

In the matter of an industrial dispute between M/s. Shree Jain Vidyalaya, 18/D, Phusraj Bachhawat Path (Sukeas Lane), Kolkata – 700 001 and their workman Sri Suryadeb Nandi, C/O C.E.E. Association, 8, Indian Mirror Street Kolkata – 700013 vide G.O. No. 813-IR/IR/11L-83/13 dated 22nd August, 2013.

(Case No. VIII-55/2013)

Before the Eighth Industrial Tribunal: West Bengal

**Present Sri Amit Chattopadhyay
Judge,
Eighth Industrial Tribunal,
West Bengal**

Sri Suryadeb NandiApplicant / workman

Vs.

M/s. Shre Jain Vidyalaya..... O.P. Company

A W A R D

Dated: 26.12.2024

Received a copy of order of reference vide G. O. No. 813-IR/IR/11L-83/13 dated 22nd August, 2013 from the Labour Department, Govt. of West Bengal and reference no. 3115-IR/IR/3A-6/59, dated 21/06/1960 referring an industrial dispute which exists between M/s. Shree Jain Vidyalaya, 18/D, Phusraj Bachhawat Path (Sukeas Lane), Kolkata – 700 001 and its workman Sri Suryadeb Nandi, C/O C.E.E. Association, 8, Indian Mirror Street Kolkata – 700013 for adjudication.

The said Seventh Industrial Tribunal shall submit its award to the State Government within a period of three months from the date of receipt of this order by the said Seventh Industrial Tribunal in terms of Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), subject to the other provision or provisions of the said Act.

The said Seventh Industrial Tribunal shall meet at such places and on such dates as it may direct.

In view of G.O. No. Labr./700/(LC-IR)/23099/15/2019 dated 26.07.2019 this case has been withdrawn from the file of 7th Industrial Tribunal and transferred the same to the Eighth Industrial Tribunal, Kolkata, for adjudication.

I S S U E (S)

1. Is the termination of service by refusal of employment of the workman Sri Suryadeb Nandi by the Management of M/s. Jain Vidyalaya w.e.f. 02.04.2011 justified?
2. If not, to what relief is he entitled?

As per Written Notes Argument the case of the workman is that the workman was appointed as an Assistant Staff by the OP in the month of January, 1994 but no appointment letter was issued despite several requests. The OP is DA getting school under the West Bengal Board of Secondary Education. Provident Fund membership was allowed to the worker since 01.01.2001 even though he joined in 1994 (which was corroborated and confirmed by OPW-1, in

his cross-examination dt. 13.02.2020 and deposed that “*it is true that PF of some employees were no deducted from their joining in OP/School*”). The workman was paid salary of Rs. 3,400/- per month. Rs. 400/- was paid through Salary Register and Rs. 3,000/- through voucher. Suddenly on 02/04/2011 when the workman went to join duties as usual, he was told that his service was no longer required without assigning any reason. The OP did not issue any chargesheet nor initiated any disciplinary proceedings nor complied with the provisions of Sec 25F of the I.D. Act. The OP also terminated Sri Rajesh Dubey in a similar manner and his case is pending before this Ld. Tribunal (Case No. VIII-54/2013).

The workman in his evidence submitted relevant pages of the School Diary of 1997-98 (Ext.-1) wherein the name of the workman is shown as an employee. The workman submitted a list (copy of the voucher) showing payment of Rs. 3,000/- along with Exhibit-5. After refusal of employment the workman raised a dispute with the Op vide letter dated 23.07.2011 (Exhibit-2) and letter dated 24.08.2011 (Exhibit-3). The workman submitted yearly statements in Form-23 issued by EPF authority (Exhibit-9) and the OP's witness OPW-1 submitted Form-5 of PF (Exhibit-B/2) wherein the name of the workman is shown as an employee of the OP.

That from the evidence of PW-2, Sri Ashoke Chatterjee, who was a Music Teacher in the OP / School and his duty hours was from 11.00 A.M. to 5.00 P.M. and his duty was to teach music to the to the students and the workman Sri Suryadeb Nandi used to accompany him on Tabla (which was confirmed by OPW-2, in his cross-examination dt. 01.04.2021 and deposed that “it is not a fact that he used to play Tabla as and when required basis only and not regularly”). Sri Chatterjee was also paid salary of Rs. 15,200/- per month out of which Rs. 10,920/- was in cash through voucher and Rs. 4,300/- through Salary Register similar to the workman concerned. The controlling authority under the Payment of Gratuity Act, 1972 has held the last drawn wages of Sri Chatterjee was Rs. 15,200/- and gratuity calculated on the said amount (Exhibit-13). This clearly shows the unfair labour practice of the OP in not providing PF on the entire amount of salary. Even Sri Chatterjee made a complaint to PF Authorities regarding PF overage at a later date of his joining as will be evident from Exhibit-12. Similarly the concerned workman joined in 1994 but he was included in PF in the year 2001.

The OP failed to produce any conclusive evidence regarding their claim that the concerned workman was part time employee and worked as an when required other than verbal submission. The OP also failed to produce any evidence in countering the workman's claim of working more than 240 days as the attendance register was maintained by the OP.

It is a fact that the OP carries out a systematic activity with the help of employees and is “industry” within the meaning of the Industrial Disputes Act and as per the decision of Hon'ble Apex Court in Bangalore Water Supply and Sewerage Board Case. It is also admitted that the concerned workman is not a teaching staff but Assistant Staff engaged in playing Tabla and therefore a “workman” within the meaning of the I.D. Act, 1947. It is also a fact that the workman concerned was terminated by way of refusal of employment and admittedly no charge-

sheet was issued nor any domestic enquiry was held against him nor any compensation as per law was paid to him rendering the termination bad in law.

In view of the above, it is humbly submitted that your Honour would be pleased to hold that the workman concerned has been able to prove that he was a regular employee of the OP and his service has been terminated by way of refusal in an illegal manner without complying with the provisions of law and thus he is entitled to re-instatement with full back wages and consequential relief.

The Opposite Party contested the case by filing written statement and contended that the opposite party school is an educational institution imparting 10 + 2 education and affiliated with the West Bengal Board of Secondary Education and West Bengal Council of Higher Secondary Education and belong to religious linguistic minority community under article 25 and article 29 and 30(1) of the Constitution of India and enjoy special rules by the West Bengal Board of Secondary Education on the basis of the recommendation of the State Government. The applicant was appointed as a temporary basis Tabla player on and from 1st January, 2001 and his service was utilized occasionally for taking help only during Independence Day, Republic Day and other school functions as and when required and his remuneration was paid Rs. 400/- per month. As music was not part of the curriculum opposite party school engaged a part time music teacher whose services were required only on important occasions such as Independence Day, Republic Day etc. IN order to assist him on holding musical programs services of a professional table prayer on 'as and when required' basis was hired. Since the part time music teacher has retired, the service of Tabla player was not required accordingly opposite party duly informed the applicant that his service will not be required from month of December, 2010 which was accepted by him signing upon the voucher and all his accounts were fully and finally settled. He was also paid two month's salary i.e. upto February, 2011 as compensation. All on a sudden after a period of 6 month opposite party received a letter dated 23rd July, 2011 from the applicant reque3sting the opposite party to allow him to resume the service and by the said letter the applicant also claim salary for the month of March to June 2011 at the rate of Rs. 450/- per month as per salary register and Rs. 3000/- per month as per voucher. The applicant also claimed deduction of provident fun to be made from 2nd January, 1994. By a letter dated 10th August, 2011 opposite party duly cause reply to the said letter dated 25th July, 2011 and denied all allegations made in the said letter dated 23rd July, 2011 and state that all along the opposite party had paid a sum of Rs. 400/- as monthly solatium to the applicant and the applicant was not a regular employee of the opposite party.

To prove his contention the applicant examined himself and filed his Affidavit in Chief. The applicant has relied on the following documents and the same were exhibited:-

- A. Photocopy of relevant page of the school diary of 1997-1998 – Exhibit 1
- B. Photocopy of the letter dated 23rd July, 2011 – Exhibit 2
- C. Photocopy of the letter dated 20th August 2011 – Exhibit 3

- D. Photocopy of the letter dated 10th December, 2012 – Exhibit 4
- E. Photocopy of the letter dated 26th September, 2012 – Exhibit 5
- F. Photocopy of the letter dated 21st November, 2012 – Exhibit 6
- G. Photocopy of the notice dated 3rd January, 2012 – Exhibit 7
- H. Photocopy of yearly statement in Form No. 23 of EPF for the year 2005 – 2006, 2006 – 2007 and 2007 – 2008 – Exhibit 9
- I. Photocopy of the relevant pages of Diamond Jubilee Souvenir – Exhibit 10

The applicant was cross-examined by the opposite party and in the cross-examination dated 17th March, 2017, the applicant stated, he is Higher Secondary passed candidate and have extra curriculum activities and certificate of Sangeet Pravakar and Sangeet Bivakar. He also admits that, his activity was within the musical instrument mainly Tabla. He also failed to produce any voucher to show that, he was getting Rs. 3000/- per month additionally.

At the time of cross-examination dated 6th September, 2017, the applicant admitted that, he has no appointment letter neither as an employee nor as an Assistant Staff Member of the school. The applicant also admitted that, the Opposite Party School is a aided D.A. getting school. He also admits that, there is no document to show that, besides playing table he any other work with regard to teaching of students. He also admits that, he never got any approval from the Government with regard to employment in the School and music is not the part of the school curriculum. He also admits that, in cultural function of the School he used to play Tabla. He also admits that, he never claimed before any authority for deduction of provident fund at the rate of Rs. 3400/-. According to him on 2nd April, 2011 he attended the school and he did not put any signature in the attendance register and no one put him any obstruction to put his signature in the attendance register. He categorically admitted that, there is no proof regarding servicing of Exhibit 2 and also with regard to the Exhibit 5. From the picture i.e. exhibit 10 also shows that, he was playing table. He admitted that, he has received the letter dated 10th August, 2011 issued by the principal which has been marked as Exhibit A. He also admits that, he was a table player of the school. At the time of rehearsal of each and every program he used to play table for about 1 and ½ months. He never played table regularly. He also admits that, he did not file any document regarding his attendance in the school for 240 days in a year. He also admits that, as a profession he plays table. He never tried to get any job elsewhere.

The applicant produced Sri Ashoke Kumar Chatterjee as P.W.2 and at the time of his evidence he produced the following documents and the same were exhibited :-

- A. Photocopy of the appointment letter dated 1st September, 1983 – Exhibit 11
- B. Photocopy of the communication received by the association – Exhibit 12
- C. Photocopy of the order dated 15th March, 2012 – Exhibit 13
- D. Photocopy of the notice dated 30th March, 2012 – Exhibit 14

At the time of cross-examination on 31st October, 2018 the P.W.-2 state that he could not recollect the exact date however the engagement of the applicant with the school ended

sometimes in 2009. He also stated that he retired in December, 2009 and after his retirement the school management did not employ any music teacher. On seeing the picture of the function the categorically admitted that the instrument player who are there in the pictures along-with the applicant were not the employee of the school. At the time of cross examination dated 20th November, 2019 the P.W.2 admitted that music teacher and table teacher are not sanction post in the opposite party School. The P.W. 2 at the time of cross-examination dated 2nd December, 2019 stated that he do not have any document to show that the applicant was in continuous service with the school. He stated that, the applicant's working hours is from 11AM to 5PM.

To prove their case the management examined two witnesses viz. MR. Samir Bhowmick, OPW1 and Sri Judhisthir Mahato, OPW2 and both the witnesses proved the case of the Opposite Party School.

On carefully reading the evidences, it evolved that, the P.W. 2 while adducing evidence submitted that the service of the applicant get terminated from the year 2009 whereas the case of the applicant is that, he get terminated in the year 2011. The applicant at the time of adducing evidence as P.W. 1 category stated that his duty hours was from 2:30 p.m. to 5:00 p.m. whereas the P.W.2 stated that the duty hours of the applicant was from 1 A.M. to 5:00 P.M. which also contradicts and prove that the P.W.2 does not aware about the actual working status of the applicant. The applicant also failed to show that, he was performing any duty of Assistant Staff in the school rather he was performing as a Tabla Player in the School. It is also proved beyond any iota of doubt that, the applicant while performing his duty getting solatium of Rs. 400/- only not any other amount as claimed by him. The applicant also failed to prove that, he performed 240 days of work in the preceding year of his alleged termination and even there is no pleading in that respect.

Furthermore, from the analysis of the evidences, it is crystal like clear that, mere appearance in the school function does not mean that, everyone including the applicant is /was an employees of the school. The applicant also failed to show that, the applicant raised a formal dispute with the management prior to raising the Industrial Dispute as there is / was no proof regarding delivery of the letter.

The definition of workman as defined in Section 2(s) of the Industrial Disputes Act, 1947 is read as follows:-

“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 expressed 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 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 person; or
- (iii) Who is employed mainly in a managerial or administrative capacity; or
- (iv) Who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred 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.

Hon'ble Rajasthan High Court at Jaipur Bench in the case of Mook Badhir Balak or Balika Badhit Bal Vikas Kendra VS Judge, Labour Court and Another reported in 2015 147 FLR 503 held in Para 6, 7 & 8 held that, teacher employed in school does not fall within the definition of expression "workman".

Similar view was adopted by the Hon'ble Patna High Court in Bokaro Steel Plant or Steel Authority of India Ltd. Vs. Presiding Officer Labour Court, reported in 1999 82FLR 685; 1999. In Para 17, 18 & 19, Hon'ble Patna High Court categorically hold that, the teacher in an establishment is not a workman and as such the Industrial dispute is not maintainable.

Hon'ble Bombay High Court in Kamyani Vidya Mandir Vs. P.S. Narkar. Presiding Officer reported in 2008 1 LLJ 712 categorically hold that, a school wherein mentally challenged children were taught and the school was not taking any money from the student does not fall within the definition of Industry as defined in Section 2(i) of the Industrial Disputes Act, 1947. Admittedly herein the opposite party is NGO and the project for which the applicant worked is purely a non-profit making project and the opposite party did not get any amount as shown from the Exhibit I. As such the opposite party is not an Industry and as such no industrial dispute is maintainable against the opposite party. In the said judgment, the Hon'ble Court further observed that, the teacher is not a workman.

Hon'ble Patna High Court in the case of Ved Prakash Pathak Nirala Vs. State of Bihar, reported in 1999 3 LLN 369 held that, teacher is not a workman and in this judgment reliance has been made on the two judgment delivered by the Hon'ble Apex Court in Para.

Hon'ble Apex Court in Haryana Unrecognized Schools association Vs. State of Haryana reported in 1996 4 JT 363 held that, "The teachers of an educational institution cannot be brought within the purview of the Minimum Wages Act and the State Government in exercise of powers under the Act is not entitled to fix the minimum wage of such teachers."

Hon'ble Apex Court in the case of Bharat Bhawan Trust Vs. Bharat Bhawan Artists Association reported in 2001 7 JT 80 held that, "In this case, firstly, no goods and services are being produced, secondly, the acting that is done is not for the business of another. There is a mere expression of creative talent, which is part of freedom of expression. The other work, apart

from acting, that is entrusted to them is only ancillary to the main work and thus the respondents are not workmen. The Labour Court has missed the essence of the matter and has gone on to deal with the aspects not germane to a case of this nature. Even a careful perusal of the documents which may regulate the terms on which they were employed and the emoluments to be payable to them and other kinds of work they have to do such as extension of hospitality by receiving and taking care of other artists are not factors which would weigh against the conclusion reached by us. The Labour Court, on the other hand, has relied on these aspects which are mere details. Thus, we find that the preliminary objection raised by the appellant is valid and ought to have been upheld by the Labour Court. We, therefore, allow this appeal and set aside the order made by the Labour Court. No costs.

Hon'ble Apex Court in *A. Sundarambal Vs. Government of Goa, Daman and Diu* reported in 1988 3 JT 121 in para 10 of the judgment held that, the teacher is not a workman under the Industrial Disputes Act, 1947.

Hon'ble Apex Court in *Sindhu Resettlement Corporation Ltd. Vs. Industrial Tribunal of Gujrat and others* reported in 1968 (1) LLJ 834 holds in Paragraph No. 5 “Sindhu Resettlement Corporation Ltd. Vs. Industrial Tribunal of Gujarat.

“If no dispute at all was raised by the respondents with the management, any request sent by them to the Government would only be a demand by them and not an industrial dispute between them and their employers and employers, employers and workmen and workmen and workmen. A mere demand to a Government, without a dispute being raised by the workmen with their employer, cannot become an industrial dispute.”

Hon'ble Apex Court in *Delhi Cloth And General Mills Company Ltd. Vs. Workmen*, reported in 1967 O AIR (SC)469 holds in Paragraph No. 9 that,

From the above it therefore appears that while it is open to the appropriate Government to refer the dispute or any matter appearing to be connected therewith for adjudication, the Tribunal must confine its adjudication to the points of dispute referred and matters incidental thereto. In other words, the Tribunal is not free to enlarge the scope of the dispute referred to it but must confine its attention to the points specifically mentioned and anything which is incidental thereto.

Hon'ble High Court at Calcutta in the case of *Subir Guhathakurta Gs. Johnson and Johnsons Ltd.* reported in 2006 LLR 750 in Paragraph No. 23 holds that “After considering the facts and circumstances of this case and after scrutinizing the decisions cited before us on behalf of the parties, it appears to us that in the course of deciding the issue learned Tribunal proceeded on the basis that onus of proving that Subir was not a workman lies on the company. The decision of the Learned Tribunal was based on the S.K. Verma's case which has already been held to be *per in curiam* and not a good law by subsequent Hon'ble Supreme Court's decision. It further appears to us that the Learned Tribunal addressed a wrong question and drew a wrong legal inference from the facts and the evidences adduced before it. Therefore, in our opinion,

introducing an error of law in the decision. We do not have any hesitation to hold that the evidence on record both oral and documentary would show that Subir was not a workman because, he did not come under the first part of the definition of “workman” of section 2 (s) of the said Act and secondly, in any event his job are purely managerial and supervising in nature and therefore, he comes under the exclusion clause of the said definition and further in law the onus is on the employee to prove that he is a workman which has already been held in a decision reported in AIR 2004 SC 4179 (Supra). Therefore, learned Tribunal was wrong on that Question stating that onus lies on the company to prove that he is not a workman. We have also found that in “sonepat Co-operative sugar Mills Ltd. v. Ajit Singh” (supra) the Hon’ble Supreme Court held that jurisdiction of the Industrial Court to make an award would depend upon a finding whether the concerned employee is a workman or not. When such an issue is raised, the same being a jurisdictional one, the finding of the Labour Court on that ground would be subject to judicial review and therefore, in our opinion the Hon’ble First Court rightly gone into the matter in connection with the said jurisdictional question and came to the conclusion in the matter.”

Hon’ble Apex Court in the case of Manager, R.B.I., Bangalore vs. Mani reported in 2005(2) LLJ 258 categorically hold in Paragraph No. 19, 20, 26, 27, 32 & 33 that, the workman had to prove the contention that he worked for 240 days prior to his termination in the one calendar year not only by way of pleading but also by way of proof also. In this case the applicant did not even plead the same.

Be it mentioned here that, mere continuation of employment does not prove that the applicant worked for 240 days prior to the date of cessation of alleged master – employee relationship.

Hon’ble Apex Court in the case of State of Uttranchal VS Prantiya Sinchai Avam Bandh Yogana Shramik Kahaparishad reported in 2007 12 JT 477 held in Para 10 of the judgment that, mere Completion of 240 days’ work does not confer the right to regularization under the Industrial Disputes Act – it merely imposes certain obligations on the employer at the time of termination of the service and Ad hoc appointment does not give any right for regularization as it is governed by statutory rules.

Hon’ble Apex Court in Rafiq Ahmed VS State of Rajasthan reported in 1999 2 LLJ 187 held in Para 12 that, when the posts temporarily created for fulfilling the needs of a particular project of scheme limited in its duration come to an end on account of the need for the project itself having come to an end either because the project was fulfilled or had to be abandoned wholly or partially for want of funds, the employer cannot by a writ of mandamus be directed to continue employing such employees as have been dislodged because such a direction would amount to requisition for creation of posts though not required by the employer and funding such posts though the employer did not have the funds available for the purpose.

Thus the opposite party prayed for dismissal of the case.

As per Written Notes Argument the case of the workman is that the O.P. in its written objection has challenged the order of reference on the ground of maintainability and barred by limitation. On merit O.P. contended that the worker was appointed as a temporary basis Tabla Player and from 01/01/2001 and his service was utilized occasionally for taking help only during Independence Day, Republic Day and other school function as and when required as Music is not a curriculum of the OP. the OP informed the workman that his service was not required from the month of December, 2010. The OP also claimed that OP being a school is not an “industry” nor the worker is a “workman” within the meaning of Industrial Disputes Act, 1947.

I have carefully gone through the respective written notes of arguments filed by the parties and I find that the opposite party School has raised a question that the applicant Suryadeb Nandi is not a workman, he is an employee of the School. So, he will not get any relief from this Tribunal. According to Section 2(s) the definition of workman is, “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 by 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 functions mainly of a managerial nature.].

In a decision reported in 1983 2LLJ Page-429 S.C. wherein the Hon’ble Supreme Court has held that “The words “any skilled or unskilled manual, supervisory, technical or clerical work” are not intended to limit or narrow the amplitude of the definition of “workman”. On the other hand they indicate and emphasise the broad sweep of the definition which is designed to cover all manner of persons employed in an industry, irrespective of whether they are engaged in skilled work or unskilled work, manual work, supervisory work, technical work or clerical work. Quite obviously the broad intention is to take in the entire “labour force” and exclude the “managerial force”. That, of course, is as it should be.”

“any person employed (including an apprentice) in any industry to do any skilled manual or clerical work for hire or reward and includes, for the purpose of any proceedings under this Act in relation to an industrial dispute, a workman discharged during that dispute but does not include any person employed in the naval, military or air service of the Crown.”

The definition underwent a substantial amendment in 1956 and this is how it stands now:

‘Workman’ means any person (including an apprentice) employed in any industry to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed 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.”

Therefore considering the work done by applicant he cannot be termed as an employee he is a workman of the School. Here I find that the applicant was terminated by the School with effect from 02.04.2011 but no enquiry was held prior to his termination from the service and the school without any enquiry and without showing any cause nor he offered any opportunity of hearing before the termination of service and he was terminated from the School in violation of Section 25F of the Industrial Disputes Act, 1947.

Therefore, considering the above facts and circumstances and submission of both sides 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 Suryadeb Nandi from the service w.e.f. 02.04.2011 by the management M/s. Shree Jain Vidyalaya is not justified and hereby cancelled.

Accordingly all the issues are disposed of.

Hence, it is

ORDERED

that the dismissal of Sri Suryadeb Nandi with effect from 02.04.2011 by the management is hereby cancelled / set aside. It is further ordered that Suryadeb Nandi be reinstated in service with all backwages.

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
26-12-2024

GOVERNMENT OF WEST BENGAL
DIRECTORATE OF INDUSTRIAL TRIBUNALS
NEW SECRETARIAT BUILDINGS
BLOCK – 'A', 2ND FLOOR
1, KIRAN SANKAR ROY ROAD
KOLKATA – 700001

Memo No.

Dated Kolkata, the 27.12. 2024

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From: Shri Amit Chattopadhyay,
Judge,
8th Industrial Tribunal,
Kolkata – 1.

To : The Secretary to the
Govt. of West Bengal,
Labour Department,
New Secretariat Buildings, 12th Floor,
1, Kiran Sankar Roy Road,
Kolkata – 700 001.

Sub: An industrial dispute between M/s. Shree Jain Vidyalaya and their
workman Sri Suryadeb Nandi vide G.O. No. 813-IR/IR/11L-83/13 dated
22nd August, 2013.

(Case No. VIII – 55 of 2013)

Sir,

I am sending herewith the Award passed in the matter of an industrial dispute between M/s. Shree Jain Vidyalaya, 18/D, Phusraj Bachhawat Path (Sukeas Lane), Kolkata – 700 001 and their workman Sri Suryadeb Nandi, C/O C.E.E. Association, 8, Indian Mirror Street Kolkata – 700013 being case No. VIII-55/2013 vide G.O. No. 813-IR/IR/11L-83/13 dated 22nd August, 2013 for information and necessary action.

Encl: As stated above.

Yours faithfully,

Judge,
Eighth Industrial Tribunal,
Kolkata
26.12.2024

I/592214/2025

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

No. Labr/ 12 / (LC-IR)/ 22024/5/2018

Date : 03-01-2025

ORDER

WHEREAS under reference of Labour Department's Order No. 813-IR/IR/11L-83/13 dated 22.08.2013 reference of the Industrial Dispute between M/s. Shree Jain Vidyalaya, 18/D, Phusraj Bachhawat Path (Sukeas Lane), Kolkata – 700001 and their workman Sri Suryadeb Nandi, C/O C.E.E. Association, 8, Indian Mirror Street Kolkata – 700013, regarding the issues 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 Eighth Industrial Tribunal, Kolkata.


AND WHEREAS the said Eighth Industrial Tribunal, Kolkata, has submitted to the State Government its Award dated 26.12.2024 in case No. VIII-55/2013 on the said Industrial Dispute vide E-mail dated 26.12.2024 in compliance of u/s 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 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/ 12 /1(5)/(LC-IR)/ 22024/5/2018

Date : 03-01-2025

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

1. M/s. Shree Jain Vidyalaya, 18/D, Phusraj Bachhawat Path (Sukeas Lane), Kolkata – 700001.
2. Sri Suryadeb Nandi, C/O C.E.E. Association, 8, Indian Mirror Street Kolkata – 700013.
3. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The O.S.D. & E.O. Labour Commissioner, W.B. New Secretariat 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.



Assistant Secretary

No. Labr/ 12 /1(3)/(LC-IR)/ 22024/5/2018

Date : 03-01-2025

Copy forwarded for information to :

1. The Judge, Eighth Industrial Tribunal, Kolkata, N.S. Building, 2nd Floor, 1, K.S. Roy Road, Kolkata-700001 with reference to his E-mail dated 26.12.2024.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.
3. Office Copy.


Assistant Secretary