of 1986 (with effect from 21.08.1984) and West Bengal Act 57 of 1980 (with effect from 30.11.1981).

Accordingly, this issue no. 4, 5 & 1 are disposed in favour of the applicant/workman.

ISSUE no. 2 & 3

-- Whether the alleged termination of service of Sri Rana Halder under the veil of refusal of employment w.e.f. 01.12.2015 is justified or not ?

-- To what relief the applicant is legally entitled to get within the area of the statute?

- 11.** Both the issues 2 & 3 are taken up together for sake of convenience and brevity.

Now, let us see as to how far the applicant has been able to prove his case by adducing evidence.

Sec.2(oo) is reproduced hereinbelow for sake of easy reference and better appreciation.

Sec. 2(oo) "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include –

(a) voluntary retirement of the workman; or

(b)retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(c) termination of the service of a workman on the ground of continued ill-health.

12. Perusal of Exbt-B/Exbt-1 reveals that applicant/workman was appointed vide letter dated 29.07.2014 with effect from 03.07.2014 and his probation was for initial period of one year. As such, probation was upto 02.07.2014.

Exbt-D reveals that the applicant served OP /company upto 30 November, 2015.

It further reveals from Exbt-D being termination letter that the same is dated 30.11.2015 and terminating services from closing hour of 30.11.2015 being his last working day.

It is accepted position of OP/Company that the OP/Company paid two months salary as compensation only vide letter dated 31.12.2015.

13. Looking at termination from another perspective is that Exhibit-D reveals that the termination of applicant was

due to “no improvement in your sales performance”. The same is no doubt stigmatic in nature. The applicant/workman has not been provided with any opportunity to explain the same. It is undisputed that no show-cause has been issued in the instant case nor any domestic enquiry was held and on the basis of Exbt-D, the service of applicant was terminated.

14. The continuous service of the applicant/workman for more than 1 year is not in dispute. The OP/Company itself stated in its written statement in para 11 that the applicant worked for 17 months. It thus implies that the applicant/workman has completed 240 days of continuous service as stipulated in Sec. 25B read with section 25 F of the Industrial Disputes Act. No such resignation letter as alleged has been exhibited on behalf of the Op/Company. The OP/Company rather stated that it paid two months salary to applicant on termination of his service which runs contrary to the stand of the OP/Company.
15. The payment, if any, made by the OP/Company vide letter dated 31.12.2015 is also not in consonance with the spirit of Sec. 25F of Industrial Disputes Act, 1947.
16. From the discussions made hereinabove, this Tribunal has no hesitation to hold that the OP/Company has failed to bring its case within the Provisos of Section 2(oo) of said Act. As such, the case of applicant/workman falls under section 2(oo) of the said Act.
17. This Tribunal finds that the OP/company has not conducted any disciplinary proceedings which is reflected from above Exhibits as well as deposition of witnesses. The mandate of Sec. 25F / Sec. 25N of the said Act has also not been complied with by the OP/Company.

The said action is not covered under provisos of sec. 2(oo) of the said Act and the action of the management amounts to retrenchment of the service of the applicant/ workman under section 2(oo) of the said Act.

18. The termination of services of the applicant/ workman vide letter dated 30.11.2015 (Exbt-D) with immediate effect without complying Sec 25F falls within the definition of retrenchment as laid under section 2(oo) of the said Act, 1947 and does not fall within the provisos as provided under section 2(oo) of the said Act and is illegal termination of the service of the applicant/ workman since the OP/Company did not comply the statutory conditions precedent to retrenchment as laid down under section 25F or 25N of the said Act, 1947 being compulsory obligation on the company and the said retrenchment is illegal retrenchment
19. In view of the aforesaid facts and circumstances and the settled position of the law , this Tribunal finds that the applicant/ workman has been able to prove his case by cogent and consistent evidence that his alleged termination vide letter dated 30.11.2015 (Exbt-D) is bad, illegal and unjustified and is liable to be set aside and that the applicant/Workman is entitled to reinstatement with full back wages alongwith consequential reliefs and the services of the applicant/ workman be deemed to be continuous service without any break
20. The applicant/workman is entitled to all back wages alongwith consequential benefits including the benefit of revised wages or salary if during the period there is revision of pay-scales with yearly increment, revised dearness allowance or variable dearness allowance Back wages should be calculated as if the applicant/workman continued in service uninterrupted. He is also entitled to leave encashment and bonus if other workmen in the same

category were paid the same. The applicant/workman has been unlawfully kept out of service, therefore it is just that the OP/Company shall pay all the arrears as calculated according to the directions herein given with 10% interest from the date the amount became due and payable till realisation.

Be it noted that the OP/Company while calculating back wages is entitled for adjustment of two months salary as allegedly paid by it to the applicant/workman for the months of December, 2015 & January, 2016 vide letter dated 31.12.2015.

The Issue no. 2 & 3 stands decided accordingly in favour of the applicant/workman.

Hence, it is

ORDERED

that the instant case being No. 10/2016/2A(2) u/s. 2A(2) of the Industrial Disputes Act, 1947 be and the same is allowed on contest but without any order as to costs against the OP/Company. The letter dated 30.11.2015 (Exhibit-D) is set aside being bad, illegal and unjustified.

The applicant/ workman is entitled to be reinstated in service with effect from 01.12.2015 with full back wages alongwith all other consequential benefits thereto arising out of such reinstatement and continuity of service and the service of the applicant/ workman shall be deemed to be continuous service without any break.

The OP/Company is directed to pay full back wages alongwith all other consequential benefits thereto

arising out of such reinstatement till the date of reinstatement and also other benefits being paid to other workman/ workmen under various beneficial, welfare and/or benevolent schemes of the OP/company. The OP/Company is further directed to ensure that the applicant/ workman is not deprived of the annual increments which fell due from time to time since 01.12.2015.

The OP/Company is also directed to pay all the dues and outstanding as directed by this Tribunal with interest @ 10% per annum within thirty days from the date of this order.

The aforesaid is the Award of this Tribunal passed in this instant case no. 10/2016/2A(2) u/s. 2A(2) of the Industrail Disputes Act, 1947..

The case no. 10/2016/2A(2) u/s. 2A(2) stands disposed of on contest.

Let copy of this Award be sent to the appropriate authority(ies) as envisaged under the law.

Dictated & corrected by me.

Judge

(Yogita Gaurisaria)
Judge
7thIndustrial Tribunal
Kolkata
31.12.2025