

I/460189/2023

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

No. Labr/. 1070/(LC-IR)/ 11L-206/11

Date: 06/12/ 2023

ORDER

WHEREAS under the Government of West Bengal, Labour Department Order No. 295/(LC-IR)/IR/11L-206/2011 dated 30/03/2012 the Industrial Dispute between M/s Child-in-Need Institute (CINI), Daulatpur, P.O. Pailanhat, Via-Joka, 24 - Pgs (South), Pin - 700104 and Sk. Mahiuddin, Vill - Chhitbagi, P.O. Pailan Hat, P.S. Bishnupur, Dist. - South 24 Pgs, Pin - 700107 regarding the issue mentioned in the said order, being a matter specified in the Second Schedule to the Industrial Dispute Act, 1947 (14 of 1947), was referred for adjudication to the Judge, Fifth Industrial Tribunal, West Bengal.

AND WHEREAS the said Fifth Industrial Tribunal, West Bengal, has submitted to the State Government its award dated 29/11/2023 in case no. VIII-12/2012 U/s 10(2A) on the said Industrial Dispute vide memo no Dte/5th IT/70 - L.T. dated - 29/11/2023.

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/-
Assistant Secretary
to the Government of West Bengal

1/460189/2023

No. Labr/ *1070/1(5)* / (LC-IR) (2) Date: *06/12/* ... 2023

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

1. M/s Child-in-Need Institute (CINI), Daulatpur, P.O. Pailanhat, Via-Joka, 24 - Pgs (South), Pin - 700104.
2. Sk. Mahiuddin, Vill - Chhitbagi, P.O. Pailan Hat, P.S. Bishnupur, Dist. - South 24 Pgs, Pin - 700107.
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.

No. Labr/ *1070/2(2)* / (LC-IR) Assistant Secretary Date: *06/12/* ... 2023

Copy forwarded for information to:

1. The Judge, Fifth Industrial Tribunal, West Bengal with reference to his Memo No.Dte/5th IT/70 - L.T. dated - 29/11/2023.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata -700001.

Assistant Secretary

Depan Sen 12/12/2023
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Before the 5th Industrial Tribunals, Kolkata

Case No. VIII-12/12

Under Section 10 (2A) of the Industrial Disputes Act, 1947

M/s. Child-in-Need Institute (CINI)

-VS-

Sk. Mahiuddin (The workman of CINI)

A W A R D D A T E D , 2 9 / 1 1 / 2 0 2 3

This Industrial Dispute between M/s. Child-in-Need Institute (CINI) , Daulatpur, P.O. Pailan, Via-Joka, 24 – Paraganas (South), PIN-700 104 and its workman Sk. Mahiuddin (The workman of CINI) Employees Union, (Regd. No. 26125), Vill- Daulatpur, P.O. Pailanhat, P.S. Bishunpur, Dist. South 24 Paraganas, PIN-700 107 has been Transferred from Labour Department, I.R. Branch, Writers' Buildings, Kolkata-700 001 to the 7th Industrial Tribunal by the Government of West Bengal, Labour Department's Vide G.O. No.295-I.R./I.R./11L-206/11 dated 30th March, 2012, Vide Notification No.3115/IR/IR/3A-6/59 dated 21.06.1960 for the purpose of adjudication upon the under mention issues:-

ISSUES

1. Whether the termination of services by way of refusal of employment by the management of M/s. Child-in-Need Institute (CINI) to their workman Sk. Mahiuddin (Senior Project Asstt.) with effect from 08.11.2007 is justified?
2. What relief, if any, is he entitled to?

Originally the case record was fixed for further cross-examination of OPW-1. On 07.11.2023, both the parties jointly submitted that both the parties have agreed among themselves to settle the disputes and to that effect they like to file a memorandum of settlement before this Tribunal. On 29.11.2023 both the parties have filed a joint petition and they also filed a memorandum of settlement duly signed by the representative of the CINI Mr.

Nikhil Naskar and the Workman Sk. Mahiuddin has put his LTI upon the petition as well as upon the verification and also two affidavit in chiefs one is of Sk. Mahiuddin i.e. the workman of this case and another one of Sri Nikhil Naskar, the representative, of CINI. Today both the parties have filed a joint petition along with the memorandum of settlement duly signed by both the parties supported by verification and also prayed for disposed of the case as per terms and conditions of the Memorandum of Settlement. Both the parties are present along with their Ld. Advocates and Ld. Advocate for M/s CINI submitted that he has no objection if the instant case is disposed of on the basis of the terms and conditions of the Memorandum of Settlement.

Both the Ld. Advocates of the parties jointly submitted that the dispute between the parties in the present case has been amicably settled out of Court / Tribunal and to that effect a memorandum of settlement dated 29/11/2023 has prepared by both the parties and the parties also finalized their disputes in terms of the memorandum of the settlement. In view of the above facts and circumstances both the parties prayed for disposal of the case in terms of memorandum of settlement dated 29/11/2023.

In support of their contention the workman Sk. Mahiuddin examined himself as PW-1, who was the workman of M/s. Child-in-Need Institute (CINI) and the memorandum of settlement is marked as Exhibit-1 and the photocopies of his Aadhaar Card is marked as Exhibit-2. He also admitted and agreed with the terms and condition of the Memorandum of Settlement and prays for disposal of the case in view of the Terms and Conditions of the

Sahar
29.11.2023
Judge,
5th Industrial Tribunal
Govt. of West Bengal

Memorandum of settlement and his cross examination is declined by the Ld. Advocate of M/s. Child-in-Need Institute (CINI).

On the contrary Shri Nikhil Naskar, the authorized representative of M/s. Child-in-Need Institute (CINI). examined himself as MW-1 and the photocopy of Authorisation letter dated 29/11/2023 issued by Mr. Sudeep Patra the Chief Operating Officer of CINI is marked as Exhibit-A and the photocopy of Aadhaar Card of Shri Nikhil Naskar is marked as Exhibit-B and the photocopy of money receipt dated 29/11/2023 is marked as Exhibit-C and he has categorically stated about the settlement by and between the parties and he also stated that the management of M/s. CINI has no objection if the present case is disposed off as per terms and conditions of the settlement

petition and practically the management of M/s. CINI also prays for disposed of the case on the basis of the terms and condition of the settlement petition.

This Tribunal has carefully examined the terms and condition of the memorandum of settlement and also has scrutinized the signatures appeared in the memorandum of settlement by both the parties.

It reveals that the management of M/s. Child-in-Need Institute (CINI) duly authorized Vide Authorisation letter dated 15/11/2023 empowered to Sri Nikhil Naskar to sign and execute the terms and conditions of settlement between the parties and accordingly Shri Nikhil Naskar has put his signatures upon the same and Sk. Mahiuddin also puts his LTI upon the joint petition as well as upon the memorandum of settlement on behalf of M/s. Child-in-Need Institute (CINI) and also on behalf of the workman himself. It further reveals that the management has paid **Rs. 75,000/- (Rupees Seventy Five thousand) only** to the Petitioner Sk. Mahiuddin through Demand Draft No.79450 of **Axix Bank**, Behala Branch which has been admitted by the petitioner Sk. Mahiuddin in his examination in chief.

Having regard to the facts and circumstances and considering the materials on records and the terms of the settlement, this Tribunal is of the opinion that the terms and conditions of the settlement dated 29/11/2023 by and between the parties of this case are legally valid and proper.

There is no legal impediment to accept the terms and condition of the settlement and to dispose of the case between the parties.

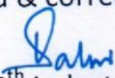
Hence,

ORDERED

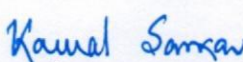
that the application dated 29/11/2023, filed by both the parties are allowed in presence of both the parties of this proceeding along with their Ld. Advocates. Accordingly the instant case is finally disposed off in terms of the memorandum of settlement dated 29/11/2023 and the said memorandum of settlement be made part of this award.

This is the Award of this Tribunal.

Dictated & corrected by me.


Judge, 5th Industrial Tribunal,
Kolkata
29/11/2023

Judge,
5th Industrial Tribunal
Govt. of West Bengal


Judge, 5th Industrial Tribunal,
Kolkata
29/11/2023

Judge,
5th Industrial Tribunal
Govt. of West Bengal

MEMORANDUM OF SETTLEMENT

Under Section 2(p) of the Industrial Disputes Act, 1947
read with Rule 68 of the West Bengal Industrial Disputes Rules, 1958.

01. Names and addresses of : M/s. Child in Need Institute
the parties. (CINI),
Daulatpur, P.O. Pailanhat, via
Joka, 24 Parganas (S),
(hereinafter referred to as the
Institute).

-And-

Their workman Sk. Mahiuddin,
Village - Chhitbagi, Post Office -
Pailan Hat, Police Station -
Bishnupur, District: South 24 -
Parganas.

02. Representing the Employer: 1.Mr. Nikhil Naskar
03. Representing the workman: The workman himself.
04. Short Recital of the case::

One, Sri Sk. Mahiuddin, the ex-employee named in
the Order of Reference. He was attached to the Institute as a Development
Agent with effect from April, 1978 and he was made a regular employee from
01.01.1981. This fact is clear from the letter dated 01.01.1982.

On 08.11.2007 he tendered resignation on his own
volition. He put his signature on the said letter of resignation and the same
was accepted by the management of the Institute. Accordingly, he has been
paid Rs. 63,065/- (Rupees sixty three thousand sixty five) only on various
accounts as would appear from the payment voucher dated 27.11.2007.

LTI 06
Sk.
Mahiuddin



Identified
by me
[Signature]

Nikhil Naskar
29/11/23

Although the management of the institute never terminated his service of Sk. Mahiuddin but for the reasons best known to him, a dispute was raised on his behalf by the Union under reference before the Labour Department, Government of West Bengal, alleging termination of his service with effect from 08.11.2007.

Initially, the said dispute was espoused by the Union under reference but when the matter was referred to the Learned Seventh Industrial Tribunal, Government of West Bengal, vide order of reference dated 30.03.2012 (VIII- 12 of 2012), no one other than Sk. Mahiuddin contested the case before the said Learned Tribunal. At present, the matter is pending before the Learned Fifth Industrial Tribunal as the same has been transferred from the Learned Seventh Industrial Tribunal.

During the pendency of the matter before the said Learned Tribunal, a proposal has come from Sk. Mahiuddin, for an amicable settlement of the pending matter. Accordingly, discussions were held in an atmosphere of cordiality between the parties for an amicable settlement of the matter and thereafter the same has been settled by and between the parties on following terms:

5. TERMS AND CONDITIONS OF SETTLEMENT:

- (a) It is agreed and accepted by Sk. Mahiuddin that the management never terminated his service in any manner what so ever with effect from 08.11.2007.

LT 106

Sk.
Mahiuddin



Identification on
the
point

Rekha Dasgupta
29/11/23

(b) It is agreed and accepted by Sk. Mahiuddin that he of his own accord tendered his resignation from the service and the same was accepted by the management with effect from 8.11.2007

(c) It is agreed and accepted by the parties to the settlement that the entire dispute has been resolved out of the Learned Tribunal without creating any liability on the management of Child in Need Institute (CINI) { hereinafter referred to as the Institute} in connection with Sk. Mahiuddin in any manner whatsoever.

(d) It is agreed and accepted by Sk. Mahiuddin that there is no scope for him to be employed by the Institute in any manner what so ever nor shall he pray for reinstatement/re-employment / re-induction in the Company in any manner what so ever including back wages, leave wages, bonus and Gratuity before any Authority, Labour Court, Tribunal or any Court of Law.

(e) It is agreed and accepted by both the parties to the instant settlement that Sk. Mahiuddin is being paid a sum of Rs 75,000/- (Rupees seventy five thousand) Only by the Institute, as a settlement money in full and final settlement of his all dues and claims statutory or otherwise against the Company including reinstatement/re-employment / re-induction in the Institute in any manner what so ever along with back wages, leave wages and bonus before any Authority, Labour Court, Tribunal or any Court of Law. Sk. Mahiuddin is also being paid today a sum of Rs75,000/-(Seventy five thousand only) in full and final settlement of his approach for financial assistance as well as, apathy to proceed with the instant matter due to his personal reasons.

LT 1 of
Sk. Mahiuddin



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by me
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Hahuf-

deltsbaw
29.11.23

(f) It is agreed that Sk. Mahiuddin consequent upon payments as aforesaid, has got no claim (statutory or otherwise) in respect of the Institute nor shall he himself or authorize anybody including any Union/Association to prefer any claim, statutory or otherwise including reinstatement/re-employment / re-induction in the Institute in any manner what so ever along with back wages, leave wages, bonus and Gratuity before any Authority, Labour Court, Tribunal or any Court of Law.

(g) It is confirmed by Sk. Mahiuddin that in receiving the Demand Drafts for the aforesaid amounts, he shall handover a receipts as a token of his acceptance of the said amount in full and final settlement of his all dues and claims against the Institute.

(h) It is confirmed by Sk. Mahiuddin that he is not interested to proceed with the Case No. VIII- 12 of 2012 under Section 10 of the Industrial Disputes Act, 1947 pending before the Learned Fifth Industrial Tribunal, Government of West Bengal in any manner whatsoever.

(i) It is confirmed by Sk. Mahiuddin that he has accepted the said payment without any reservation and without being influenced by anyone. He also confirms that consequent upon payments as aforesaid by the management, he is not entitled to receive any amount from the Institute over and above the said amount statutory or otherwise in connection with Case No. Case No. VIII- 12 of 2012 under Section 10 of the Industrial Disputes Act, 1947 pending before the learned Fifth Industrial Tribunal, Government of West Bengal. This settles all the disputes, demands and differences between the parties

fully and finally.

L.T. of
Sk. Mahiuddin



Sk. Mahiuddin
by me
[Signature]
Admit

Rekha Dasgupta
29.11.23

(j) Sk. Mahiuddin by and for himself and on behalf of his heirs, successors, and assignees, fully and forever release and discharge M/s. Child in Need Institute (CINI), their employees, officers, subsidiaries, directors, shareholders, partners, members, predecessors, successors, affiliates, insurers and trustees as well as its or their present and former officers, directors, trustees, employees and agents, individually and in their official capacities from any and all claims, rights, liens, demands, liabilities, obligations, damages, actions, and causes of action, of every kind and nature, in law, equity, or otherwise, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of any act, omission, event or transaction, including without limitation, all past, present, and future claims and demands arising out of, or having a basis in whole or in part of, any claims or causes of action arising from or relating to the claim contemplated herein in this settlement.

(k) Sk. Mahiuddin warrants that he has not assigned, pledged, or otherwise sold or transferred any right, title, or interest which Sk. Mahiuddin had or may have in the claims hereby released.

(l) It has been further agreed by Sk. Mahiuddin that he shall keep the terms and condition of this settlement confidential and not to disclose the same to any employees (whether present or former) of the Institute or any third party (es) from the date of execution of the foregoing settlement.

06. It is confirmed by Sk. Mahiuddin that he shall have no reservation in the event the present case, as mentioned in Clause 5 of the foregoing settlement is disposed of consequent upon signing of this settlement and payment in terms thereof by virtue of an Award

LT, sk
Sk. Mahiuddin



Identified
by me
[Signature]
Adm

Nikhil Kumar
29.11.23

on the basis of the instant settlement. He further confirms that he shall extend fullest co-operation in making a joint application for disposal of the Case being No. VIII- 12 of 2012 under Section 10 of the Industrial Disputes Act, 1947 pending before the Learned Third Industrial Tribunal, Government of West Bengal in terms of the settlement on the date of signing and receiving the payment in terms thereof.

07. This settlement settles all disputes and demands arising out of the Case No. VIII- 12 of 2012 under Section 10 of the Industrial Disputes Act, 1947 pending before the Learned Fifth Industrial Tribunal, Government of West Bengal fully and finally.

IN WITNESS WHEREOF the parties put their

signatures this the 29th day of November, 2023.

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sk.
Mahiuddin
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Sk. Mahiuddin

Richa Raskar 29.11.23

M/s. Child in Need Institute (CINI)

Witness(es):

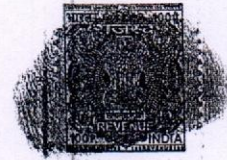
1. *Mahin, Admit*

2.



RECEIPT

Received from M/s. Child in Need Institute (CINI), Daulatpur, P.O. Pailanhat, via Joka, 24 Parganas (S), (hereinafter referred to as the Institute) a sum of Rs 75,000/- (Rupees seventy five thousand) only, is being paid to me vide a Demand Draft being nos. 79450 dated 16.11.2023 drawn on AXIS BANK LTD, BEHALA in full and final settlement of my all dues and claims statutory or otherwise against the Institute including my prayer for financial assistance. I have no other dues and claims, statutory (including gratuity) or otherwise, including any monetary claim against my said employer. Nor shall I prefer any claim for any amount before any Court of Law, Tribunal or Authority for any amount in any manner what so ever including the claim for re-employed or re-engagement, back wages and gratuity. I accept the said amount of Rs75,000/- (Rupees seventy five thousand) only, as a settlement of all my dues and claims from my said employer including the Case No. VIII-12 of 2012 under Section 10 of the Industrial Disputes Act, 1947 pending before the learned Fifth Industrial Tribunal, Government of West Bengal, Kolkata and any proceedings in connection thereof pending before any Forum. I undertake not to institute any case or proceedings before any Court of Law or authority against the Company.



(Sk. Mahiuddin)

I have received by me



Sk. Mahiuddin
29/11/23



AXIS BANK LTD

IFS CODE - UTIB0000034

ISSUING BRANCH

A/C PAYEE ONLY

BEHALA, KOLKATA [WB]

VALID FOR THREE MONTHS FROM THE DATE OF ISSUE

DATE
दिनांक

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or order / या उनके आदेश पर

On Demand Pay

माँगे जाने पर
Rupees
रुपये

SK. MOHIUDDIN

Seventy Five Thousand only

अदा करें ₹

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*****75,000.00

FOR VALUE RECEIVED

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DD.
Sr.No.

79450

Purchaser: CHILD IN NEED INSTITUTE

034012100105

Payable at Par (B2K)

DRAWEE BANK AND BRANCH
अदा करता बैंक और शाखा

CODE NO.

AUTHORISED SIGNATORY
प्राधिकृत हस्ताक्षर करें

AUTHORISED SIGNATORY
प्राधिकृत हस्ताक्षर करें

Please sign above

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079450 700211009

LT 106
SK. Mohi uddin



Identified by
me
Utkarsh
Adhikari
29/11/23

