

I/587469/2024

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

No. Labr/ 1261 / (LC-IR)/22015(16)/84/2024

Date : 24/12/2024

**ORDER**

WHEREAS under reference of Labour Department's Order No. 764-IR/IR/11L-100/07 dated 02.08.2013 reference of the Industrial Dispute between M/s. Marsons Ltd., Budge Budge Trunk Road, Maheshtala, Kolkata-700142 and their workmen represented by West Bengal Engineering Workers' Union, 48, Lenin Sarani, Kolkata-700 013, 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 29.11.2024 in case No. VIII-46/2013 on the said Industrial Dispute vide E-mail dated 16.12.2024 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/ 1261 /1(5)/(LC-IR)/ 22015(16)/84/2024

Date : 24/12/24

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

1. M/s. Marsons Ltd., Budge Budge Trunk Road, Maheshtala, Kolkata-700142.
2. West Bengal Engineering Workers' Union, 48, Lenin Sarani, Kolkata-700 013.
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, 11<sup>th</sup> Floor, Kolkata- 700001.
5. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.

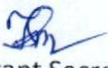
  
Assistant Secretary

No. Labr/1261 /1(3)/(LC-IR)/ 22015(16)/84/2024

Date : 24/12/24

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 16.12.2024.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.
3. Office Copy.

  
Assistant Secretary

In the matter of an industrial dispute exists between M/s. Marsons Ltd., Budge Budge Trunk Road, Maheshtala, Kolkata-700142 and their workmen represented by West Bengal Engineering Workers' Union, 48, Lenin Sarani, Kolkata-700 013 vide G.O. No. 764-IR/IR/11L-100/07 dated 02.08.2013 and reference no. 3115-IR/IR/3A-6/59, dated 21/06/1960.

(Case No. VIII-46/2013)

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**Before the Eighth Industrial Tribunal: West Bengal**

**Present Sri Amit Chattopadhyay,**

Judge, Eighth Industrial Tribunal,  
West Bengal.

**A W A R D**

**Dated 29.11.2024**

An industrial dispute between M/s. Marsons Ltd., Budge Budge Trunk Road, Maheshtala, Kolkata-700142 and their workmen represented by West Bengal Engineering Workers' Union, 48, Lenin Sarani, Kolkata-700 013 Vide G. O. No. 551-IR/IR/11L-60/12 dated 24.05.2013 and reference no. 3115-IR/IR/3A-6/59, dated 21/06/1960 referred to this Tribunal for adjudication.

**I S S U E (S)**

1. Whether the dismissal from service of Shri Srichand Bind, Shri Subrata Chakraborty, Shri Surendra Gupta and Shri Ghanshyam Ghosh w.e.f. 17.11.2012 by the management of M/s. Marsons Limited is justified?
2. If not, to what relief, if any, the workmen are entitled?

As per written argument filed on behalf of the workmen the facts of the case are that there are two operating unions in the factory of the Company. Out of two one is company sponsored union i.e. Mersons' Workers Union, affiliated to CITU and another Union namely West Bengal Engineering Workers' Union, affiliated to AIUTUC, who is really majority and then the union as a constitutional measure sought for intervention of the Labour Commissioner; Govt. of West Bengal on 23.08.2012 where the issue is still pending for conciliation and before that one reminder was also was given on 12.05.2011. The Registrar of Trade Union; West Bengal duly certified on 05.07.2012, directing the company to recognize the union under reference as the sole bargaining agent in the company for a period of two years w.e.f. 05.07.2012 but by showing their nature of dishonoring labour laws further simply ignored such order for vested interest and that has been brought into the knowledge of such statutory authority and so far knowledge goes steps have been taken in accordance with law by lodging one case bearing No. S/557/166/12/LC dated 18.04.2013 in the Alipore Court. In view of formation and activities of the union under reference the management at first most illegally terminated the service of one Sri Kuntal Das and it came crystal clear that the company chalked out plan to oust the

organizers of the union from service with a definite intention to crush the trade union activities of the union under reference. It is also matter of record for frequent shifting of the date of payments of salary, incentive and overtime, causing delay in payment the workers became aggrieved and decided not to do the shift duty and everybody attended general shift on 29.06.2012 as a mark of protest. Being angry the show-cause notice to 12 other workers on 03.07.2012 and thereafter the workers went on strike. Instead of settling the matter, the management called police, which added fuel to the fire. Subsequently the company agreed to solve the problem and all of them were allowed to work as well as show-cause notices were kept in deep freeze for ever. That four workmen concerned with one Sri Shyamal Dhara were suddenly suspended as well as show-caused by the management of the company individually on 21.08/.2012, wherein it was alleged according to written report of one Mr. L.N. Mishra did not act upon their diktat they collectively manhandled, exchanged body blows and assaulted / beaten him and intimidated him with dire consequences with the intent to injure Mr. Mishra seriously. Fortunately somebody came to rescue him otherwise he would have been gravely injured, which created a sense of insecurity among other workers and polluted the peaceful working atmosphere in the factory. It was made clear that the management may take appropriate action in the matter including termination of services, without any further reference to them. That the management already made up their mind to terminate their services from the company. That no copy of written complain of Sri L.N. Mishra was furnished to them along with show-cause notice, which breaches the scope of fair opportunity to submit their effective and complete reply in support of their defense. In explanation dated 22.08.2012 submitted by all concerned workmen individually and denied all allegations brought against them and it was also clearly mentioned therein just to remove the leaders of the union such action was taken by the company. The entire mala fide act of company was also intimated to the local police station in writing on 21.08.202. It is required to mention here although asked for but the company did not receive the replies of workmen in hand on 22.08.2012 and that was also intimated to the officer-in-charge of local police station on 22.08.2012 and thereafter all replies were sent to the company and that was also refused, which tantamount to acceptance by the management.

That one notice was issued by the company on 05.09.2012, intimating one Enquiry Commission has been set up to hold the enquiry on the dates and time, mentioned therein and it was also made clear that such commission has been set up with the view to give fair and just trial considering the seriousness of offences done and proved. So, it is crystal clear that holding such Enquiry Commission was nothing but farce one because according to company "Offences done and proved". However, it has come to knowledge one Mr. K. Khemka was authorized to hold such Commission and in this connection it is very much relevant to mention here that Mr. Khemka was employed as Chief Financial Officer of the company and in view of such position it was clear that MR. Khemka was a person of official biasness. The so-called Enquiry Commission held the enquiry in utter violation of all sorts of principles of natural justice. From the so-called finding of Enquiry Officer dated 30.10.2012 it is found Mr. S.S. Chowdhury; G.M. (Works) and Mr. Goutam Gupta; Vice President (Sales & Marketing) were present as Management Representative whereas, only one Mr. Ramesh Prodhan was allowed to act as

representative of all workmen, which clearly breaches the equilibrium of representation. Secondly, as per notice dated 05.09.2012 the first sitting was on 05.09.2012 but in alleged finding it was been noted the enquiry started on 04.09.2012 for the reason not known to workmen. The said fact was admitted in the cross-examination of OPW-1. In this connection it is required to mention here all concerned workmen clearly intimated the management of the company that they were not informed in any manner regarding any date of enquiry on or before 05.09.2012. It is apparent on the face of notice dated 05.09.2012 that the enquiry was set up to record workmen's statement on the incident of gross misconduct, which clearly shows the enquiry was nothing but empty formality. Neither copy of proceeding was supplied nor any copy of document, if any produced in the enquiry was supplied to the delinquent workman. It is further noted although the delinquent employees were present on the fixed dates of enquiry but as a matter of fact no proceeding was drawn up on presence of delinquent employees and there is no record to show that their presence was duly noted although several requests were made. That the procedure of holding the enquiry was questionable as the regular procedure of any enquiry, which is adopted everywhere company's witness was not examined in presence of delinquent employees. On the contrary at the beginning of such so-called enquiry the delinquent employees were interrogated by said Sri Khemka; the E.O. as well as Mr. S.S. Chowdhury; G.M. (Works) and Mr. Goutam Gupta (Vice-President; Sales and Marketing). To support the case of workmen witness was present but evidence was not recorded by such so-called enquiry commission. In view of such position the so-called enquiry was held not only in prejudicial highly irregular manner but also in utter disregard of principles of natural justice and as a consequences of which the delinquent employees suffered irreparable loss in such enquiry, which was nothing but mockery one. That delinquent employees did not receive any notice of enquiry before 05.09.2012 and even they were not intimated verbally also to appear in the enquiry on or before 05.09.2012 as allegedly stated in the notice of enquiry dated 05.09.2012 and such fact was also brought into the record by filing objection from the side of the delinquent employees. As a matter of fact the concerned workmen were enquired by such so-called commission on single day in different dates, which clearly proves that the whole purported enquiry was completed in undue hasty manner and that is totally prohibited under the Industrial Disputes Act; 1947 as one of the unfair labour practice. That thereafter, one purported report of E.O. Mr. K. Khemka dated 30.10.2012 was served upon all the employees concerned with forwarding letter dated 06.11.2012 but it is clear evidence from such letter that before receipt of workmen's representations against the purported report of enquiry the company made up their mind to terminate the service of the concerned workmen by concurring with such purported finding of the Enquiry Officer and that is absolutely contrary to law as settled on today. Moreover, even along with the purported report of E.O. neither any copy of proceeding nor any copy of document was furnished to the concerned workmen. However, after receipt of purported report of such E.O. all delinquent employees submitted their representations individually on 08.11.2012, opposing such purported report strongly and in such representation it was categorically mentioned that neither Mr. L.N. Mishra was examined in presence of them nor any medical report was also produced in support of so-called injury. It was also pointed out in spite of having knowledge that no longer connected with the Mersons Workers' Union and they have

joined with West Bengal Engineering Workers' Union the company very surprisingly were forwarding copies of letters to their puppet union i.e. Marsons Workers' Union, which clearly establishes the unholy collusion with their stooge union to victimize the concerned workmen in the dispute. It was also mentioned that the conciliation proceeding was pending at the conciliation level on the issue of charter of demand where they are very much concerned. That thereafter, with closed mind and in preplanned manner the management of the company dismissed all workmen from service most illegally and arbitrarily also with immediate effect by letter dated 17.11.2012. no approval was taken by the company from the Conciliation Officer, where charter of demand issue was pending in contravention of the Industrial Disputes Act; 1947. It is also pertinent to mention here that it appears from purported finding of the E.O. dated 30.10.2012 Mr. Shyamal Dhara submitted the written apology by admitting his involvement in the act and E.O. suggested the management may take a merciful view, which clearly shows that E.O. has exceeded area of his jurisdiction and moreover, at the bottom portion of the purported finding it has been recorded that the past record of Sri Srichand Bind and Surendra Gupta had bad past record and Sri Ghana Shyam Ghosh and Subrata Chakraborty had no such bad record in past. The Union most respectfully states that the union has been failed to understand how the past record in respect of concerned workmen were produced and the E.O. considered such record and also drew his findings since neither there was any reference of any past record in the suspension cum show-cause notice dated 21.08.2012 nor even in the notice of enquiry dated 05.09.2012 and for that reason only the so-called Enquiry Commission cannot stand in the eye of law. That however, all concerned workmen being dissatisfied over the decision of dismissal taken by the management of company raised their objection individually on 29.08.2012 with the prayer for revocation of dismissal order but the management did not pay any heed to the same and then finding no other alternative the union under reference raised on industrial dispute with the management of the Company on the issue of dismissal order in the present dispute by letter dated 13.12.2012. Similarly management pay any heed to the same and then finding no other alternative the union under reference sought for intervention of the Asstt. Labour Commissioner; Govt. of West Bengal by letter dated 17.12.2012. It is matter of record on the basis of such representation conciliation proceeding was held and in such proceeding it is matter of record the management refused to attend joint conference, convened by the Govt. of West Bengal. It transpires from due to adamant and uncompromising attitude taken by the company ultimately conciliation failed and the matter has been referred to before this Ld. Tribunal for adjudication of issues as mentioned in the order of reference itself. That it is respectfully stated all concerned workmen rendered their continuous service as permanent since long ago. Sri Subrata Chakraborty from 1985, Sri Srichand Bind from 1994, Sri Surendra Gupta from 1995 and Sri Ghana Shyam Ghosh since 2005. All of them were organizers to organize the general workers under the banner of the union under reference and they were loved by all and for that they became executives also at the unit level of the union under reference. All concerned workmen were attached either with Winding Department or Tank up Department of the Company. Their monthly salary range was from about Rs. 7000/- to Rs. 8,500/-, which are matter of record. That it is respectfully submitted all concerned workmen have been dismissed absolutely by way of victimization and certainly not in good faith but in colourable exercise of the employers writes.

They have been dismissed for patently false reasons not for any valid cause what-so-ever in nature. That the union under reference also respectfully states that after illegal dismissal from service in spite of rendering sincerely effort the concerned workmen could not secure any other alternative employment elsewhere and as such they are passing their days in acute financial hardship with their family members.

Ld. Advocate for the workman cited following judgments:

- 1) AIR 1963 SC 1914
- 2) (1980) 4 SCC 379 Para-24
- 3) FLW 1973 695 Para-35
- 4) (1972)1 CC 595 Para-65
- 5) (2011) 2 CLR 1091 Para-14
- 6) (2000) 1 CLR 909 Para-9
- 7) (2002) 3 CHN 265 Para-13
- 8) (1998) 6 SCC 651 Para-4 and 10
- 9) (1998) 3 SCC 192 Paa-13
- 10)(2013) 10 SCC 324 para-38
- 11)(2022) 9 SCC 586 Para -16 to 19
- 12)2022 SCC Online C 451 Para-7
- 13)(2022) 13 SCC 202 Para-31 to 33

On scrutiny of the record I find that the company did not adduce any evidence in support of their contention that they legally dismiss the workman from their service and ultimately the matter was fixed for ex parte hearing in favour of the applicant/workman. As the company failed to produce any evidence and documents before the Tribunal so Tribunal has got no option but to hold that the termination/dismissal of the above workman by the management are illegal and it is here by cancel/set aside.

Hence it is award that the above workman Shri Srichand Bind, Shri Subrata Chakraborty, Shri Surendra Gupta and Shri Ghanshyam Ghosh are be reinstated in service with full back wages and consequential benefit.

Accordingly this case is disposed off ex parte 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, 12<sup>th</sup> Floor, 1 No. Kiran Shankar Roy Road, Kolkata – 700 001.

Dictated & Corrected by me

Judge

( Amit Chattopadhyay )  
 Judge  
 Eighth Industrial Tribunal,  
 Kolkata  
 29-11-2024

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

Memo No. Dte./8<sup>th</sup> I.T./114/2024

Dated Kolkata, the\_29/11/ 2024

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From: Shri Amit Chattopadhyay,  
Judge,  
8<sup>th</sup> Industrial Tribunal,  
Kolkata - 1.

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

Sir,

I am sending the Award passed in the matter of an industrial dispute between M/s. Marsons Ltd., Budge Budge Trunk Road, Maheshtala, Kolkata-700142 and their workmen represented by West Bengal Engineering Workers' Union, 48, Lenin Sarani, Kolkata-700 013 being **Case No. VIII-46/2013** vide G.O. No. 764-IR/IR/11L-100/07 dated 02.08.2013 for information and necessary action.

Encl: As stated above.

Yours faithfully,

Sd/-  
Judge,  
Eighth Industrial Tribunal,  
Kolkata  
29.11.2024