

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

No. Labr/ 297 / (LC-IR)/ 22015(16)/458/20218

Date : 11/03/2025

ORDER

WHEREAS under Labour Department's Order No. 1378-I.R./IR/IIL-136/2014 dated 27.10.2014 with reference to the Industrial Dispute between M/s. Tirupati Colour Pens Pvt. Ltd., 21, Amartolla Street, 2nd floor, Room No. 24, PS- Hare Street. Kolkata-700001 and their workman Debasish Sanati, since deceased substituted by his father Shri Murari Mohan Sanati, Benupara, Village- Jhikur Beria, P.O. Bakhrahat, P.S. Bishnupur, Dist: South 24 Parganas, Pin-743377, 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 4th Industrial Tribunal, Kolkata.

AND WHEREAS the said 4th Industrial Tribunal, Kolkata, has submitted to the State Government its Award dated 28.02.2025 in Case No. VIII-100 of 2014 on the said Industrial Dispute Vide e-mail dated 07.03.2025 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 in the Labour Department's official website i.e **wblabour.gov.in**.

By order of the Governor,



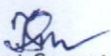
Assistant Secretary
to the Government of West Bengal

No. Labr/ 297 /1(5)/(LC-IR)/ 22015(16)/458/20218

Date : 11/03/2025

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

1. M/s. Tirupati Colour Pens Pvt. Ltd., 21, Amartolla Street, 2nd floor, Room No. 24, PS- Hare Street. Kolkata-700001.
2. Debasish Sanati, S/o – Shri Murari Mohan Sanati, Benupara, Village- Jhikur Beria, P.O. Bakhrahat, P.S. Bishnupur, Dist: South 24 Parganas, Pin-743377.
3. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The O.S.D. & E.O. Labour Commissioner, W.B. New Secretariat Building, 1, K. S. Roy Road, 11th Floor, Kolkata- 700001.
5. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.



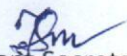
Assistant Secretary

No. Labr/ 297 /2(3)/(LC-IR)/ 22015(16)/458/20218

Date : 11/03/2025

Copy forwarded for information to :

1. The Judge, 4th Industrial Tribunal, Kolkata, N.S. Building, 1, K.S. Roy Road, Kolkata-700001 with respect to his e-mail dated 07.03.2025.
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 between M/s. Tirupati Colour Pens Pvt. Ltd. and their workman since deceased Debasish Sanati.

(Case No. VIII-100 of 2014)

Reference No: 1378-I.R./IR/III-136/2014, Dated 27.10.2014.

BEFORE THE FOURTH INDUSTRIAL TRIBUNAL, KOLKATA, WEST BENGAL

P R E S E N T

**SHRI NANDAN DEB BARMAN, JUDGE
FOURTH INDUSTRIAL TRIBUNAL
KOLKATA.**

Debasish Sanati, since deceased substituted by his father Shri Murari Mohan Sanati.

Address: Benupara, Village- Jhikur Beria,
P.O. Bakhrahat, P.S. Bishnupur
Dist: South 24 Parganas
PIN-743377.

.....**APPLICANT/WORKMAN.**

M/s. Tirupati Colour Pens Pvt. Ltd.

Address: 21, Amartolla Street
2nd floor, Room No. 24
PS- Hare Street.
Kolkata-700 001.

.....**OPPOSITE PARTY/COMPANY.**

A W A R D

Dated: 28.02.2025.

ISSUES TO BE ADJUDICATED

- 1) Whether the refusal of employment of Shri Debasish Sanati w.e.f. 25.09.2012 is justified?
- 2) To what relief, if any, the workman is entitled?

Written Statement of workman Debasish Sanati since deceased.

The case of the workman Debasish Sanati since deceased in brief is as follows: –

- (1) Debasish Sanati, since deceased was the permanent workman and a permanent employee of M/s Tirupati Colour Pens Pvt. Ltd. having its factory at Nandabhanga, Guljar More P.O. Kangarberia, P.S. Bishnupur, District- South 24 Parganas, PIN – 743503 and he worked there on and from 01.08.2011 till 25.09.2012.

- (2) The M/s Tirupati Colour Pens Pvt. Ltd. is a registered company engaged in manufacturing of different types of pens and the workman Debasish Sanati to join in the factory of the said Company to work as a helper in the injection department to pour the raw materials in production process of manufacturing of body of sketch pen of 12 colour pens on the three automatic injection machine out of ten automatic injection machine.
- (3) The Company used to pay consolidated pay of Rs. 3,000/- per month for 12 hours duty for 6 days in a week and ESI family identity card was also provided to the applicant workman. The management of the Company also started deduction of EPF contribution of the applicant workman from the month of October, 2011 under Employees Provident Fund Scheme, 1952 and the Employees Pension Scheme, 1995.
- (4) Since the management of the OP/Company used to deprive the workman from legitimate minimum wages/salaries, dearness allowance and other mandatory facilities, few workman were compelled to form a Registered Trade Union namely "Tirupati Colour Pens Pvt. Ltd. Permanent Mazdoor Sangha" bearing Registration No. 27107, whereupon the Applicant/Workman was holding the post of Office Bearer as General Secretary and subsequently he served a letter to the management on 18.07.2012 informing the formation of the said Trade Union for which the management of the OP/Company became furious and without showing any cogent reason whimsically refused to receive the said letter.
- (5) Thereafter, on 19.07.2012 the management of the OP/Company without showing any reason whimsically refused the employment of one worker Shri Goutam Naskar by way of "refusal of employment since 19.07.2012 and the same was continuing for which another case bearing No. VIII-99 of 2014 was started and the same is pending before the Tribunal for adjudication.
- (6) After getting the said letter dated 18.07.2012 the management of the OP/Company illegally stopped payment of wages/salaries of the Applicant/Workman for which the workman asked the management on 24.09.2012 for payment of his outstanding wages/salaries for last 3 months but the management of the OP/Company without showing any cogent reason whimsically refuse to pay the said outstanding wages/salaries.

- (7) Thereafter, the OP/Company refused the entry of the Applicant/Workman to the Company to perform his as usual daily duty since 25.09.2012 by way of refusal of employment since 25.09.2012 and continued the same day to day.
- (8) Although the Applicant/Workman repeatedly requested the management of the OP/Company to allow him to join in his employment and to pay him the outstanding monthly wages/salaries but the OP/Company neither allowed him to join his duty nor paid him any outstanding wages/salaries.
- (9) Hence, the Applicant/Workman raised an industrial dispute and filed an application dated 14.01.2013 before the Additional Labour Commissioner with a prayer for settlement of the dispute by way of his reinstatement and for payment of full back wages/salaries with retrospective effect from 25.09.2012.
- (10) That filing all those relevant documents and the letters of correspondences by and between the Applicant/Workman and the management of the Company and also the said Conciliation Officer with both the parties the Applicant/Workman further stated that in course of the said Conciliation proceeding the management of the Company Shri Nitin Kanodia, the Director of the Company has filed a written reply dated 15.04.2013 before the Conciliation Officer and they stated that their Company discontinued the service of the concerned workman without due process of law.
- (11) That considering all aspects and the instant industrial dispute the said Conciliation Officer referred the dispute to the Labour Department on 04.09.2014 and thereafter the appropriate authority of the Govt. of West Bengal referred the said dispute before this Tribunal for adjudication over the aforesaid issues.

Written statement of OP/Company Tirupati Colour Pens Pvt. Ltd.

That the OP/Company contested this case by submitting a Written Statement into three parts, i.e. Part-A, Part-B and Part-C respectively, contending inter alia:

Part – A

- (1) That the instant case is misconceived, erroneous, bad and not maintainable either in facts or in law as the concerned applicant failed to raise any dispute with the management prior to raising of the industrial dispute with the Labour Commissioner and the applicant at no point of time has been refused from employment rather on getting charges and allegations himself stopped from coming to the factory and left the job at his own accord.
- (2) That the Applicant/Workman never performed any duty up to 24th September, 2012 and the concerned Government without considering the submission of the Company whimsically framed the issue and referred the matter for adjudication.

Part – B

- (1) That the OP i.e. Tirupati Colour Pens Pvt. Ltd. is a Company incorporated under the Companies Act, 1956.
- (2) That the applicant approached the management of the Company with folded hand for a job drawing the sympathy on account of his family members and on humanitarian ground Company engaged him in the factory for doing some unskilled work.
- (3) That all along the applicant was not at all diligent in performing the work allotted to him and he used to make himself absent causing serious hamper to the normal functioning of the factory. The management although asked and warned him not to remain absent reluctantly but he did not pay heed to such instruction of the management and willfully remained absent for long days.
- (4) That all on a sudden the management of the Company received a letter from the office of the Labour Commissioner and accordingly the management duly submitted their comments with regard to the same and categorically mentioned the reason behind such decision.

Part – C

- (1) That denying such statement and allegations of the Applicant/Workman the OP/Company further contended inter alia that it was not true that the management used to pay Rs. 3,000/- per month for 12 hours duty per day for 6 days of the week.
- (2) That the OP/Company further contended that the management terminated the service of the applicant not by way of refusal of employment but due to long willful abstention of the applicant in spite of due warning to him.
- (3) That no such payment is due to the applicant as alleged. As the applicant on his own voluntarily left the job so he is not entitled to get three months' payment as claimed.
- (4) That the applicant raised the dispute after a long gap and in the meantime the management duly recruited some other person in place of the applicant. Hence, the concerned prayer of the applicant is appears to be frivolous and vexatious and is liable to be rejected.

DECISIONS WITH REASONS

Evidence for and on behalf of the Applicant /Workman, since deceased Debasish Sanati by his substituted legal representative father Shri Murari Mohan Sanati.

- | | |
|-----------------------------|---|
| Exhibit-1 | ESI temporary identity certificate issued in favour of Debasish Sanati. |
| Exhibit-2
(collectively) | The Employee's Provident Fund statements for the year 2011-12 and 2012-13. |
| Exhibit-3 | Photocopy of workman's Trade Union letter dated 18.07.12. |
| Exhibit-4 | Photocopy of workman's demand of justice letter dated 12.01.2013. |
| Exhibit-5 | Photocopy of a workman's industrial dispute application to the Additional Labour Commissioner dated 14.01.2013. |
| Exhibit-6 | Photocopy of Company's written reply with comments to the Labour Commissioner dated 15.04.2013. |
| Exhibit-7 | Photocopy of workman's letter to ALC dated 22.08.2013. |
| Exhibit-8
(collectively) | Photocopy of conciliation notices to the Company by ALC dated 16.09.2013, 09.12.2013 and 10.03.2014. |
| Exhibit-9
(collectively) | Photocopy of medical treatment paper of deceased workman Debasish Sanati of ESI hospital, Joka dated 03.07.12, 16.08.12, 17.08.12, 24.08.12, 17.02.14, 24.03.14 and 22.04.14. |

- Exhibit-10 Photocopy of death certificate of deceased workman Debasish Sanati .
- Exhibit-11 Photocopy of Aadhaar Card of deceased workman Debasish Sanati.
- Exhibit-12 Photocopy of cremation certificate of deceased workman Debasish Sanati.
- Exhibit-13 Photocopy of Aadhaar Card of Pratima Sanati, mother of deceased Debaish Sanati.
- Exhibit-14 Photocopy of cremation certificate of deceased Pratima Sanati.
- Exhibit-15 Photocopy of Aadhaar card of Murari Mohan Sanati, father of deceased Debaish Sanati.

To prove the case of the Applicant/Workman i.e., since deceased Debasish Sanati his substituted legal representative father Shri Murari Mohan Sanati has examined himself as P.W.-1. In addition to his oral evidence he also exhibited so many documents, which have been marked as Exhibit-1 to Exhibit-15 respectively, which are as follows: –

On the other hand the OP/Company i.e., M/s. Tirupati Colour Pens Pvt. Ltd. to establish their case did not adduce any evidence, either oral or documentary in nature.

Now, let us to discuss the arguments of the concerned parties to this case.

At the very outset Ld. Counsel of the Applicant/Workman in his argument relying upon some decisions of Hon'ble High Courts and the Hon'ble Apex Court submitted that from the pleadings of the OP/Company and from the trend of cross-examination of P.W-1 by the OP/Company itself it is very clear that the applicant Debasish Sanati, since deceased was an employee under the OP/Company and used to work in the factory of the said Company as a helper of the injection department to pour raw materials in the production process of manufacturing body of sketch pen etc. Although it was stated by the OP/Company in their written statement that all along Applicant/Workman was not at all diligent to perform the work allotted to him and during the tenure of his service he used to absent himself willfully causing serious hamper to the normal functioning of the factory.

Although it was alleged by the OP/Company in their written statement that the management of the OP/Company on several times cautioned the Applicant/Workman by asking him not to remain absent for a long period and once he was instructed before the Director where the present fellow workman of the applicant made statements against the applicant and the management given final warning to the Applicant/Workman, but to prove such statement and allegations no evidence could be adduced from the end of the OP/Company. Had there been any such final warning given to the Applicant/Workman by the Director on the basis of the statements of the fellow workmen, then the OP/Company could have adduced the evidence of those fellow workmen during the proceeding of this case. But no such evidence could be adduced by the OP/Company. Had there been any such caution, the OP/Company ought to have issued notice upon the Applicant/Workman and had there been any such disobey the instruction or caution of the management by the Applicant/Workman, then the management of the OP/Company could have issued notice and charge-sheet upon the Applicant/Workman maintaining legal process and legal obligations. But, nowhere in the written statement had the OP/Company stated that any such notice or charge-sheet was at all issued and served upon the Applicant/Workman. There is no case of the OP/Company that any such domestic enquiry was conducted against the Applicant/Workman before refusal of his employment or termination of the service. However, the documentary evidence adduced by the ill fated legal representative father of the deceased workman clearly established the fact that Exhibit-1 i.e., temporary ESI identity card was duly issued by the concerned authority recognizing him as an employee of the employer Tirupati Colour Pens Pvt. Ltd. The Exhibit-2 i.e. two EPF contribution receipts also goes to show that there was a contribution from Debasish Sanati, son of Murari Mohan Sanati as an employee under Tirupati Colour Pens Pvt. Ltd. The inference derived from other exhibited documents of the applicant/workman, like Exhibit-3, Exhibit-4, Exhibit-5, Exhibit-6, Exhibit-7 and Exhibit-8 also established beyond doubt that Debasish Sanati, since deceased was a regular employee under the OP/Company Tirupati Colour Pens Pvt. Ltd.

Ld. Counsel of the Applicant/Workman in his argument further submitted that the OP/Company used to adopt unfair labour practice and deprived the employee from the minimum wages, which was prevailing during that period for which the employees of the OP/Company formed a Registered Trade Union, in which the Applicant/Workman Debasish Sanati being an office bearer hold the post of Secretary and issued letter of demand to the management of the OP/Company in his said capacity of Secretary, for which the management of the OP/Company to

give him a lesson refused his employment or terminated him from the service without any notice, charge-sheet, domestic enquiry and without payment of wages for last three months. As a result of such refusal from employment, the Applicant/Workman put to a serious financial stringency and being helpless not only himself succumb to his ailments but some of his family members also expired untimely.

The Ld. Counsel representing the Applicant/Workman relied upon the decisions of the Hon'ble High Courts and Hon'ble Apex Court as reported in 2018 III CLR 863; 2014 (5) Supreme 617; 2020 II CLR 248; 2013 LAB. I. C. 4249.

On the other hand, the Ld. Counsel of the OP/Company in his argument submitted that the application and the dispute raised by the Applicant/Workman is not maintainable in its fact as well as in law as the concerned Applicant/Workman was never refused by the OP/Company from his employment, rather the Applicant/Workman facing the allegation and charges himself stopped from coming to the factory and left the job on his own accord. As a result of which the concerned workman is not entitled to get any relief as prayed for.

Having heard the arguments of Ld. Counsel of the Applicant/Workman and the Ld. Counsel of OP/Company and on careful perusal of the materials on record, including the oral as well as documentary evidences on record, admittedly it appears that there is no gross denial about the relationship between the parties as Workman and Employer/Company. However, the Exhibit-1 i.e., temporary ESI identity card, which was duly issued by the concerned authority recognizing Debasish Sanati as an employee of the employer i.e., Tirupati Colour Pens Pvt. Ltd. established beyond doubt that Debasish Sanati, since deceased was a regular employee under the employer Tirupati Colour Pens Pvt. Ltd. It is also established from the Exhibit-2 i.e. two EPF contribution receipts, that there was a contribution from Debasish Sanati, son of Murari Mohan Sanati as an employee under Tirupati Colour Pens Pvt. Ltd. It is also a fact that the inference derived from other exhibited documents of the applicant/workman, like Exhibit-3, Exhibit-4, Exhibit-5, Exhibit-6, Exhibit-7 and Exhibit-8 also established beyond doubt that Debasish Sanati, since deceased was a regular employee under the OP/Company Tirupati Colour Pens Pvt. Ltd.

Having careful perusal of the written statement of the OP/Company, admittedly it appears that although it was alleged by the OP/Company that the management of the OP/Company on several times cautioned the Applicant/Workman by asking him not to remain absent for a long period and once he was instructed before the Director where the present fellow workman of the applicant made statements against the applicant and the management given final warning to the Applicant/Workman, but to prove such statement and allegations no evidence could be adduced from the end of the OP/Company. It is a fact that had there been any such final warning given to the Applicant/Workman by the Director on the basis of the statements of the fellow workmen, then the OP/Company could have adduced the evidence of those fellow workmen during the proceeding of this case, but no such evidence could be adduced by the OP/Company during the proceedings of this case. Had there been any such caution, the OP/Company ought to have issued notice upon the Applicant/Workman and had there been any such fault on the part of the Applicant/Workman to obey the instruction or carry out the caution of the management, then certainly the management of the OP/Company could have issued notice and charge-sheet upon the Applicant/Workman maintaining legal process and legal obligations. But, the OP/Company in its written statement never stated that any such notice or charge-sheet was at all issued and served upon the Applicant/Workman before refusing him from his employment. From the Exhibit-3 documents it is established that a registered trade union in the name as 'Tirupati Colour Pens Pvt. Ltd. Permanent Mazdoor Sangha' was formed on and from 9th July 2012 and the Applicant/Workman being an office bearer was holding the post of General Secretary of the said registered trade union, who duly informed the same to the management of the OP/Company by its letter dated 18.07.2012.

Now, if we go through the next letter of the employee Debasish Sanati dated 12.01.2013 issued to the Director of the OP Company which has been exhibited as Exhibit-4, then it would appear before us that the concerned workman duly apprised the Director of the OP/Company that he was refused to join his employment by the management since 25.09.2012 without assigning any reason and he was restrained from entering into the Company on the ground that he had been terminated from his employment. Accordingly, by this letter to the Director he has prayed for his reinstatement in the employment of the Company with outstanding wages for last three months.

The OP/Company has no statement in its Written Statement or any document to show that any reply was made from their end in respect of the aforesaid letter of the Applicant/Workman dated 12.01.2013.

From the next letter of the Applicant/Workman Debasish Sanati dated 14.01.2013 addressed to the Additional Labour Commissioner as exhibited as Exhibit-5, also goes to show that he raised dispute before the Additional Labour Commissioner, Govt. of West Bengal by stating that he is a regular employee of the OP/Company and since they formed a registered Trade Union and issued a letter to the management of the Company with an information about the formation of their registered trade union then from 24.09.2012 he was asked by the management of the Company not to join his duty in the Company and on the next date he was restrained from his entry in the Company. The Director of the Company refused to receive his letter seeking the reason for refusal of his employment in the Company.

Exhibit-6 is a letter, appears to be authored by the OP/Company, which was addressed to the Labour Commissioner with a reply regarding a meeting of Labour Commissioner with the Applicant / Workman and OP/Company held on 05.04.2013 over the alleged industrial dispute. In this letter i.e. Exhibit-6, it was denied by the OP/Company that Applicant/Workman has been refused from employment on the ground of his alleged Union activities. On the contrary, it was alleged by the OP / Company that the said workman Debasish Sanati was a regular absentee since his joining in the service and he remained absent on an average of 10 days in any typical month for which the Company had to incur immense loss in production and good will to their clients. It was admitted in the said letter that to instill discipline and healthy atmosphere in their organization the management of the Company decided to discontinue the association of the concerned workman with them. In the last letter the Applicant/Workman Debasish Sanati addressed to the Assistant Labour Commissioner dated 22.08.2013 as Exhibit-7 it was clearly replied by him against the said letter of the OP/Company dated 15.04.2013 that the management never issued any show cause/caution letter to him for his any absenteeism as alleged. Admittedly, there is no case of the OP/Company that any such domestic enquiry was conducted against the Applicant/Workman before refusal of his employment or termination of the service. It was further stated in that letter that the management of the OP/Company willfully violated the provision of the I.D. Act, 1947 by adopting unfair labour practice and due to his trade union activity tried to cease his voice by way of refusal of his employment. But prior to discontinue his service did not follow

the relevant rules and regulation and forcefully refused his employment violating all the labour laws.

The documents which have been marked as Exhibit-8 (collectively) also goes to show that subsequently several dates were fixed by the Labour Commissioner for holding joint conference on conciliation proceeding on the subject of alleged refusal of employment of Debaish Sanati with effect from 25.09.2012 and accordingly several notices were issued upon the Applicant/Workman and the OP/Company to attend the joint conference of the said conciliation proceedings on the dates fixed. There is no iota of evidence from the end of the OP/Company that they have any healthy or regular cooperation with the said Labour Commissioner to make such conciliation proceeding fruitful.

From the further exhibited documents of the Applicant/Workman i.e. Exhibit-9 (collectively), medical treatment of Debasish Sanati, Exhibit-10 and Exhibit-12 i.e. death certificates of Debasish Sanati unequivocally it is established that after losing employment the applicant / workman Debasish Sanati subsequently became sick and received treatment from ESI Hospital and ultimately expired on 07.12.2015.

So, in absence of any contrary evidence from the end of the OP/Company and considering the above discussed corroborating evidence on record adduced from the end of the Applicant / Workman it is established beyond shadow of reasonable doubt that the Applicant/Workman Debasish Sanati since deceased was a regular employee under the OP/Company and getting consolidated pay of Rs. 3,000/- per month but the management of the Company stopped payment of said salary since he submitted a letter of representation dated 18.07.2012 to the management of the OP / Company. Thereafter, the management of the OP/ Company not only refused to pay him the said outstanding salary for 3 months but also refused him from employment since 25.09.2012. Although it was alleged by the OP/Company that the employment of the Applicant/ Workman was ceased by them due to his long absence in duty but to establish their said allegation they never tried to adduce any evidence. So, in absence of any corroborative evidence from their end nothing about the above allegation of long absence of the Applicant/Workman in his duty can be relied upon. On the contrary, a reasonable inference can be drawn on the basis of the documentary evidence on record and the consequences as revealed after disclosure of the information of formation of a registered trade union by the Applicant/Workman and the other employees of the Company that the

Applicant/Workman Debaish Sanati was arbitrarily refused from employment by the OP/Company without any due process of law i.e. without any notice, charge-sheet and domestic enquiry.

So, from the above discussed facts and circumstances and keeping in view the aforesaid decisions of the Hon'ble Courts it can reasonably be held that the issue No. 1 is liable to be determined against the OP/Company. Accordingly, it is decided that "The refusal of employment of Debasish Sanati w.e.f. 25.09.2012 was not justified."

As a result of which, the issue No. 2 also goes in favour of the Applicant/Workman and accordingly it can be held that he was entitled to reinstate in his employment with full back wages if he be alive, but during pendency of this adjudication over Industrial Disputes since he expired out of illness on 07.12.2015, his substituted legal representative father Shri Murari Mohan Sanati is entitled to get such 3 months outstanding wages with full back wages for the period with effect from the month of July, 2012 till his death i.e. the month of December, 2015.

Relying upon the aforesaid decisions of the Hon'ble Courts, particularly the decision of the Hon'ble Apex Court as reported in 2014 (5) Supreme 617 and considering the unjustified refusal of employment of the Applicant/Workman by the OP/Company and further conduct of the OP/ Company without any humanity towards its terminated employee and the dependent family including the substituted legal representative aged father of the employee, I am of the considered view that the OP/Company is also liable to pay some compensation and the cost of this litigation to the said substituted legal representative father of the deceased applicant / workman. Although it was alleged by the Applicant/Workman that the OP/Company adopting unfair labour practice used to pay them wages of Rs. 3,000/- per month, which was below the rate of prevailing minimum wages prescribed by the Government during that relevant period but considering the issues under reference in connection with this case I find this Tribunal has no scope to travel beyond the issues as referred for adjudication by the Appropriate Government.

There are no pleadings or iota of evidence from the end of the OP/Company that any financial or service related any benefit was provided by them to the said Applicant/Workman Debasish Sanati till his death on 07.12.2015 or to his substituted legal representative father till this date.

Hence, it is

ORDERED

that the issue No. 1 under reference, is adjudicated in favour of the Applicant/Workman by holding that “the refusal of employment of Debasish Saniti w.e.f. 25.09.2012 was not justified.”

The OP/Company is accordingly directed to pay the aforesaid outstanding salary for three months along with back wages for the period with effect from the month of July, 2012 till the month of December, 2015 to Shri Murari Mohan Sanati, the substituted legal representative father of the deceased Applicant/Workman within 60 days from this day.

Since, the Applicant/Workman was entitled to be reinstated in his employment but deprived from his said opportunity due to unjustified conduct of the OP/Company and due to his unfortunate death during the proceeding of this case the OP/Company is liable to pay adequate compensation to the substituted legal representative father of the deceased Applicant/Workman.

The OP/Company is accordingly directed to pay the aforesaid compensation of Rs. 1,00,000/- (Rupees One Lac only) to Shri Murari Mohan Sanati, the substituted legal representative father of the deceased Applicant/Workman within 60 days from this day. In addition to that compensation the OP/Company shall pay Rs. 50,000/- (Rupees Fifty Thousand only) towards cost of litigation to Shri Murari Mohan Sanati, the substituted legal representative father of the deceased Applicant/Workman within 60 days from the day. Beside that any other service related benefit, if any, accrued in favour of the Applicant/Workman during his service period shall be provided to his said substituted legal representative father by the OP/Company within 60 days from this day.

This is my award.

Let a copy of this order be sent on line in PDF form to the Secretary, Labour Department, Government of West Bengal, N.S. Buildings through the dedicated e-mail for information and doing subsequent action as per provision of law.

Dictated & Corrected by me

Sd/-
Judge

Sd/-
Judge
Fourth Industrial Tribunal
Kolkata.
28.02.2025