

I/572938/2024

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

No. Labr/ 1135 / (LC-IR)/22015(16)/65/2024

Date : 29-11-2024

ORDER

WHEREAS an industrial dispute existed between M/s. Greenply Industries Limited, having its registered office at Makum Road, Post Box No. 14, P.O. – Tinsukia, Assam, Pin– 786125 and having its Plywood Factory at Vill. – Kriparampur, P.O. – Sukdevpur, P.S. – Bishnupur, Dist. South 24 Parganas, Pin – 743503 and their workman Sri Sandip Chakraborty, S/o Late Ajay Kumar Chakraborty, Vill. – Moukhali, P.O. – Charashyamdass, P.S. – Bishnupur, Dist. South 24 Parganas, Pin – 743503, regarding the issues, being a matter specified in the second schedule to the Industrial Dispute Act, 1947 (14 of 1947) ;

AND WHEREAS the parties have filed an application under section 10(1B)(d) of the Industrial Dispute Act, 1947 (14 of 1947) to the Eighth Industrial Tribunal, Kolkata specified for this purpose under this Deptt.'s Notification No. 1085-IR/12L-9/95 dated 21.07.1997 ;

AND WHEREAS the said Eighth Industrial Tribunal, Kolkata has submitted to the State Government its Award dated 25.09.2024 in case No. 02/2014 under section 10(1B)(d) of the I.D. Act, 1947 (14 of 1947) on the said Industrial Dispute vide e-mail dated 01.10.2024 ;

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,


Assistant Secretary


to the Government of West Bengal

No. Labr/ 1135 /1(5)/(LC-IR)/22015(16)/65/2024

Date : 29-11-2024

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

1. M/s. Greenply Industries Limited, having its Plywood Factory at Vill. – Kriparampur, P.O. – Sukdevpur, P.S. – Bishnupur, Dist. South 24 Parganas, Pin – 743503.
2. Sri Sandip Chakraborty, S/o Late Ajay Kumar Chakraborty, Vill. – Moukhali, P.O. – Charashyamdass, P.S. – Bishnupur, Dist. South 24 Parganas, Pin – 743503.
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 the request to cast the Award in the Department's website.



Assistant Secretary

No. Labr/ 1135 /1(3)/(LC-IR)/22015(16)/65/2024

Date : 29-11-2024

Copy forwarded for information to :-

1. The Judge, Eighth Industrial Tribunal, N. S. Building, 3rd Floor, 1, K.S. Roy Road, Kolkata - 700001 with respect to his e-mail dated 01.10.2024.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.
3. Office Copy.


Assistant Secretary

Before the Eighth Industrial Tribunal: West Bengal

Case No. 02/2014

Under Section 10(1B)(d) of the Industrial Disputes Act, 1947

Present Sri Amit Chattopadhyay

**Judge,
Eighth Industrial Tribunal,
West Bengal.**

**Sri Sandip ChakrabortyApplicant / workman
Vs.**

M/s. Greenply Industries Limited O.P. Company

A W A R D

Dated 25.09.2024

An industrial dispute between M/s. Greenply Industries Limited having its registered office at Makum Road, Post Box No. 14, P.O. – Tinsukia, Assam, Pin – 786125 and having its Plywood Factory at Vill. – Kripampur, P.O. – Sukdevpur, P.S. – Bishnupur, Dist. South 24 Parganas, Pin – 743503 (the Company Employer/ Opposite Party) and Shri Chandrachur Pan, The Conciliation Officer and Assistant Labour Commissioner, Alipore, South 24 Parganas, Office at 06, Church Lane, 4th Floor, Kolkata – 700001 and having other Office at the Deputy Labour Commissioner, South 24 Parganas, through the Labour Commissioner, New Secretariat Buildings, 11th Floor, 01, Kiran Shankar Roy Road, Kolkata – 700001 (The Conciliation Officer & Assistant Labour Commissioner/ Opposite Party) and Shri Sandip Chakraborty, Son of Late Ajay Kumar Chakraborty, , Employee Code No. W-1125, Finishing Department, Permanent workman of M/s. Greenply Industries Limited, residing at Vill. – Moukhali, P.O. – Charashyamdass, P.S. – Bishnupur, Dist. South 24 Parganas, Pin – 743503 (The workman / Applicant) has been initiated due to an application filed by Shri Sandip Chakraborty U/s. 10(1B)(d) of the Industrial Disputes Act, 1947 against M/s. Greenply Industries Limited as stated above. On the basis of both the written statements this Tribunal has framed the following issues for the purpose of adjudication of the case.

I S S U E (S)

- 1) Is this case filed by the applicant Sri Sandip Chakraborty under Section 10(1B)(d) of Industrial Disputes Act, 1947 maintainable in its present form and law?
- 2) Whether the management of the Company illegally and wrongfully dismissed / terminated the service of this applicant w.e.f. 14.09.2013 by way of refusal of employment?
- 3) To what relief / reliefs is there to which the workman is entitled?

The brief case of the applicant Shri Sandip Chakraborty is that he is claiming that he rendered his employment / service on and from November, 2002 and on and from 2007 to 2010 worked as casual labour in finishing department. He further claims that he was issued

temporary family photo identity certificate dated 16.09.2010 wherein his employer name mentioned as M/s. Worthy Plywoods. Thereafter he claimed that opposite party issued temporary photo identity certificate dated 25.01.2012 to him of ESI with employer name as M/s. Greenply Industries Limited. He further claims that he rendered 11 years 7 months unblemished service with the opposite party company. He further alleges that on 2nd July, 2013, he went to the factory of the company to perform his usual duty wherein he was not allowed to perform his duty. He further claims that he had to file an application for raising an industrial dispute on before the Additional Labour Commissioner, South 24 Parganas at Kolkata. The workman filed a case before this Ld. Tribunal filed in Form 'P-4' for his alleged termination of service after obtaining pendency certificate from the Office of Alipore, South 24 Parganas in Form T.

Shri Chandrachur Pan, the Conciliation Officer and Assistant Labour Commissioner at Alipore, South 24 Parganas, having office of the Assistant Labour Commissioner, Alipore, 06, Church Lane, 4th Floor, Kolkata 700001, under the control of Shri Kingsuk Sarkar, the Labour Commissioner, for South 24 Parganas, Office of the Labour Commissioner, New Secretariat Buildings, 11th Floor, 01, Kiran Shankar Roy Road, Kolkata 700001 who made a party in the instant Industrial Dispute case as the said conciliation officer directly refuse to allow workman's authorized representative on behalf of the punitive workman / applicant, save and except the co-workman/ co-employee against the said company / opposite party to conduct and defend himself (workman), in the conciliation proceeding violating the stipulated provision under the Industrial Disputes Act, 1947 as amended and the said Conciliation Officer and Assistant Labour Commissioner at Alipore, South 24 Parganas.

That the applicant-workman / petitioner, Shri Sandip Chakraborty joined his employment / service on and from November, 2002 with the said Company / Opposite Party as contract labour at Hot Press Department and thereafter on and from 2007 to 2010 worked as casual labour in finishing department under this Plywood Industries / said Company. That on and from July, 2010 the said workman became a permanent workman as "Sizer" in the sizing under Finishing Department, working jobs after Dipping Plywood products for keeping sizing and dressing serially in a proper places for Addressing job purpose by other workman, under the then management and presently under this management of the said company / opposite party. Thereafter due to efficient capability, performance workability, the management of the said Company some times for considerable period select me as a "SIZER" in the sizing under the Finishing Department to perform my usual duties in Board Checking /inspection, adhesive job of the plywood board products for delivery of the plywood boards products, to clients / companies as per their

specification orders time to time and the said workman performed his said duties upto 29.06.2013 with the said Company / opposite party in the Finishing Department.

That the said Company / Opposite Party issued temporary family photo identity certificate dated 16.09.2010 in T.S. No. 634 of the said workman of Employees State Insurance Corporation in in Employer's name and style as M/s. Worthy Plywood's in employer's Code No. 41000154290000910. Thereafter the said company/ Opposite Party issued temporary family Photo Identity Certificate dated 25.01.2012 of the said workman of Employees State Insurance Corporation in employer's name and style as M/s. Greenply Industries Limited, Employer's Code No. 41000154290000910. Thereafter Employees State Insurance Corporation issued computerized permanent family photo identity card of Shri Sandip Chakraborty, the said workman bearing Insurance person No. 4113064124 which the said company serial T.S. NO. 634.

That during unblemished 11 (Eleven) years 7 (Seven) months service period of Shri Sandip Chakraborty, the said workman used to get his salary / wages through his fortnight pay slips / wages out of which 16 numbers of fortnights pay slips / wages respectively issued by the management of the said Company / Opposite Party.

That during the service period, Shri Sandip Chakraborty used to obtained Annual provident Fund Statements of his P.F. Contributions those the management of the said company served upon the said workman only 3 numbers of Annual Provident Fund Statements of which 3 numbers of Annual Provident Fund Statements for the years 2010 to 2011, 2011 to 2012 and 2012 to 2013 respectively bearing said workman's Account Number WB/CAL/0029224/000/0001255 respectively and those statements of account are in question.

That O.P. since beginning constantly deprived the Employees / workmen year after years from the Minimum Wages, Dearness Allowances including variable Dearness Allowances including variable Dearness Allowances (V.D.A.) corresponding to Consumer Price Index (C.P.I.) time to time, forceful duty hours of Twelve (12) hours per day instead of eight hours duty per day and after demand of justice and Charter of demand of the Mazdoor Sangh Union compelled bound to raise an Industrial Dispute Case No. 87 of 2012/I.C./South Kolkata before the Conciliation Officer and Deputy Labour Commissioner, South 24 Parganas, whereupon the management motivatedly through the contents, causing one G.D.E. No. 2383 dated 30.06.2013 was lodged by the said workman before Bishnupur Police Station against the said company for their illegal acts. On 02.07.2013 the said workman went to the factory / company to perform his (workman's) usual duty from 6.00 p.m, to 6.00 a.m. (12 hours) on 03.07.2013 but security , Darwan did not allow the said workman to enter the factory, the said workman meet with Mr. Goswami Babu whilst he (Goswami) stated the said workman that as he lodged G.D.E. at Bishnupur Police Station against the management, so the management did not allow the said workman to join his duty.

That on 03.07.2013 the sid workman lodged written complaint before the Bishnupur Police Station narrating the detailed facts for his refusal of employment since 02.07.2013.

Therefore, the management illegally terminated said workman's service motivatedly by way of "refusal of employment" since 02.07.2013 without due process of law.

Thereafter, the said workman met several times in person to the management performing his usual duties but in vain. Lastly, on 07.08.2013 the said workman met with Shri B.N. Laha, the manager personnel and Administration, to join his usual duty but he (Mr. Laha) did not allow him to join his duty.

That on 03.09.2013 the said workman sent his demand of justice letter / representation to Shri Arbindu Kumar Saha, the General Manager of the Opposite Party by Registered with A/D post for immediate resumption of his usual duties and payment of outstanding arrears wages / salaries since 02.07.2013 to till date of joining of his duty but in vain.

That in reply dated 14.09.2013, the General Manager Opposite Party illegally without having any strict proof with material irregularities, suppression of material facts stated that due absention from duty from 01.07.2013 thence 08.07.2013 to 07.08.2013 without any information / report, caused abandon his service and put off his name from the Muster Roll of the said company by way of wrongful dismissal / terminated, by way of refusal of employment since 02.07.2013, without due process of law which is against the statute itself.

That due to illegal acts of the Opposite Party, the said workman filed an Application to raise an industrial dispute on 02.13.2013 under Section 2A, 12 and read with Section 10 of the Industrial Disputes Act, 1947 as amended before the Additional Labour Commissioner for South 24 Parganas praying to settle the Dispute by reinstate Shri Sandipan Chakraborty with back wages / salaries with retrospective effect since 04.07.2013 with an instruction to join his duty in original post and place of work and the said case was transferred to Shri Kingshuk Sarkar, the Deputy Labour Commissioner and Conciliation Officer for South 24 Parganas to proceed with the conciliation proceeding and thence transferred to Shri Chandrachur Pan, but after filing the instant Industrial Dispute case on 27.11.2013 by the said workman, no conciliation proceeding had been initiated upto 17.02.2014 either by Shri Kingshuk Sarkar or by Shri Chandrachur Pan. The said workman Shri Sandip Chakraborty met several times month after month with Shri Kingshuk Sarkar and Shri Chandrachur Pan, but the case file was untraced and on 17.02.2014, the said workman further filed a separate set of case application with all annexures before Shri Chandrachur Pan to proceed with the conciliation proceeding against the said Company / Opposite Party No. 1 and thereafter registered a case vide I.D. case No. 01 of 2014/ALC/Alipore dtd 17.02.2014. Shri Chandrachur Pan, issued a conciliation proceeding notice under Memo No. 212/10.01.2014/ALCIALI dated 19.03.2014 upon the parties and fixed 10.04.2014 for joint discussion and written statement and / or company's comment.

That on 10.04.2014 at 2.30 p.m. the said workman Shri Sandip Chakraborty along with his authorize representative appeared in conciliation proceeding for joint discussion where upon the said Shri Chandrachur Pan directly refused to accept the "Letter of authority" dated 10.04.2014 of the said workman to conduct the Industrial Dispute Case by his authorized representative, violating the stipulated provision of the Industrial Disputes Act, 1947 as

amended, whereupon the said conciliation officer. Opposite party No. 2 stated the said workman to accept the management of the said Company / Opposite Party No. 1 stand to withdraw the instant industrial dispute filed by the said workman, otherwise the said Company will go upto the Supreme Court but did not pay any payment to the said workman. Thereafter the management of the said company filed their written commends dated 10.04.2014 issued by shri Ashis Chanda, the Manager H.R., without having any supporting relevant documents, and stated that the applicant was not a “Workman” under Section 2(5) of the Industrial Disputes Act, 1947, having no locus standi and that denied that the said workman / complainant was not allowed to resume his duty rather the said workman abandoned his employment and that the Industrial Disputes liable to be rejected in limine.

That the said workman / applicant filed an application dated 17.04.2014 in I.D. case No. 01 of 2014/ALC/ALI as per prescribed “Form P-4) under Rule – 12A(3) of the West Bengal Industrial Disputes Rule, 1958 as amended corresponding to under Section 10(1-8)9a) of the Industrial Disputes Act, 1947 as amended before the Deputy Labour Commissioner for 24 Parganas at Kolkata and simultaneously separately before Shri Chandrachur Pan, the Conciliation Officer and Assistant Labour Commissioner, Alipore, South 24 Parganas, the Opposite Party No. 2, for issuance of a certificate for reference and further adjudication before the Learned Judge in the Eighth Industrial Tribunal of Kolkata, being the authority as provided under Section 10(1-8) of the Industrial Disputes Act, 1947 as amended upto date because the said workman / applicant raised the instant Industrial Dispute on 27.11.2013 by his dispute application dated 27.11.2013 but the said industrial dispute has not been settled upto 17.04.2014.

That Shri Chnadrahur Pan, the Opposite Party No. 2 at the last was pleased to issued a certificate in case No. I.D. -01 of 2014/ALC/ALI Vide: Memo No. 301(3)?ID-01-2014/ALC/ALI dated 02.05.2014 under Rule 12(4) OF West Bengal Industrial Disputes Rule, 1958 as amended corresponding to under Section 10(1-8)(d) of the Industrial Dispute’s Act, 1947 as amended in the instant dispute case matter.

That your petitioner states that the management of the said Company / Opposite Party No. 1 are maintaining the following relevant documents being kept under the safe custody in ordinary course of its business relating to the instant dispute case pending before Your Honour’s Tribunal for inspection, ascertaining the truth and to supply / serve Xerox copy of those relevant documents to the said workman / applicant to defend the said punitive workman and the lists of the relevant documents are as follows:-

- (i) Article of memorandum and Article of Association of the said Company / Opposite Party M/s. Greenply Industries Limited.
- (ii) Certified Standing Orders and Service Rules and Regulation of M/s. Greenply Industries Limited.
- (iii) Attendance Registers of the said workman Shri Sandip Chakraborty, “Sizer”, Employee’s Code No. W-1125, along with overtime registers from November, 2002 joining to 01.07.2013 date of last duty performed by the said workman.
- (iv) Fortnight salary / wages pay registers along with overtime paid registers of the said workman Shri Sandip Chakraborty from November, 2002 to 01.07.2013.
- (v) Payment of Bonus Registers of the said workman Shri Sandip Chakraborty from the year 2003 to 2013.

- (vi) Statutory Leave Registers / Records of the said workman Shri Sandip Chakraborty from the year 2002 to 2013.
- (vii) Enter Service Master Roll Record of the said workman Shri Sandip Chakraborty from November, 2002 to 14.09.2013 date of Dismissal Termination Letter.
- (viii) E.S.I.C. and Provident Fund Registers / Records of the said workman Shri Sandip Chakraborty from 2003 to 14.09.2013.

Terminated / dismissed dated 14.09.2013 by way of alleged abandon of service after putting out of employment by way of “refusal of employment since 02.07.2013”, motivatedly without due process of law, connecting formalities stipulated under the Industrial Disputes Act, 1947 as amended upto date of which the illegal acts of the said Company / Opposite Party No. 1 had / have been against the statute itself.

That Applicant became a victim of the illegal acts of the Opposite Party’s unfair Labour Practice and had have been suffering a lots of due to wrongful and illegal “REFUSLA OF EMPLOYMENT SINCE 02.07.2013” and thereby wrongful dismissal / termination dt. 14.09.2013 the service of Shri Sandip Chakraborty motivatedly without due process of law, of holding (workman’s) unblemished more than eleven years seven months of service with M/s. Greenply Industries Limited, as a result the vindictiveness and / or grievous being a cogent reason to file an Industrial Dispute case against the management of the said Company / Opposite Party before the Ld. Eighth Industrial Tribunal at Kolkata, Bengal, seeking complete redressal as per prayer.

The company made its appearance by filing its written statement challenging the maintainability of the instant application filed by the applicant before this Ld. Tribunal stating inter alia that this case is not maintainable. The company further raised the point of maintainability that the instant application filed by the applicant is time barred and alleged industrial dispute is not an industrial dispute as defined under Section 2k of the Industrial disputes Act, 1947, because at no point of time the services of the applicant was refused by the applicant rather, he was not coming to his duty. The instant matter is a case of abandonment of employment. The company further states that the instant allegation of termination of service is false, concocted, baseless and imaginary. The company further states that the opposite party is a company within meaning of the Companies Act, 1956, having its registered office at Makum Road, P.B. No. 14, Tinsukia, Assam-786125 and its factory situated at Village-Kripararnpur, P.O. Sukdevpur, Dist. 24 Parganas (S), West Bengal and it carries on business as manufacturer of ply board and the like products. The concerned applicant above named had been working with Company as casual workman on casual basis. It is found from the record that he was very negligent as well as casual and often remained absent without intimation to the Company and his attendance was very poor. The applicant had been absenting from the duty from 1st July 2013 (Ext. G) without taking any leave from the Company or giving any information to the Company. He had submitted a document of E.S.I. leave from 08.07.2013 to 07.08.2013 (Ext. D series) but he deliberately after 07.08.2013 did not report to his duty. He did not join his duty even after obtaining fit certificate from E.S.I. panel doctor. The company vide its letter dated 26.08.2013 (Ext. A) asked the applicant to resume his duty but neither he replied to the said

letter not joined his duty. The long absence on the part of the above named applicant is sufficient to conclude that he is gainfully employed and he had no interest to join the company and he has abandoned his employment of his own accord.

The company had not terminated, retrenched or dismissed the workman above named rather the workman deliberately is not reporting to his duty with some mala fide intention without even any intimation to the company. The present case has been filed by the applicant above named by suppressing all the material facts and in order to get an order after satisfying the Ld. Tribunal for his wrongful gain and for incurring wrongful loss to the company. The concerned workman had not reported to his duty of his own accord without even any intimation to the Company. The Company never refused employment to the workman above named rather he did not come to resume his duty. The said applicant falsely alleged that he was refused to employment and he was not allowed to resume his duty. The applicant had been absenting from the duties on and from 1st July, 2013 without taking and without giving any information to the company and more so the workman submitted documents from E.S.I. leave from 08.07.2013 to 07.08.2013. The applicant deliberately did not report to his duty again after receiving fit certificate from the E.S.I. authority. The company vide its letter dated 26.08.2013 asked the applicant to resume his duty but he willfully did not join his duty. The company vide its letter dated 14.09.2013, duly informed the applicant that due to sudden abandonment of his service, the company had suffered inconveniences in running the department as such his job was allowed to other workmen.

I have carefully gone through the reported decision of Hon'ble Supreme Court of India in case of North East Karnataka Road Transport Corporation V/s. M. Nagangouda published in 2007 (112) FLR – 887 (S.C.2J) wherein the Hon'ble Supreme Court has observed that "...income received by an employee even from "agricultural pursuits" can be equated with income from 'gainful employment' in any establishment for deciding the retrenchment compensation on the principle that it is not the source but the end use that matters and my careful consideration is that this reported judgment is not at all applicable in this case because the fact of this case and the fact of the reported decision's case is totally different.

Now I have to see the evidence of the O.P.s. In cross-examination of O.P.W.-1 Raja Das told that, "The applicant Sri Sandeep Chakraborty was appointed on casual basis subsequently he became permanent in our Company. It is true that no charge sheet was issued against the applicant. No domestic enquiry was also held against him. Mr. B.N. Laha H.R. Head, one Mr. Goswami of H.R. team, our Production Manager, the then works manager held the said meeting but no written resolution was prepared regarding the decision of termination of the applicant."

"I have document to show that the O.P. Company suffered loss due to act of the applicant."

In further cross-examination of O.P.W.-1 Shri Raja Das on 09.04.2019 said, "Today I did not file the Standing Order of our Company."

"In our Company there is no separate Service Rules."

“Today I did not bring the Attendance Register.”

“Today I also did not produce the Production Register.”

“Today I also did not file the Master Roll for the relevant period.”

“It is true that no charge sheet was issued against the applicant after abandon of service. He was show caused in writing but no enquiry proceeding held against him.”

In examination-in-chief of O.P.W.-2 Sri Biswanath Laha on 30.07.2019 said, “I know the applicant Sri Sandip Chakraborty. He was a casual labour of the Company. He worked with the O.P. Company for the last time on 30.06.2013 and thereafter he absented himself.”

“It is true no charge sheet was issued against the applicant.”

“It is also true that no domestic enquiry was held against the applicant.”

“It is true that no notice pay was sent to the applicant prior to his abundant of service.”

In Examination-in-chief of O.P.W.-3 Sri Ashis Chandra on 05.09.2019 said, “Applicant Sri Sandip Chakraborty was a casual worker of the O.P. Company but I have no document to show the same.”

“He used to put his signature in the attendance Register which is lying with the O.P. Company. It would be evident from the relevant Attendance Register that the applicant used to absent himself without intimation and his attendance was very poor.”

“It would be also evident from the Attendance Register that Sri Sandip Chakraborty never completed 240 days in a calendar year.”

“At this stage I cannot produce any postal receipt to show that Exhibit-B and I can produce the same if directed. Applicant was not charge sheeted by the O.P. Company.”

“It is also true that no domestic enquiry was held against the applicant.”

“No notice money or compensation was given to the applicant.”

“It is not a fact that the applicant abundant his service and never came thereafter to resume his duty.”

In further examination-in-chief of O.P.W.-4 Ran Vijay Singh on 07.04.2021 said, “Time office of the O.P. Company told me that Sandip Chakraborty had been absenting from the duty without taking any leave. I have no personal knowledge about the same. I cannot say whether the O.P. / Management issued any charge-sheet or show-cause notice to Sandip Chakraborty for his absence.”

“I have no personal knowledge as to whether the applicant was terminated by the O.P. Company or not.”

In Examination-in-Chief of O.P.W.-5 Sri Arun Sarkar on 07.04.2021 said, “I am Operation Head of Adriot Analytical Agencies Pvt. Ltd.”

“I do not file any document or footage in support of our investigation within the record.”

“I would not be evident from Exhibit-H, for how many days or months we continued our investigation against Sandip Chakraborty.”

“It is not a fact that exhibit-H is a concocted document and not true.”

“I can file and prove the footage and documents collected by our detective agency.”

“In compliance with my cross-examination on last occasion, I am filing the Attendance Register. This is the said Attendance Register marked Exhibit-H series.”

“I am filing the pen drive from which it would be evident regarding the movements of applicant Sri Sandip Chakraborty was working elsewhere marked MAT Exhibit-I.”

Therefore considering the evidence as well as exhibited documents filed by the parties it is crystal clear that there is gross violation of law / statute by the Opposite Parties in termination of workman Sandip Chakraborty.

The Indian law related to employee's termination there are certain legal issues that need to be adhered to when terminating an employee. The process of firing an employee can be a complicated one. And it is important to have a clear understanding of the relevant laws before taking any action. In this matter, the O.P. did not follow the procedure.

The Industrial Disputes Act, 1947 governs the termination of employment in India. Under this Act, an employer must give notice of termination to the employee, as well as the reason for termination. The notice period depends on the length of service of the employee: for those who have worked for less than a month, one day's notice is required; for those who have worked for more than a month but less than three months, two weeks' notice is required; and for those who have worked for more than three months, four weeks' notice is required. No notice was given to the workman in this matter.

The employer must also ensure that all statutory dues (such as gratuity and provident fund) are paid to the employee before terminating their employment. The O.P. vehemently ignored and refused the above procedure.

Now I have to see the procedure which was not followed by the O.P. Company. The first step is to issue a written notice to the employee specifying the grounds for termination. The notice should give the employee a reasonable opportunity to explain their side of the story. The O.P. did not provide opportunity to the workman, therefore the termination is completely illegal.

The next step is to issue a formal termination letter to the employee. This letter should specify the last date of employment and other relevant details such as payment of outstanding salary, etc. But the O.P. did not follow.

Once the termination letter has been issued, the employer should ensure that all communication with the employee ceases. They should also return all company property in the employee's possession. But the O.P. violated the same.

The company did not consider while terminating employees. When terminating an employee, employers in India must consider certain safeguards to avoid legal pitfalls. First, the employer should have a valid reason for termination that is documented in the employee's file. Second, the employer should give the employee advance notice of the termination and provide an opportunity for the employee to appeal the decision. Finally, the employer should ensure that all severance pay and benefits are paid out in accordance with Indian law. But the O.P. deliberately refused to do so.

In this matter, the workman feel arbitrary use of power by the employer in the termination process which led to unfair and unjust treatment of the workman, which damaged the morale and trust of employee / workman in termination attracts the gross irregularity and illegality, so the termination is illegal.

Under the above discussion and considering the evidence and materials on record this Tribunal has got no other option but to hold that dismissal / termination of Sandip Chakraborty from the service w.e.f. 14.09.2013 by the management M/s. Greenply Industries Limited is not justified and hereby cancelled.

Accordingly all the issues are disposed of.

Hence, it is

ORDERED

that the dismissal of Sri Sandip Chakraborty with effect from 14.09.2013 by the management is hereby cancelled / set aside. It is further ordered that Sandip Chakraborty be reinstated in service with all consequential benefits.

Accordingly, this case is disposed off on contest and this order is to be treated as an Award of this Tribunal.

Let the necessary number of copies of this judgment and award be sent to the Secretary, to the Government of West Bengal, Labour Department, New Secretariat Buildings, 12th Floor, 1 No. Kiran Shankar Roy Road, Kolkata – 700 001.

Dictated & Corrected by me

Judge

(Amit Chattopadhyay)
Judge
Eighth Industrial Tribunal,
Kolkata
25-09-2024