

I/213083/2022

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

No. Labr/ 774 / (LC-IR)/11L-91/15Date: 12-08-2022.ORDER

WHEREAS under the Government of West Bengal, Labour Department Order No. Labr/779-IR/11L-21/04 dated 06/07/2010 the Industrial Dispute between M/s. Phoenix Yule Ltd., P.O. - Gayeshpur, Kalyani, Dist. - Nadia and its workman Sri Paramesh Sikder, 3, Kataganj, Plot No. 81, P.O. - Kataganj, Nadia regarding the issue mentioned in the said order, being a matter specified in the Second / Third Schedule to the Industrial Dispute Act, 1947 (14 of 1947), was referred for adjudication to the Judge, Third Industrial Tribunal, West Bengal.

AND WHEREAS the Third Industrial Tribunal, West Bengal, has submitted to the State Government its award dated 27/07/2022 on the said Industrial Dispute vide memo no. 1179 - L.T. dated - 28/07/2022.

NOW, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Governor is pleased hereby to publish the said award as shown in the Annexure hereto.

ANNEXURE

(Attached herewith)

By order of the Governor,

sd/

Joint Secretary
to the Government of West Bengal

I/213083/2022

No. Labr/774/1(5)/(LC-IR)

Date: 12-08- /2022.

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

1. M/s. Phoenix Yule Ltd., P.O. - Gayeshpur, Kalyani, Dist. - Nadia.
2. Sri Paramesh Sikder, 3, Kataganj, Plot No. 81, P.O. - Kataganj, Nadia.
3. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The O.S.D. & E.O. Labour Commissioner, W.B. New Secretariate Building, 1, K. S. Roy Road, 11th Floor, Kolkata- 700001.
- ✓ 5. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.



Joint Secretary

No. Labr/774/2(2)/(LC-IR)

Date: 12-08- /2022.

Copy forwarded for information to:

1. The Judge, Third Industrial Tribunal, West Bengal with reference to his Memo No. 1179 - L.T. dated - 28/07/2022.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata -700001.



Joint Secretary

IN THE THIRD INDUSTRIAL TRIBUNAL, WEST BENGAL

Present - Sanjeev Kumar Sharma,
Judge, 3rd Industrial Tribunal,
Kolkata.

Case No. VIII-33/2010

A W A R D

Date : 27-07-2022

In the matter of an Industrial Dispute between Messrs Phoenix Yule Ltd., P.O.-Gayeshpur, Kalyani, Dist.-Nadia and their workman Sri Paramesh Sikder (Token No.0487), 3, Kataganj, Plot No.81, P.O.-Kataganj, Nadia referred to this Tribunal vide Reference order No. 779-I.R./11L-21/04 dated 06.07.2010.

I S S U E S

1. Whether the dismissal of the workman Shri Paramesh Sikder w.e.f. 31.07.2008 is justified ?
2. What relief, if any, is he entitled to ?

Ld. Advocates for both sides are present.

Ld. Advocate for the company files petition stating that the cheque of Rs.2 lakhs handed over to the workman by the company in terms of the memorandum of settlement has been encashed by the workman. A printout of an e-mail is annexed to the petition in support of the fact that the payment of Rs.2 lakhs has been made to the workman.

Ld. Advocate for the workman submits that the workman could not appear today, but he had intimated him over phone that he has received the cheque amount of Rs.2 lakhs in terms of the settlement.

The instant reference is the result of the industrial dispute raised by the workman against the company over termination of his service by the company. The company appeared and filed written statement while the case was fixed for hearing arguments on the validity of domestic enquiry the parties entered into an amicable settlement in consequence to which they filed a joint petition along with memorandum of settlement on 18.07.2022 praying for an award in terms of the settlement.

The applicant was examined touching the joint petition and memorandum of settlement. He deposed that there has been an amicable settlement between him and the

company and in terms of the settlement the company has handed over a cheque of Rs.2,00,000/- and he prayed for passing of an award in terms of the settlement stating that he has no further grievance against the company.

Having heard both the sides it is found that the workman has already encashed the cheque amounting to Rs.2,00,000/-.

In view of the facts and circumstances, the nature of the case and the deposition of the workman I find that the dispute between the parties has been amicably settled in terms of the memorandum of settlement. Since the petitioner has no grievance against the company at present, no industrial dispute can be said to exist between the parties any longer.

Therefore, the instant reference stands disposed of on the footing that there no longer exists any industrial dispute between the parties. The memorandum of settlement be made part of the award.

Let the copies of the Award be sent to the Labour Department, Government of West Bengal as per rules and norms.

Dictated and corrected by me

sd/-

Judge

sd/-

(Sanjeev Kumar Sharma)

Judge

3rd Industrial Tribunal

Kolkata

27.07.2022

MEMORANDUM OF SETTLEMENT

Name and address of the parties: Phoenix Yule Limited, PO Gayeshpur,
Kalyani, Dist. Nodia (hereinafter referred
to as employer)

And

Sri Paramesh Sikdar (workman)

Name of the person representing
the employer : Mr. Ashish Srivastava Managing Director
Department Phoenix Conveyor Belt India Private Limited

Name of the person representing
the workman : Self

Short recital of the case : The workman was dismissed from service of the company vide dismissal letter dated 26.07.2008 and after dismissal the management paid all his dues totaling to Rs.100,648/- towards full and final settlement including gratuity and other terminal dues which the workman received with a note "without prejudice" but finally he raised dispute over his dismissal w.e.f. 31.07.2008. Ultimately in 2010 state government referred the dispute vide order no.779-I.R/ IR/11L-21/04 dated 06.07.2010 to the Learned Third Industrial Tribunal being case No. VIII/33/2010. Both parties filed their respective written statements and evidence on the issue of validity of enquiry was led by the parties and was concluded and presently the case is at the stage of argument on the issue of validity of enquiry. At this stage the workman has made appeal to the management so that the case is settled out of court on sympathetic ground expressing his unwillingness to pursue with the case anymore. Management has responded to his appeal sympathetically without creating any precedent whatsoever. Accordingly, both parties have settled the matter amicably on the following terms and conditions:

Terms and condition:

1. The employer/management shall pay a lump sum amount of Rs. 2, 00000.00 (Rupees two lacs only) to the workman vide cheque no. **002735** dated **11th July 2022** in consideration of his prayer made to the management by letter dated 09th July 2022.
2. The workman accepted his dismissal from service by the management vide dismissal letter dated 26.07.2008 and further agrees not to raise any dispute or issue regarding his dismissal or pursue with the case referred by the government at his instance vide order no.779-IR/ IR/11L-21/04 dated 06.07.2010 and pending before the Ld. Tribunal.
3. In consideration of the amount the management shall pay, the workman hereby undertakes that he will not make any monitory or other demand whatsoever directly or otherwise against the management in relation to his employment or otherwise and further agrees and accepts that he has no grievance or claim including claim of gratuity and other terminal dues for one month salary in lieu of one month notice which has fully been settled by the management by Registered Letter to him on 3rd August 2008 .

- 4 It is made clear that the management has agreed to pay further amount as aforesaid even after all his dues being settled long back in 2008 purely on sympathetic consideration of his appeal made to the management and such payment shall not be considered as precedent for any future reference.
- 5 The parties shall file a joint petition before the Ld. Tribunal praying for an award in terms of the settlement.

Signature of the workman

Signature of management's representative

Paramesh Sikdar

Paramesh Sikdar

Dated : 11th July 2022

Ashish Srivastava

Managing Director

Phoenix Conveyor Belt India Private Limited

Sign in our presence
→ Done for the copy

*Done
for workman*