

In the matter of 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. – Kriparampur, 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, 4<sup>th</sup> Floor, Kolkata – 700001 and having other Office at the Deputy Labour Commissioner, South 24 Parganas, through the Labour Commissioner, New Secretariat Buildings, 11<sup>th</sup> Floor, 01, Kiran Shankar Roy Road, Kolkata – 700001 (The Conciliation Officer & Assistant Labour Commissioner/ Opposite Party) and Shri Bimal Dey, All Rounder Workman, Employee Code No. W-763, Finishing Department, Permanent workman of M/s. Greenply Industries Limited, residing at Vill. + P.O. – Mashuli (Bongaon), Dist. Anukuthi, Tripura, Pin – 799288 (The workman / Applicant) has been initiated due to an application filed by Shri Bimal Dey U/s. 10(1B)(d) of the Industrial Disputes Act, 1947 against M/s. Greenply Industries Limited as stated above.

**( Case No. 01/2014 )**  
**Under Section 10(1B)(d) of the Industrial Disputes Act, 1947**

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**Before the Eighth Industrial Tribunal: West Bengal**  
**Present Sri Amit Chattopadhyay**  
**Judge,**  
**Eighth Industrial Tribunal,**  
**West Bengal.**  
**Sri Bimal Dey .....Applicant / workman**  
**Vs.**  
**M/s. Greenply Industries Limited ..... O.P. Company**

**A W A R D**  
**Dated 30.10.2024**

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. – Kriparampur, 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, 4<sup>th</sup> Floor, Kolkata – 700001 and having other Office at the Deputy Labour Commissioner, South 24 Parganas, through the Labour Commissioner, New Secretariat Buildings, 11<sup>th</sup> Floor, 01, Kiran Shankar Roy Road, Kolkata – 700001 (The Conciliation Officer & Assistant Labour Commissioner/ Opposite Party) and Shri Bimal Dey, All Rounder Workman, Employee Code No. W-763, Finishing Department, Permanent workman of M/s. Greenply Industries Limited, residing at Vill. + P.O. – Mashuli (Bongaon), Dist. Anukuthi, Tripura, Pin – 799288 (The workman / Applicant) has been initiated due to an application filed by Shri Bimal Dey 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 on 07.04.2021 for the purpose of adjudication of the case.

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

- (1) Whether the instant case is maintainable both in law and facts?
- (2) Whether the applicant Sri Bimal Dey was an employee of the O.P. / Company?
- (3) Whether the applicant has abandoned his service?
- (4) Whether the management of the Company illegally or wrongfully dismissed / terminated the applicant by way of refusal of employment since 04.07.2013?
- (5) Whether the applicant is entitled to get any relief as prayed for?

The brief case of the applicant Shri Bimal Dey 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 2<sup>nd</sup> 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.

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-Kriparampur, 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 1<sup>st</sup> 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 ve after 07.08.2013 he 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 1<sup>st</sup> 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.

The present case has been filed by the concerned workman by suppressing all the material facts in order to after satisfying the Learned Tribunal for his lawful gain and incurring unlawful loss to the Company. The concerned workman had not been attending his duties without giving any intimation to the Company. The applicant is claiming that he was refused on 04.07.2013 but he raised a purported industrial dispute after 5 months i.e. 02.12.2013 which proves the entire allegations of the applicant is false, concocted and after thought. The applicant himself admitted vide its paragraph 13 of his evidence on affidavit that he went to his native village on 07.08.2013 which proves that he got an opportunity to earn more than what he was earning here so he went away to his native village and after some time he came to Kolkata and filed the instant case against the Company for money. More so the applicant is claiming that he joined the Opposite Party Company on and from October, 1998 but he failed to file any documents to prove his case and on the contrary he himself filed ESI Card and Company's Identity Card where it is showing the date of joining 01.04.2006, hence the allegations of the applicant is totally false and it can't believe by any stretch of imagination.

The conciliation proceeding was initiated on 17.02.2014 wherein the Company was asked to file its comments on 11.03.2014. The concerned workman failed to prove his allegations mentioned in Paragraph 8 to 15 of his examination in chief on affidavit filed before this Ld. Tribunal. The company duly denied all the allegations of the applicant and submitted that it is found from the record the applicant was very negligent and often remained absent without any intimation to the company and his attendance was very poor. The company further submits that whatever averments, statements and allegations made by the applicant are his own version and it is neither supported by the document nor proved. The company further submits that the applicant never went to resume his duties on 04.07.2013 and falsely alleged that his service was refused by the Company. The alleged incident of 04.07.2013 as claimed by the applicant is a false statement and he never went to resume his duty. The said facts are duly proved by the witnesses of the company who duly deposed before this Ld. Tribunal that 4<sup>th</sup> July, 2013 the concerned applicant never went to resume his duty and his statement is a false statement. Even the witnesses of the company were not cross examined on this point by the representative of the applicant which further proves that the allegation of the applicant is a false statement.

That the opposite party company has raised some maintainability points in its written statement from paragraph Nos. 3 to 7. The company submits that the purported dispute of the instant matter is not an industrial dispute because at no point of time the service of the applicant

was refused by the Company above named rather, he was not reporting to his duty for the reason best known to him. The instant matter cannot be treated as an industrial dispute. That instant matter is a case of abandonment of employment and not refusal of employment, therefore the instant application suffers from total non-application of mind and liable to be rejected apart from other grounds. Those maintainability points are very much important and touched the root of the case. The applicant is falsely claiming that the Company did not allow him to join his duty motivatedly and illegally and further falsely alleged that the said applicant meet with shri B.N. Laha, hence the applicant in one hand claiming that he was not allow to enter into the premises of the Company and on other hand he is saying that he meet with Mr. B.N. Laha, one of the officers of the Company, therefore the question of not allowing him to enter into factory premises of the Company does not arise by any stretch of imagination and it proves that it is a cook and bull story of applicant and his entire statement and allegation and mention in paragraph 9 to 13 of his examination-in-chief on affidavit are false and baseless.

The company adduced four witnesses on their behalf to prove their contentions made in its written statement filed before this Ld. Tribunal.

O.P.W.-1 Shri Raja Das adduced its evidence on 16.05.2018 by filing its evidence in chief on affidavit wherein he has stated that the concerned applicant was very negligent and casual and often remained absent without intimation to the company and his attendance was very poor. He further stated that the applicant had been absenting from his duty on and from 04.07.2013 without giving any information to the company. He further states that the company vide its letters dated 10.08.2013 and 10.09.2013 show caused him for his absenteeism but the worker willfully did not reply to the same. He further stated that the applicant falsely alleged that he was refused employment and was not allowed to rejoin his duty. In his cross examination he also admitted that it would be evident from Exhibit-A that the applicant had a habit for absenting himself. The company produced its O.P.W. 2 who also corroborated the statement of Shir Raja Das and he also stated that the company vide its letter dated 10.08.2013 and subsequent remainder dated 02.09.2013 asked the workman to give him reply to show cause notices but he deliberately did not reply to the same and never reported to duty with some mala fide intention without giving any intimation to the company. He also stated that the said applicant falsely alleged that he was refused employment and he was not allowed to resume his duty. The company added its evidence through Shri Ashish Chandra on 05.09.2023. He stated in its evidence that applicant employment certificate filed before this Ld. Tribunal is a false and manufactured one and the company never issued any such certificate. He further stated that Shri Bimal Dey had been absenting from the company without taking any leave or giving any information to the company. He further stated the company vide its letter dated 10.08.2013 and 2<sup>nd</sup> September, 2013 asked Shri Bimal Dey to resume his duty but neither did he join his duty nor did he reply to the same. He further stated that Shri Bimal Dey had abandoned his employment of his own accord and the opposite party neither refused him or his service was terminated. He further stated vide its paragraph 14 of Examination in Chief on affidavit that, "I say that Shri Bimal Dey falsely alleged that he was refused him nor his service was terminated. He further stated vide its paragraph 14 of Examination in Chief on affidavit that, " I say that Shri Bimal Dey falsely alleged that he was refused to employment and he was not allowed to resume his duty. I

further say that I never threatened or force Shri Bimal Dey to submit his resignation or did not allow him to enter into the plywood factory of the company and further say that these are false and baseless allegations.”

The company produced its security guard namely Ran Vijay Singh on as a O.P.W. 4 who stated that on 4<sup>th</sup> July, 2013 he was deputed at the factory gate of the O.P. Company and his designation was a guard at that point of time and his duty hours were 2 p.m. to 10 p.m. He further stated that Bimal Dey did not visit the factory on 4<sup>th</sup> July, 2013 and he falsely claimed that he was not allowed to perform his usual duty by the company. He further stated that Shri Bimal Dey after absenting from the duties without taking a leave from the company or giving any information. The company said witness O.P.W. 4 was not cross examined by the representative of the applicant. After perusing the evidences of the witnesses of the company it is proved that the applicant Shri Bimal Dey never went to the factory of the company on 4<sup>th</sup> July 2013 and his entire allegation is a false and concocted one.

In the cross-examination of Shri Bimal Dey on 12<sup>th</sup> October, 2017, he admitted that he is working as a mason. He further admitted that on 04.07.2013 he did not resume his duty. He further stated that he cannot recollect as to whether he had received one letter dated 10.08.2013 issued by the manager of the O.P. Company. After perusing the evidence of the applicant, it is crystal clear that he did not resume his duty even after receipt of letter from the management of the company. He also admitted that his gainful employer and he has sufficient means of income and presently he is handsomely earning. The above-named applicant is gainfully employed.

Whatever the statements, averments and allegations of the applicant filed before this Ld. Tribunal by the applicant and Evidences of P.W.-1 and P.W.-2 before this Ld. Tribunal re their own version and the applicant failed to prove his case. The plea of unemployment is a false plea and he falsely claimed that he was employment but in the cross-examination, he admitted that he is gainfully employed, so he is not entitled to any relief whatsoever in nature. A person come for justie must come with a clean hand but in this case the applicant has come with a false statement and false allegations and earning money more than the salary he used to earn from the company.

The Opposite Party Company submits that the striking off the name of the applicant from its muster roll is very much justified.

Admittedly, the applicant has come up some false allegations which he could not produce any documents in support of his contentions.

The opposite party company has produced four witnesses to establish the charges / allegations made against the workman and all the witnesses have stated in their examination-in-chief that the applicant never went to resume his duty on 04.07.2013.

Sri Ashish Chandra deposed on behalf o the Company and he stated that Sri Bimal Dey had been working with Company s casual workman on casual basic and he was very negligent as well as casual and often remained absent without intimation to the Company and even his attendance was very poor. He further stated that Sri Bimal Dey had been working with the

Company since long but he never completed 240 days in a calendar year and he was never made permanent. He denied that Sri Bimal Dey joined in the Opposite Party Company on and from October, 01998 and thereafter on and from 01.04.2006, he became permanent workman by the then management of the Company above named. He also stated that the purported employment certificate dated 09.03.2013 filed by Sri Bimal Dey is a manufactured and forged and he was never issued any employment certificate by the Company. He further disputed and denied the allegations, statements and averments of Paragraphs 1 & 3 to 13 of Examination-in-chief on Affidavit filed by Sri Bimal Dey before this Ld. Tribunal save and except what appears from record. He further stated that Sri Bimal Dey had been absenting from the duty without taking any leave from the Company or giving any information to the Company. The Company vide its letter dated 10.08.2013 and 02.09.2013 asked Sri Bimal Dey to resume his duty but neither he joined to his duty nor replied to the same. The company vide its letter dated 14.09.2013 had to strike off the name of the applicant from the muster roll of the Company due to failure on his part to join his duty and subsequent reminder dated 10.08.2013 and 02.09.2013. That 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 allocated to other workman.

He further stated that Sri Bimal Dey had abandoned his employment of his own accord and the opposite party neither refused him nor his service was terminated.

Ran Vijoy Singh deposed on behalf of the Company and he stated that in the year 2013, Company had suffered inconveniences in running the department as such his job was allocated to other workman.

He further stated that Sri Bimal Dey had abandoned his employment of his own accord and the opposite party neither refused him nor his service was terminated.

Ran Vijay Singh deposed on behalf of the Company and he stated that in the year 2013, his designation was a guard and on 04.07.2013 his duty hour was 2 P.M. to 10 P.M. and on the said date Sri Bimal Dey did not visit the factory. He further stated that Sri Bimal Dey falsely claiming that he went to the factory of the Company on 04.07.2013 at 6 P.M. O.P.W.-3 further stated that Sri Bimal Dey falsely claiming that Sri Bimal Dey had been absenting from the duty without taking any leave from the Company or giving any information to the Company and abandoned his employment of his own accord and the opposite party neither refused him nor his service was terminated. O.P.W.-3 further stated that the Company had not terminated, retrenched or dismissed the workman above named rather the workman deliberately was not reporting to his duty with some mala fide intention without even any intimation to the company.

The evidence came from both sides witnesses clearly established that the allegations made against the Company herein are false and there are no documentary evidences could be produced by the Applicant. The circumstantial evidence indicates that the applicant herein is guilty of the charges / allegations for which his name has been stricken out from the muster roll of the Company w.e.f. 14.09.2013.

Exhibits of the Company: The Documents of Company duly proved by its witnesses and authenticated of those documents never challenged by the Applicant and more so he admitted those documents.

Hence, the case of the applicant has no legs to stand to the test of law. Here the question of legality of striking off the name from the muster roll of the Company never challenged by the applicant.

The workman filed a written notes of argument and denied all the allegations submitted by the Ld. Advocate for the Company. The Ld. Advocate for the workman submitted that workman Bimal Dey joined his usual duty as casual workman in M/s. Greenply Industries Ltd. on October, 1998 and the workman promoted to permanent worker as designation "WORKER" of M/s. Greenply Industries Limited by issuance of Photo Identity Card allotted Employee's Code No. 763 dt. 01.04.2006.

On 04.09.2006 E.S.I.C. family photo Identity Card and thereafter ESIC Computer family Photo Identity Card of Shri Bimal Dey was issued by the Company (Exhibit No. 2 collectively).

From 01.01.2008 to 15.06.2013 thirteen (13) numbers of Fortnight Pay Slips / Wages of Shri Bimal Dey, worker as Permanent Grade Category during unblemished 14 years 09 months service period was issued and in this period he worker as "All rounder workman" (Exhibit No. 3 collectively).

From 2007 to 2008 and 2012 to 2013 06 numbers of Annual Provident Fund Statements of Shri Bimal Dey was served by the Company (Exhibit No. 4 collectively).

Due to non-co-operation by the Company for depriving workmen legitimate wages, their Workmen Trade Union namely "Greenply Industrial Ltd. Mazdoor Sangha (Kriparampur) Govt. Regd. No. 26449 (BMS)" for charter of Demand dispute, issued Notice of Strike dated 01.03.2013 to go on strike after 15.03.2013 where the workman Bimal Dey was a member of the said Workmen Trade Union (Exhibit No. 6).

Due to efficient capability, performance workability the Management of the Company, personnel Manager issued an Employment Certificate dated 09.03.2013 to Sri Bimal Dey is working in the said organization as a worker since 01.04.2006 (Affidavit-in-Chief dated 20.06.2017 para-10 page No. 6).

In respect of Charter of Demand dated 30.03.2012 in Industrial Dispute Case No. 87 of 2012/L.C./South 24 Parganas raised by Workmen Trade Union, on 29.06.2013 the management of the Company motivatedly tried to obtain signatures of Sri Bimal Dey, workman upon papers of the Company by force, to be produced in the said case for settlement whereupon said Sri Bimal Dey, workman refused and lodged diary G.D.E. No. 2383 dated 30.06.2013 before Bishnupur Police Station.

The management of the Company, on 03.07.2013 send one "Mantu" peon to the said workman's (Bimal Dey) house and further requested to put his signatures in the illegal Agreement dated 03.07.2013 for settlement in T.D. Case No. 87 of 2012/L.C./South 24 Parganas

to file before the Joint Labour Commissioner at Kolkata, to attend in person the said workman as member of the Workman Trade Union which was not materialized due to serious illness of Workmen's wife he went to ESIC Model Hospital, Thakurpukur, Joka, OPD for treatment of his wife thereto and thereby his wife Smt. Uma Dey, Medically treated and thereafter the said workman attended his usual duty on 03.07.2013 in evening shift duty at 6.00 P.M. to 6.00 A.M. on 04.07.2014 and completed his 12 hours per day duty. Said OPD Medical Treatment slip dated 03.07.2013 produced before this Learned Tribunal (Affidavit-in-chief of P. W.-1 dated 20.06.2017 para-11 page No. 6 to 7, Medical Treatment slip Exhibit No. 7, Attendance Register Exhibit No. F, 30.07.2019 by OPW-2 sl. No. 363 Code No. 763).

Shir Bimal Dey, the workman on 04.07.2013 at 06.00 P.M. went to the factory of the Company to perform his usual duty from 06.00 P.M. to 06.00 A.M. on the next day whereupon the management of the Company did not allow the said workman to perform his usual duty only the cause he did not put his signature upon the illegal Agreement dated 03.07.2013 and to attend in-person before the Joint Labour Commissioner at Kolkata in the case of Charter of Demand dated 30.03.2012. Whereupon the said workman Bimal Dey meet with Shri Ashis Chanda, OPW-3 Shri Biswanath Laha OPW-2 and Shri Rupak Hazra, the In-Charge of Finishing Department to perform his usual duty but they motivatedly threatened the said workman with dire consequences and force the workman Bimal Dey to submit his resignation letter to the company which the workman Bimal Dey refused to write his resignation letter and the management of the Company jointly did not allow said Bimal Dey workman to enter into the Plywood Production Department to perform his usual duty on 04.07.2013 without due process of Law, whereupon the said workman Bimal Dey compelled bound to lodged General Diary Entry No. 380 dated 05.07.2013 before Bishnupur Police Station narrating the facts occurred on 04.07.2013 for his illegal termination from his service by way of "Refusal of Employment since 04.07.2013." (Affidavit-in-chief of P.W.-1 dated 20.06.2017 in para 12 page No. 7).

The workman Bimal Dey personally meet with the management since 05.07.2013 several times upto 07.08.2013 for performing his usual duties but the management of the company did not allow him to join his duty. That having no other alternative way out, the said workman Bimal Dey along with his wife Leave Bishnupour to his native village Masuli, Anukuthi, Tripura, by Kamrup Express thence LMG Agartala Express to save his livelihood where his other family members are resides thereto. They copy of said two (02) Railway Electronic Reservation slip tickets from Howrah to Kumarghat in the name of Bimal Dey and Smt. Uma Dey (wife) collectively exhibits as Exhibit No. 8 (Affidavit-in-Chief of P.W.-1 dated 20.06.2017 in para-13, pge No. 8, Exhibit No. 8 collectively)

Surprisingly on 23.08.2013 at Tripura residence the workman Bimal Dey received by post a motivated show cause letter dated 10.08.2013 issued by Shri Ashis Chandra, O.P.W.-3 illegally comments that the said workman Bimal Dey to submit show cause for absents from his duties since 04.07.2013 why his service would not be terminated / dismissed (Exhibit No. 9 and A, Affidavit-in-Chief of P.W.-1 para-4, page No. 8).

The workman Bimal Dey immediately on 29.08.2013 back to Kolkata from Tripura and submit his Show Cause-Cum-Demand Of Justice Letter / Representation dated 30.08.2013 as the



company refused to receive the said letter show cause the workman Bimal Dey sent the said Show Cause-cum-Demand of Justice Letter dated 30.08.2013 by registered with RLAD pst from Local Post Office on 31.08.2013 which was duly received by the said company whereupon the workman prayed to immediate resumption of his usual duties and for payments of his outstanding arrears wages since 04.07.2013 to till date of resumption but in vain (Affidavit-in-Chief of P.W.1 Para 14, page No. 8, Exhibit No. 10 collectively).

The workman Bimal Dey on 14.09.2013 at 11.00 A.M. meet with Shri Ashis Chandra, O.P.W.-3 and Shir Biswanath Laha, O.P.W.-2 requested for his resumption of usual duty whereupon they O.P.W.-2 and 3 both abused and assault in factory office and with the help of factory factory Darwan immediately held workman's collar of wiring shirt push him out of the factory main gate by force and violence whereupon the said workman went to Amtala Government Hospital, Emergency Department when duty Medical Officer / Doctor treated and push him Tetanus injection and other medicine for injury and thereafter the said workman Bimal Dey narrating the said facts and lodged G.D.E. No. 1111 dated 14.09.2013 at about 1.30 P.M. at Bishnupur Police Station (G.D.E. No. 1111 dated 14.09.2013 Exhibit No. 11, Affidavit-in-chief of P.W.-1 Para-15 page No. 9).

In reply to Bimal Dey, Workman's Show Cause and Demand of Justice Letter / Representation dated 30.08.2013, Exhibit No. 10 the General Manager of the said Company / Opposite Party issued dismissal / termination letter dated 14.09.2013 without due process of law, which served on 16.09.2013 by hand delivery through the company Peon at the residence of Shri Bimal Dey, the workman nearby area of the Factory and without issuance of any charge-sheet and / or without conducting Domestic Enquiry proceedings against Shri Bimal Dey, workman and / or without maintaining the rules of Company's standing order and / or without any strict proof in documentary papers and / or without specific Preliminary Enquiry Reports of the Company and the Company motivatedly refusing employment of Shri Bimal Dey since 04.07.2013 without due process of law and thereby the management of the adopted their unfair labour practice and tactics stated alleged abandon of service of the said workman by putting off workman's name from Master Roll of the Company by way of wrongful dismissal / termination letter dated 14.09.2013 after putting Shri Bimal Dey out of service by way of "Refusal of Employment since 04.07.2013), violating the Principal of Natural Justice (Exhibit No. 12 and B affidavit-in-chief of P.W.1 dated 20.06.2017 in para-16, page No. 9 to 10).

The said workman Shri Bimal Dey raised an industrial dispute by his representation dated 02.12.2013 annexed supporting documents Exhibits No. 1 to 4 and Exhibits No. 06 to 12 in triplicate under Section 2A, 12 and 10 of the Industrial Disputes act, 1947 as amended against the Company before the Additional Labour Commissioner at Kolkata for South 24 Parganas, prayed for settle the dispute by reinstate Shri Bimal Dey the workman with back wages / salaries with concessional benefits since 04.07.2013 which was registered as I.D. Case No. 02 of 2014/ALC/Alipore and said dispute case transferred to Shri Chandrachur Pan, the Conciliation Officer / Assistant Labour Commissioner, Alipore, the Opposite Party No. 2 in the instant case to settle the said Industrial Dispute Case. (Exhibit No. 13 I.D. Code No. 02 of 2014/ALC/Alipore, Affidavit-in-Chief of P.W.-1 dated 20.06.2017 para 17 page No. 10 and 11).

In pursuant to the Conciliation Notice / Memo dated 14.02.2014, Shri Ashis Chandra D.S.W.-3 by letter dated 10.03.2014 prayed time to file Company's comments (Exhibit No. 14).

Shri Chandrachur Pan, the Conciliation Officer and Assistant Labour Commissioner, Opposite Party No. 2 issued Conciliation Notice / Memo dated 19.03.2014 fixed 10.04.2014 for joint conference and filing written comments of the Company (Exhibit No. 15, Affidavit-in-Chief of P.W.1 dated 20.06.2017 para-18, page No. 11 to 12).

Shri Ashis Chandra, DPW-3 filed Company's comments dated 10.04.2014 before the Conciliation Officer and Assistant Labour Commissioner, Opposite Party No. 2 in I.D. Case No. 02 of 2014/ALC/ALI/KOL and stated that Shri Bimal Dey, workman was not a "workman" under Section 2(S) of Industrial Disputes Act, 1947 and the Company did not allow the workman Shri Bimal Dey to resume his duty rather the said workman abandon his employment as such Industrial Dispute liable to be rejected and thereby influence the Conciliation Officer Opposite Party No. 2 Shri Chandrachur Pan, Assistant Labour Commissioner whereupon the Conciliation Officer forced the workman to withdraw the instant Industrial Dispute Case against the company by violating the stipulated provision of the Industrial Disputes Act, 1947 as amended (Exhibit No. 16 and Affidavit-in-Chief P.W.-1 dated 20.06.2017 in para-19, page Nos. 12 and 13).

Due to non-settlement of the instant Industrial Dispute case by the Conciliation Officer and Assistant Labour Commissioner at Kolkata for Alipore since dispute raised on 02.12.2013, the workman Shri Bimal Dey compelled bund to file an Application prays to issue pendency certificate of the Conciliation proceedings for further Adjudication before the Learned Tribunal (Exhibit No. 18, Affidavit-in-Chief of P.W.-1 dated 20.06.2017 in para-20, page No. 13).

Shri Chandrachur Pan, Conciliation Officer and Assistant Labour Commissioner, the Opposite Party No. 2 issued pendency Certificate dated 02.05.2014 in I.D. Case No. 02 of 2014/ALC/ALI for further adjudication before the Industrial Tribunal at Kolkata (Exhibit No. 18, Affidavit-in-Chief of P.W.-1 dated 20.06.2017 in para 21, page No. 14).

The workman Shri Bimal Dey, the permanent workman filed his written statement dated 13.06.2014 alongwith Annexed documents as "Annexures A to Q" prayed to pass an Award to determine / decide the fixation of Wages / salary of Shri Bimal Dey under the Minimum Wages act, 1948 and to reinstate the said workman with back wages since 04.07.2013 including arrear wages and usual consequential benefits with retrospective effect along with entire costs of the proceedings with interests till the date of realization towards the said workman and / or to pass such further order / orders and / or relief / reliefs thereon as to Learned Tribunal may seem fit and proper for the interest of Justice (Tribunal Case filed in Case No. 01 of 2014, written statement of the workman).

The company / opposite party filed their written statement dated 15.01.2016, denied the written statement of the workman dated 13.06.2014 and prayed to pass an Award in favour of the Company holding that the service Shri Bimal Dey has not been refused by the Company rather the said Shri Bimal Dy deliberately did not resume his duty and thereby he is not entitled to any relief whatsoever (written statement of the Company in Case No. 01 of 2014).

The company filed their exchange of 05 documents, before the Learned Tribunal on 06.12.2016 (Exhibit No. A, B, B/1, C and D).

The workman Shri Bimal Dey filed his list of 15 documents with exchange of those documents to the Company under Rule 20 ©(1) of the West Bengal Industrial Disputes Rules, 1958 as amended, before the Learned Tribunal on 10.01.2017( Exhibits No. 01 to 18).

The Company filed their list of 04 documents before the Ld. Tribunal on 10.01.2017.

The workman Shri Bimal Dey P.W. 1 adduced evidence and produced his Exhibited 18 documents marked as “Exhibits No. 01 to 18” and cross-examined in full on 04.08.2017, 25.08.2017 and 12.10.2017 (Exhibit No. 01 to 18).

Another workman Shri Sandip Chakraborty P.W.-2 adduced evidence and cross-examined in full on 09.11.2017, 13.12.2017 and 11.01.2018.

The company witness Sri Raja Das, the Assistant Manager – H.R. & Administration, O.P.W.-1 adduced evidence and produced 5 Documents marked as “Exhibits No. A, B, B/1, C and D” and Cross-examined in full on 16.05.2018, 19.06.2018, 21.01.2019 and 09.04.2019 (Exhibits No. A, B, B/1, C and D).

The company witness Sri Biswanath Laha, the Manager (Personal and Administration), O.P.W.-2 adduced evidence and produced two documents marked as “Exhibits No. E and F” and Cross-examined in full on 30.07.2019 (Exhibits No. E and F).

The company witness Sri Ashis O.P.W.-3 Chandra, Ex-employee Manager – H.R., O.P.W.3 adduced evidence and cross-examined in full on 05.09.2019).

The company witness Sri Ranvijoy Singh Security-in-charge, O.P.W.4 adduced evidence and produce one document marked as “Exhibit No. G” and cross-examined in full on 25.03.2021 (Exhibit No. G).

By an Order No. 87 dated 07.04.2021 the Ld. Judge was pleased to framed five issues of the case, inter alia:-

- (i) Whether the present case is maintainable either law or fact?
- (ii) Whether the applicant Shri Bimal Dey was the permanent workman of the Company?
- (iii) Whether the applicant Shri Bimal Dey has abandoned his service?
- (iv) Whether the management of the company illegally or wrongfully dismissed / terminated the workman Shri Bimal Dey by way of “Refusal of Employment since 04.07.2013”?
- (v) Whether the workman is entitled to get an Award of reinstatement with any relief of reliefs?

In this case this Court framed 5 issues. Now I taken up issue No. 1 .

The Workman Shri Bimal Dey became a Permanent Employee/Workman since 01.04.2006 supported by Documents Exhibits No. 1, 2 Series, 3 Series, 4 Series and 6 and after joining his

employment since October,1998 putting his unblemished 14 years 09 months of Service with the Company who had been wrongfully Terminated/Dismissed from service by way of “Refusal of Employment since 04.07.2013” and thereby the Opposite Party Company without considering the materials on record illegally issued Exhibit No.12, A the Termination Letter dated 14.09.2013 abandon of said Workman’s Service without due process of Law in response to Exhibit No.10 Workman’s Demand of Justice/Representation –Cum-Showing Cause Letter dated 30.08.2013 prayed for immediate Resumption of his usual duties along with outstanding due arrears Wages since 04.07.2013 to till date of joining duties.

II(a) In the Cross Examination dated 21.01.2019 of Shri Raja Das,O.P.W.-1 in Page No.8, middle portion he adduced, inter –alia;

- “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.”

(b) In the Cross-Examination dated 09.04.2019 of Sri Raja Das, O.P.W.-1 in Page -9, Top Portion he adduced, inter –alia;-

- “Today I did not bring the Attendance Register.

Today I also did not produce the Production Register.

To day 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.”

III. In the Cross-Examination dated 30.07.2019 of Shri Biswanath Laha, O.P.W.-2 in Page -2,Top Portion he adduced, inter alia ;-

- “ 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 abandon of Service.”

- “ It is true that in Exhibit -3 Series (Pay Slips) Grade of the Applicant has been mentioned as Permanent.

Volunteer :The Exhibit -3 Series are Program – based Computer generated”

- “There is no scope or question to allow the Applicant to resume his duty in future”.

IV. In the Cross Examination dated 05.09.2019 of Shri Ashis Chandra, O.P.W.3 in Page No.9, Middle portion he adduced, inter alia :-

- “He (Workman) used to put his signature in the Attendance Register which is laying with the Opposite Party Company”.

“I can file the Attendance Register, if directed.

The Applicant use to get his Pay Slip from the Opposite Party Company.”

- In bottom Portion of Page No.9:-

“The Applicant was not Charge Sheeted by the Opposite Party 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.”

Now it is Crystal Clear that the instant Industrial Dispute Case of the Applicant/Workman is very much Maintainable in Law as well as in facts before Your Honour’s Tribunal and this Issue go in favour of the Workman/Applicant hereto.

Now I taken up the Issue No.2 :- i.e. whether the Applicant Shri Bimal Dey was the Permanent Workman of the Company ?

The workman Shri Bimal Dey initially joined his Employment in the month of October, 1998 as causal workman in M/s. Greenply Industries Limited and after satisfactory of the Management of the company on 01.04.2006 he promoted to Permanent Worker as designated “WORKER” of the said company on and from 01.04.2006 issued Photo Identity Card allotted Employee’s Code No. 763, Exhibit No.1, said Workman’s E.S.I/C. family photo identity cards dated 04.09.2006, Exhibit No.2 Series, Workman’s 13 (Thirteen) Fortnight Pay Slips /Wages from 01.01.2008 to 15.06.2013 in the name of Shri Bimal Dey, Designated Worker as “Grade: PERMANENT” of M/s. Greenply Industries Limited Exhibit No.3 series, six (06) numbers of Annual Provident Fund Statements of Shri Bimal Dey, the said Workman for the years 2007 to 2008 to 2012 to 2013 Exhibit No.4 series, and Management of the said

company issued on Employment Certificate dated 09.03.2013 to Shri Bimal Dey is working in the said Organisation a “Worker” since 01.04.2006 Exhibit No.6 before your Honour’s Tribunal in evidence of the Workman Bimal Dey in P.W. -1.

In the Cross Examination dated 25.08.2017 of Shri Bimal Dey, Workman P.W. 1 in Page no.19, Second Paragraph he adduced, inter-alia:-

“Not a fact that I have never been confirmed as Permanent Employee of the Opposite party /Company. Relevant document has been filed showing my confirmation as Permanent Employee of the opposite party /company. This is my identity card (Exhibit -1) showing myself as Permanent Employee of the Opposite party / Company. It is true that the identity card has been issued by the opposite party /company to its Employee for entering into the its Premises. Voluntarily says identity card is mandatorily to be issued to the Permanent Employees of the Opposite party /Company.”

In the Cross- Examination dated 21.01.2019 of Shri Raja Das, O.P.W.-1 in page No.8, middle portion he adduced, inter alia:-

“The Applicant Sri Bimal Dey was appointed on casual basis subsequently he became permanent in our Company.”

In the Cross Examination dated 30.07.2019 of Shri Bisanath Lah, O.P.W.-2 in page no.2, middle portion he adduced, inter alia:-

“The Applicant was in the Employment of the opposite party company from 01.04.2006 to 03.07.2013.

It is true that Exhibit -3 series (pay Slips) were issued by the opposite party Management.

It is true that in Exhibit- 3 series Grade of the Applicant has been mentioned as Permanent.

Volunteer: The Exhibit- 3 series are program based computer generated.”

In the Cross Examination dated 05.09.2019 of Shri Ashis Chandra, O.P.W.-3 in Page No.9, middle portion he adduced, inter alia:-

“he (Workman/Applicant) used to put his signature in the Attendance Register which is lying with the Opposite Party Company.”

“ I can file Attendance Register, if directed. The Applicant used to get his pay slip from the Opposite party Company.”

In the Cross Examination dated 25.03.2021 of Sri Ranvijoy Singh, O.P. No.4 In page no.5, middle portion he adduced, inter –alia :-

“ I know the Applicant Sri Bimal Dey, he used to work in Finishing Department, Bimal Dey is no more in Employment.”

The Management of the company purposefully did not produce their Attendance Register from 01.04.2006 to 03.07.2013, Wages/ Salary Registers, Production Registers of Shri Bimal Dey, the said Workman /Applicant as it will be crystal prove that the Company /Opposite party used to pressurized to performed twelve (12) Hours duty per day in six (06) days a week i.e. 72 hours duty per week instead of 48 hours duty per week without making payment of additional 24 hours wages to their Employees/ Workmen by depriving Workmen Legitimate due wages. After serving fourteen (14) years Nine (09) months Permanent Service on 03.07.2013 which is continuing the same with this opposite party /company it is crystal clear that the said Workman/ Applicant Shri Bimal Dey attended his usual duties more than 240 days worked in a year. That the said Workman/ Applicant is a Permanent Workman since 01.10.2006 Under Section -2(s) of the Industrial Disputes Act, 1947 as amended being a protected Workman as well.

Now it is crystal clear that Shri Bimal Dey, the Workman/ Applicant is the Permanent Workman of the Opposite party / Company, under Section -2 (S) of the Industrial Disputes Act, 1947 as amended in accordance with law.

Issue No. 3 & 4 are taken up together for discussion as both are related to each other.

-Whether the Applicant Shri Bimal Dey has abandoned his service? AND

-Whether the Management of the Company illegally or Wrongfully Dismissed/ Terminated the Workman Shri Bimal Dey by way of “Refusal of Employment since 04.07.2013”?

I. In Affidavit-in-Chief dated 20.06.2017 of the Workman Shri Bimal Dey Applicant P.W.1, avered in Paragraph No.10, Page No. 6, thereafter Workman/s Demand of Justice/ Representation-cum- Showing Cause dated 30.08.2013, Exhibit No.10 in Paragraph no.2, Page No.3 and Workman’s I.D. Case No.S-02 of 2014/ L.C. dated 02.12.2013, Exhibit No.13 in Paragraph no.3, Page No.4 the averment made thereto, that the Management of the said Company neither replied not raised any dispute before the Conciliation Proceedings against the statements made thereto that the Management of the company since beginning Productivity of Plywood Boards, constantly deprived their Employees/ Workmen year after years from the

Minimum Wages, 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 (08) Hours duty per day, and other perquisites facility and legitimate benefits towards Employees/ Workmen of the said Plywood Industries of the Company whereupon after putting Demand of Justice for charter of Demands dated 30.03.2012 in Industrial Dispute Case No. 87 of 2012/ L.C./ South 24-Parganas at Kolkata filed by the said Workmen Trade Union namely “Greenply Industrial Ltd. Mazdoor Sangha (Kriparampur)”, Govt. Regd. No.26449 (B.M.S.) compelled to raised Industrial Dispute against the said company and that the said workman Shri Bimal Dey being a member of the said Trade Union, participated in the said pending conciliation proceeding before the Deputy Labour Commissioner, South 24-Parganas at Kolkata, whereupon on 29.06.2013 the Management of the company motivatedly tried to obtain signatures of the said Workman Shri Bimal Dey upon few papers of the company by force, to be produced in the said I.D. Case for settlement of charter of Demand which said Shri Bimal Dey, workman refused to put his signatures and thereby the said workman lodge Diary G.D.E. No.2383 dated 30.06.2013 before the Bishnupur Police Station.

- II. In Affidavit –in-Chief dated 20.06.2017 of the Workman Shri Bimal Dey Applicant P.W.-1 avered in Paragraphs no.11, 12 and 13, Pages No.6, 7 and 8 thereafter Workman’s Demand of Justice/ Representation –Cum-Showing Cause dated 30.08.2013, Exhibit No.10 in Paragraphs no. 3, 4, 5, Pages No.3, 4, 5 and Workman’s I.D. Case No. S-02 of 2012/ L.C. dated 02.12.2013, Exhibit No.13 in paragraphs No.4, 5, 6, Pages No.5, 6 and 7 the averments made thereto, that the Management of the company on 03.07.2013 send their office Peon “MANTU” to residence of Shri Bimal Dey, the Workmen and further requested the said Workman to put his signatories in the illegal “Agreement dated 03.07.2013 settlement of I.D. Case No.87 of 2012/ L.C. /South 24 Parganas to file before the Joint Labour Commissioner of Kolkata and requested to attend in –person thereto as the said Workman /Applicant being a member of the Workmen Trade Union, which was not materialized due to serious illness of said Workman’s wife as he went to E.S.I.C., Model Hospital, Thakurpukur, Joka, OPD for Medical Treatment of his wife Smt. Uma Dey thereto Vide, Medical Treatment slip dated 03.07.2013 Exhibit No.7 and thereafter Shri Bimal Dey, the Workman attended his usual duty on 03.07.2013 06.00 P.M. to 06.00 A.,M. on 04.07.2013 Evening Shift duty in the said Company, as mentioned in the Attendance Register only one Page Exhibit No. “F” by O.P.W.-2 in Serial No.363 his Code No. 763. That on 04.07.2013 Shri Bimal Dey Workman at 06.00 P.M. attend the Factory of the company to perform his evening shift duly from 06.00 pm to 06.00 am on 05.07.2013 but the Management of the company did not allow the said Workman to perform his usual duty only



the cause that Shri Bimal Dey, Workman did not put his signature upon the illegal Agreement dated 03.07.2013 and to attend in person on 03.07.2013 before the Joint Labour Commissioner at Kolkata in I.D. Case of Charter of Demand for the Company and thereby on 04.07.2013 the said Workman Bimal Dey meet with Shri Ashis Chanda OPW-3, Shri Biswanath Laha OPW-2 and Shri Rupak Hazra, the in-charge of Finishing Department to perform his usual duty whereupon the Management of the said company motivatedly threatened the Workman with dire consequences and force the Workman Bimal Dey to submit his Registration Letter to the company which the workman Bimal Dey refused to write his Resignation Letter and the Management of the company jointly did not allow. Bimal Dey, Workman to enter into the Plywood Production Department to perform his usual duty on 04.07.2013 without due process of law, whereupon the said Workman Bimal Dey compelled bound to lodged General Diary Entry No.380 dated 05.07.2013 before Bishnupur Police Station narrating the facts occurred on 04.07.2013 for his illegal Termination from his service by way of “Refusal of Employment since 04.07.2013”. Thereafter said Workman Bimal Dey personally meet with the Management of the Company from 05.07.2013 to 07.08.2013 several times requested to perform his usual duty but the Management of the company did not allow him to join his duty. Whereupon having no other alternative way out on 07.08.2013 the said Workman Bimal Dey along with his wife leave Bishnupur residence to his native village at Anukuthi, Tripura by Kamrup Express thence LMG Agartala Express to save his livelihood where his other family members resides thereto. That copy of said two (02) Railway Electronic Reservation Slip Tickets dated 07.08.2013 from Howrah to Kumarghat in the name of Bimal Dey and Smt. Uma Dey (wife) collectively Exhibited as Exhibit No.8.

- III. In Affidavit-in-Chief dated 20.06.2017 of the Workman Shri Bimal Dey P.W.-1 averred in Paragraph No.14 in Page -8, Workman’s Demand of Justice/ Representation –cum-showing cause dated 30.08.2013 Exhibit No.10 in Paragraph no.6, Page No.5 and Workman’s I.D. Case No.S-02 of 2014/ L.C. dated 02.12.2013 Exhibit No.13 in Paragraph no.7 page No.7, the averment made thereto, that surprisingly on 23.08.2013 Tripura residence Shri Bimal Dey the Workman received by post a motivated Show Cause Letter dated 10.08.2013 Exhibit No.9 issued by Shri Ashis Chandra, O.P.W--3 illegally comments that the said Workman Bimal Dey to submit show cause for absenting from his duties since 04.07.2013 why his service would not be Terminated/ Dismissed.
- IV. In Affidavit-in-Chief dated 20.06.2017 of the Workman Shri Bimal Dey P.W.-1 averred in paragraph no.14 in page no.8 middle portion, and Workman’s I.D. Case No.S-02 of 2014/ L.C. dated 02.12.2013 Exhibit No.13 in paragraph no.7, page No.7 bottom portion, the averment

made thereto, that the Workman Bimal Dey immediately on 29.08.2013 back to Kolkata from Tripura and submit his show cause –cum- demand of Justice Letter/ Representation dated 30.08.2013, Exhibit No.10 to the company/ opposite and the said Workman Bimal Dey explained that his service had Terminated by the Company by way of “Refusal of Employment Since 04.07.2013” motivatedly without due process of law and the said Workman had/have no latches/fault on his part to absent from his duties under any circumstances which occurred only due to unfair Labour Practice and Tactics of the Management of the said company and prayed for immediately Resumption of his usual duties and payment of arrears wages since 04.07.2013 but the said company neither replied nor allow the said workman to join his usual duty at his place of work,.

- V. In Affidavit –in-Chief dated 20.06.2017 of the Workman Shri Bimal Dey P.W.-1 veered in paragraph No.15, Page No.9 and Workman’s I.D. Case No.S-02 of 2014/ L.C. dated 02.12.2013 Exhibit No.13, Paragraph no.8 in Page No.8, the averment made thereto, that the Workman Bimal Dey on 14.09.2013 at 11.00 A.M. went the factory of the said company and meet with Shri Ashis Chandra, O.P.W.-3 and Shri Biswanath Laha, O.P.W.-2, requested for his Resumption of usual duty whereupon they O.P.W.-2 and 3 both abused and assaulted the said workman in the Factory office and with the help of Factory Darwan immediately held Workman’s colour of wiring shirt and push him out of the Factory Main Gate by force and violence whereupon the said workman went to Amtala Government Hospital, Emergency Department when duty Medical Officer/ Doctor treated and pushed him Tetanus Injection and other medicine for injury and thereafter the said Workman Bimal Dey narrating the said facts and lodged G.D.E. No. 1111 dated 14.09.2013 at about 1.30 P.M. Exhibit No.11 at Bishnupur Police Station.
- VI. In Affidavit-in-Chief dated 20.06.2017 of the Workman Shri Bimal Dey P.W.-1 averred in paragraph no.16 in Pages -9, 10 and Workman’s I.D. Case No. S-02 of 2014/ L.C. dated 02.12.2013 Exhibit No.13 in Paragraph no.10, Page No.9, the averment made thereto, that in reply to showing cause and Demand of Justice Letter/ Representation dated 30.08.2013 Exhibit No.10 of the Workman Bimal Dey, and without issuance of any charge sheet and without conducting any domestic enquiry proceedings against Bimal Dey, the said Workman, the General Manager of the said Company / opposite party illegally and wrongfully served on 16.09.2013, the Dismissal the Termination Letter dated 14.09.2013 Exhibit No.12 and B alleged abandoned of service without due process of law, without maintaining the Rules of the Company’s standing Orders and without any strict proof of documentary papers and documents of the company and/or without Specific Preliminary Enquiry Reports of the Company

previously motivatedly “Refusal of Employment of the Workman since 04.07.2013” without due process of law and thereby the Management of the said Company adopted their unfair labour Practice and Tactics that without served any notice/ letter and cause to the said Workman Bimal Dey for struck off his name from the Master Roll of the Company violating the Principal of Natural justice.

VII. In Cross-Examination dated 12.10.2017 of the Workman Sri Bimal Dey, P.W.-1 in Page -20, Top Portion he adduced, inter-alia:-

“It is true that on 4<sup>th</sup> July, 2013 I could not resume my duty as I was not allowed to enter into the Premises of the Company”.

- “It is not a fact that on 04.07.2013 I was not allowed to enter into the Premises of the Company to join my duty. As I was not allowed to attend my duty on 04.07.2013 I informed the incident before the Bishnupur Police Station in writing (Exhibit -11)”. (G.D.E. No.1111 dated 14.09.20).

“It is not a fact that the O.P. Management asked me to resume my duty issuing letter to me. I cannot say as to whether the company issued any letter to me on 12.09.2013. It is true that the letter dated 14.09.2013 (Exhibit -12 Termination) issued to me by the company was received by me on 16.09.2013. This is the copy of the said notice (Exhibit -12)” .

“On 04.07.2013 I was not allowed to enter into the O.P. Premises by Sri Ashish Chandra, H.R. Manager (O.P.W-3) and Sri B.N. Laha (OPW-2).

It is not a fact that Sri Ashis Chandra, H.R. Manager and Sri B.N. Laha never allowed me to enter into the Premises of the O.P. Company on 04.07.2013 or any day. It is not a fact that I was never dismissed by the O.P. Company. It is also not a fact that I did not resume my duty of my own.”

-“ It is not fact that during conciliation proceeding. I was asked by the O.P. Management to join my duty. From year 1998 to 2006 I worked as casual worker and thereafter I made permanent. It is not fact that I was never appointed as permanent Employee by the O.P. Company”.

VIII(a) In Cross –Examination dated 21.10.2019 of Sri Raja Das, O.P. W-1 in Page-8, Middle portion, he adduced, inter alia;

-“ It is true that no Charge sheet was issued against the Applicant. No Domestic Enquiry was also held against him.

The Applicant was Terminated on the basis of his reply to show cause, decision of our meeting and also the materials laying with the O.P, Company”.

-“ Mr. B.N. Laha, Head (O.P.W-2), one Mr. Goswami of H.R. Team, our Production Manager, the then Works Manager held said meeting but no written resolution was prepared regarding the decision of Termination of the Applicant”.

(b) Further Cross-Examination dated 09.04.2019 of Sri Raja Das, O.P.W.-1 in Page-9, Top portion, he adduced, inter alia;-

-“To day I did not bring the Attendance Register.

To day 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.”

-“We attended the Labour Commissioner during conciliation proceeding. The dispute was not settled in that conciliation proceeding.”

-“We did not file any criminal case against the Applicant.

IX. In Cross Examination dated 30.07.2019 of Sri Biswanath Laha, O.P.W-2 in Page N.1 bottom portion, he adduced, inter alia;

-“ At this stage Exhibit-10 is shown to the witness and after perusing the same the witness stated that) this is the Demand of Justice- Cum-Show Cause of the Applicant dated 30.08.2013. We received Exhibit-10 by post long thereafter. In the mean time another person was employed in his post.

Exhibit B/1 dated 14.09.2013 was issued to the Applicant that due to his unauthorized absence for long period his service was abundant”.

-In Page -2 of O.P.W-2 adduced, inter alia;-

-“ 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.”

-“The Applicant was in the Employment of the O.P. company from 01.04.2006 to 03.07.2013.

It is true that Exhibit- 3 series (pay slips) were issued by the O.P. Management.

It is true that Exhibit-3 series Grade of the Applicant has been mentioned as permanent.

Volunteer: The Exhibit -3 series are program based computer generated.”

-“ There is no scope or question to allow the Applicant to resume his duty in future.

Without perusing the relevant document, I cannot say whether the dues of the Applicant have been paid by the Management or not.”

X. In Cross Examination dated 05.09.2019 of Shri Ashis Chandra, O.P.W-3 in Page No.9, middle portion, he adduced, inter alia;-

-“ Applicant Sri Bimal Dey 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.”

-” I can file the Attendance Register, if directed.

The Applicant used to get his Pay Slip from the O.P. Company.

(At this stage Exhibit-10 is shown to the witness and after perusing the same the witness stated): Exhibit- “A” and “B” would go to show that the Applicant was asked to show cause as to why his service would not be Terminated and Exhibit- 10 is his reply.

At his stage I cannot produce any postal receipt to show that Exhibit- “B” was sent to the Applicant.”

-“ 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 come thereafter to resume his duty.”

XI. In Cross Examination dated 25.03.2021 of Shhri Ranvijoy Singh, O.P.W-4 in page No.5, middle portion, he adduced, inter – alia;-

-“ I have no knowledge about the Agreement dated 03.07.2013.

The Company Management told me about the refusal of the Employment Sri Bimal Dey is false.”

-That the hear say evidence is no evidence in the eye of Law and not acceptable in accordance with law.

It is crystal clear that the Management of the Company/ O.P/ on 04.07.2013 motivatedly refuse the employment of Shri Bimal Dey, Workman/ Applicant- Terminate him by way of “Refusal of Employment since 04.07.2013” Exhibit -10 dated 30.08.2013 without due process of law and thereby to achieve their (company) unfair Labour practice and Tactic issued wrongful Termination Letter dated 14.09.2013 Exhibit- 12 to Abandon Workman’s Service, without due process of Law violating the Principals of Natural Justice. Thus the issues No.3 and 4 hereto are goes in favour of the Workman/ Applicant Shri Bimal Dey hereto.

**Issue No. 5:-**

It is the cardinal principle of law that prior to Termination /Dismissal of an Employee/Workman from his Employment/Service the Management of the Company/Industry should process the following stages;

- I. To proceed Preliminary Enquiry be conducted by the Management of the Company in consultation with corroborative positive papers and documents of the Company and complete Preliminary Enquiry Report against an Employee/Workman.
- II. To issue show cause Notice against the Employee/Workman narrating the offences committed by him in accordance with the standing Orders of the Company.
- III. After non- satisfactory of cause shown by the Workman, the Management of the Company may issue Charge Sheet against the Workman in accordance with the certified Standing orders and Service Rules & Regulations of the Company directing to file Reply to the Charge Sheet by the Workman.
- IV. After non-satisfactory of the Reply to Charge Sheet by the Workman, the Management of the Company initiate Domestic Enquiry Proceedings in respect of the Charge Sheet by appointing an impartial Enquiry Officer to conduct the Domestic Enquiry Proceedings as per Standing Orders and Service Rules of the Company to give reasonable opportunities to the Workman to defend and rebuts the charges levelled against himself.
- V. After completion of impartial Domestic Enquiry Proceedings the Enquiry Officer to submit his Enquiry Report and Findings to the Management of the Company for taking necessary steps.

VI. The Management of the Company considering the Enquiry Report and Findings of the Enquiry Officer, issue Letter along with copy of the said Enquiry Report and Findings to the Workman to submit his Written Comments as to why his service with Company should not be Dismissed /Terminate.

VII. The Management of the Company may issue Dismissal / Termination Letter against The Workman /Employee in accordance with law.

-But in the instant case no such above mentioned steps and proceedings proceeded by the Company against the Workman Shri Bimal Dey hereto and as such the alleged Termination dated 14.09.2013 by the Company occurred without due process of Law. which proved unfair Labour Practice adopted by the Management of the Company.

36. As per Industrial Law the Management of the Company should display their Certified Standing Orders and Service Rules and Regulations of the company in the Main Entrance Notice Board of the Industries for information and knowledge of all Employees/Workmen of the Company but in the instant case “No Standing Orders and Service Rules and Regulations” adopted by this Company/Opposite Party as yet.

I. In the Cross Examination dated 21.01.2019 of Shri Raja Das, O.P.W.-1 in page No.8, he adduced as inter –alia ;-

- “O.P. Company has their own Standing Order. I can file the same.

The Applicant was Terminated on the basis of terms and conditions of the Standing Order, which has been subsequently altered and amended”

- In the Cross Examination dated 09.04.2019 of Shri Raja Das, O.P.W.-1 in Page No. 9, he adduced, inter –alia;

“Today I did not file the Standing Order of our Company.

In our Company there is no separate Service Rules”.

II. In the Cross Examination dated 05.09.2019 of Shri Ashis Chandra, O.P.W.-3 in page No.9 bottom portion he adduced, inter alia ;

“There is Standing Order in the O.P. Company and I can produce the same if directed.”

It is crystal clear that the Opposite Party Company did not maintain and not produced their standing Orders and Service Rules & Regulations to their Employees/Workmen to run their Manufacturing

Process Industries of its Corporate Organization. That the alleged Termination of Shri Bimal Dey motivatedly issue by the Company without consideration of the Standing Orders of the Company and without due process of Law.

It is crystal clear that the said workman / applicant being a permanent employee of the said company O.P. No. being a permanent employee of the said company/ opposite party no.1, had been wrongfully terminated/ dismissed dated 14.09.2013, Annexed- "K", Exhibit No.12 by way of alleged abandon of service after putting out of employment by way of "Refusal of Employment since 04.07.2013", 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.

Under the aforesaid facts and circumstances and discussion made above I am of the view that the dismissal of Sri Bimal Dey with effect from 04.07.2013 by the management is hereby cancelled / set aside. It is further ordered that Bimal Dey 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, 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  
30.10-2024



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./121/2024

Dated Kolkata, the 23.12.2024

-  
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.

Sub: An industrial dispute between M/s. Greenply Industries Limited and their workman Shri Bimal Dey due to an application filed by Shri Bimal Dey U/s. 10(1B)(d) of the Industrial Disputes Act, 1947.

**Case No. 02/2014 U/s. 10(1B)(d) of the Industrial Disputes Act, 1947.**

Sir,

I am sending herewith the Award passed in the matter of 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. – Kriparampur, 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, 4<sup>th</sup> Floor, Kolkata – 700001 and having other Office at the Deputy Labour Commissioner, South 24 Parganas, through the Labour Commissioner, New Secretariat Buildings, 11<sup>th</sup> Floor, 01, Kiran Shankar Roy Road, Kolkata – 700001 (The Conciliation Officer & Assistant Labour Commissioner/ Opposite Party) and Shri Bimal Dey, All Rounder Workman, Employee Code No. W-763, Finishing Department, Permanent workman of M/s. Greenply Industries Limited, residing at Vill. + P.O. – Mashuli (Bongaon), Dist. Anukuthi, Tripura, Pin – 799288 (The workman / Applicant) has been initiated due to an application filed by Shri Bimal Dey being case No. 02/2014 U/s. 10(1B)(d) of the Industrial Disputes Act, 1947 against M/s. Greenply Industries Limited for information and necessary action.

Encl: As stated above.

Yours faithfully,

-Sd-  
( Amit Chattopadyay )  
Judge,  
Eighth Industrial Tribunal,  
Kolkata  
23.12.2024

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/ 25 / (LC-IR)/22015(16)/65/2024

Date : 08/01/2025

ORDER

WHEREAS an industrial dispute existed between (1) 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, & (2) 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 and their workman Shri Bimal Dey, Vill. + P.O. – Mashuli (Bongaon), Dist. – Anukuthi, Tripura, Pin – 799288, regarding the issues, being a matter specified in the second schedule to the Industrial Dispute Act, 1947 (14 of 1947) ;

AND WHEREAS the 8<sup>th</sup> Industrial Tribunal, Kolkata has submitted to the State Government its Award dated 30.10.2024 in Case No. 01/2014 on the said Industrial Dispute vide e-mail dated 23.12.2024 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/ 25 /1(6)/(LC-IR)/ 22015(16)/65/2024

Date : 08/01/2025

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

1. 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.
2. 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.
3. Shri Bimal Dey, Vill. + P.O. – Mashuli (Bongaon), Dist. – Anukuthi, Tripura, Pin – 799288
4. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
5. The OSD & EO Labour Commissioner, W.B., New Secretariat Building, 11<sup>th</sup> Floor, 1, Kiran Sankar Roy Road, Kolkata – 700001.
6. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.



Assistant Secretary

No. Labr/ 25 /2(3)/(LC-IR)/ 22015(16)/65/2024

Date : 08/01/2025

Copy forwarded for information to :-

1. The Judge, 8<sup>th</sup> Industrial Tribunal, N. S. Building, 2<sup>nd</sup> Floor, 1, K.S. Roy Road, Kolkata – 700001 with respect to his e-mail dated 23.12.2024.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata – 700001.
3. Office Copy.



Assistant Secretary



