

IN THE SEVENTH INDUSTRIAL TRIBUNAL, WEST BENGAL

Present: Ms. Yogita Gaurisaria , Judge, Seventh Industrial Tribunal.

Case No. 03 of 2022

Under Section 2A(2)

**SUDIPTA DAS, S/o Kajal Baran Das residing at MIG E 12, Niva Park,
Phase – 2, Brahmapur, Badamtala, Near Bara Masjid, Kolkata –
700 096**

.....Applicant

-VS-

**M/s. Dr. Reddy Laboratories Limited, 7-1-27, Amerpet, Hyddrabad-
500016, Telngana and its West Bengal Office at BA-38, 2nd Floor, PNB
More, Sector – 1, Salt Lake, Kolkata – 700 054**

.....Opposite Party

This Award delivered on Friday, this the 27th day of December, 2024

A W A R D

The instant case has been initiated by the applicant Sudipta Das (hereinafter referred to as the applicant/workman) by filing the application under Section 2A(2) of the Industrial Disputes Act, 1947 against his employer M/s. Dr. Reddy Laboratories Limited (herein referred as O.P/Company) in connection with the illegal termination of his service vide letter dated 30.11.2021 with the prayer to pass an award of his reinstatement with full back wages from the date of illegal retrenchment along with all consequential service benefits and interest.

The case of the applicant/workman in a nutshell is that the applicant/workman joined the Company with effect from 4th May, 2011 as Scientific Business Officer in Derma Division at Kolkata Head Quarter vide letter of appointment dated 27th April, 2011 and the said appointment was on probation for 6 months. His primary and essential duty, as will also reflect from the appointment letter- terms & conditions, was to promote sales of the Pharmaceutical products of the Company by visiting different doctors, hospitals, chemists, stockiest, dealers and other purchasing agencies as per standard room, rules and regulations of the Company and accordingly, he got confirmed in the service of the Company with effect from November, 2011.

The workman further stated that his joining the Company was initially at Kolkata Head Quarter and thereafter, he was transferred to Kolkata – 1 head quarter which is a vastly scattered territory covering Garia, Barasat, Guma, Ashoknagar, Habra, Gobardanga, Dunlop to Barrackpore, Barrackpore to Kalyani and thereafter, Ranaghat, Chakdah, Fulia, Bethuadahari, Nabadwip, Krishnanagar, Madhyamgram, Sonarpur, Baruipur, Bashirhat and this working territory allotted to him (Kolkata – 1) although was too difficult to cover properly, but he by his extreme diligence and sincerity not only used to cover these entire headquarter territory successfully but fetched commendable volume of business and the company from time to time recognized him for his rich business construction for the Company.

He further stated that as a sales promotion employee, he became active member of the Union called West Bengal Medical & Sales Representative Union (WBMSRU) under the aegis of all India Federation, an apex body called FMRAI, but his trade union activities neither encroached upon his official duty of sales promotion for the Company nor jeopardized his commendable performance in any

manner whatsoever. Despite this, the Company disliked his trade union activities and started to denigrate his performance in different ways. Once he was selected for a trip to Bangkok , Thailand as a result of his star performance, but he was never allowed by the Company to make that trip.

He further stated that the Company pursued certain policies which were new service condition such as adjustment, late night meeting, ipad detailing and zoom meeting, as unilateral imposition, without consulting the Union concerned or with the Sales Promotion Employees working in the Company, for which he lodged protest against these new impositions of the company, the protest duly supported by the Trade Union viz. WBMSRU and he played a leading role in the demonstration staged by the Union against the unfair labour practices of the Company on two occasions including resisting the managers to work in the territory of the sales promotion employees a mark of protest of the Company's unfair labour practice and for these reasons, he has been targeted by the company for possible victimization from last few years.

He furthermore stated that all of a sudden, he received a letter dated 1st September, 2021 from the Company transferring his services from Kolkata to Nagpur, Maharashtra, in Derma Division with effect from 8th September, 2021. He further stated that his transfer was made only to detach him from the trade union since he raised voice against the unjust and repressive working policies of the company involving the sales promotion employees as Joint Conveners of the Dr. Reddy's Council of SPEs under the Union WBMSRU.

He further stated that on the very next day, he made an appeal to one of the managers of the Company requesting him to withdraw the order of transfer requesting his personal intervention and that he vide letter dated 7th September,

2021 expressed his inability to join the new place of posting. The Company, by its letter dated 9th September, 2021, asked him to report to Nagpur Headquarter since the said place at Nagpur is impacting company's representation and business of the organization and in the same letter, he was further advised to report to Bengaluru headquarter on or before 11th September, 2021 instead of Nagpur headquarter. He again vide letter dated 10th September, 2021 requested the Company to allow him to work in Kolkata Headquarter. After this, the Company through e mail asked him to join at Nagpur Headquarter, instead of Bengaluru by 20th September, 2021. On 17th September, 2021 by a letter he further requested to the Company to withdraw the transfer order.

He further stated that vide letter dtd 23rd September, 2021, the Secretary of WBMSRU , the Union to which he belonged, urged the Company to withdraw the transfer order of the applicant/workman failing which the Union would be compelled to go for industrial action and on the same day, by a letter, the company pressurized the applicant/workman to report to Nagpur Headquarter on or before the 30th September, 2021 with the threat that the workman would be deemed to have not been interested in his employment with the Company and invite obvious disciplinary action. On 25th September, 2021 the workman himself made a same request of withdrawing of transfer order and to allow him to work at Kolkata – 1 Headquarter.

The applicant/workman further submitted that a complaint petition dated 5th October, 2021 was made to the Labour Commissioner, West Bengal by WBMSRU, the Union espousing the cause of the applicant/ workman concerning his transfer. The Secretary of the Union espousing the cause of the workman wrote a letter dated 27th November, 2021 to the Area Sales Manager of the Company offering two options of solving the issue either through conciliation proceedings or

withdrawal of the transfer order. He further submitted that the company in fact has been in a mind to get rid of him any how for his trade union activities of lodging protest against repressive policies of the company for which he has been retrenched by a letter of termination of service dated 30th November, 2021 at a point of time when his mother was seriously ill. He further made a representation dated 28th December, 2021 to the Company to withdraw the order of summary and illegal termination tantamounting to retrenchment. Thereafter, he challenged his illegal retrenchment dated 30th November, 2021 raising industrial dispute before the Labour Commissioner, West Bengal on 13th January, 2022 and since no conciliation took place, the applicant/ workman, after expiry of the statutory period, approached this Ld. Tribunal.

He further stated that since his illegal retrenchment by the Company vide letter dated 30.11.2021, he has not been in any gainful employment any where till date and he also made a representation to the management of the company to revoke the order of termination, but no action has been taken on the part of the company to that effect and accordingly, he prayed before this Tribunal for passing an appropriate order directing the company to forthwith reinstate him in the services with full back wages reversing the order of retrenchment. Hence, this case.

The OP/Company chose not to appear before this Tribunal even after service of notice upon the OP/Company and this Tribunal vide order dated 02.05.2023 fixed this instant case for exparte hearing and accordingly, the instant case proceeded exparte against the OP/Company.

On 27.06.2023, the applicant/ Workman filed his Affidavit in Chief .

The applicant/ workman was examined as P.W.1 and some photocopies of documents have been marked as Exhibits 1 to 19. They are as follows-

1. Copy of the appointment letter dated 27.04.2011 (5 pages) is marked as Exbt. 1.
2. Copy of the letter dated 27.05.2019 (3 pages) is marked as Exbt. 2.
3. Copy of the e mail dated 05.12.2019 is marked as Exbt. 3.
4. Copy of the e mail dated 21.10.2019 is marked as Exbt. 4.
5. Copy of the letter of tranfer dated 01.09.2021 is marked as Exbt. 5.
6. Copy of the letter of workman dated 02.09.2021 (2 pages) is marked as Exbt. 6.
7. Copy of the letter of workman dated 14.09.2021 is marked as Exbt. 7.
8. Copy of the letter of company dated 09.09.2021 (2 pages) is marked as Exhibit 8.
9. Copy of the e mail dated 10.09.2021 is marked as Exbt. 9.
10. Copy of the letter dated 13.09.2021 is marked as Exbt. 10.
11. Copy of the letter of workman dated 13.09.2021 (2 pages) is marked as Exbt. 11.
12. Copy of the letter of Union dated 23.09.2021 (2 pages) is marked as Exbt. 12.
13. Copy of the letter of Company dated 23.09.2021 (2 pages) is marked as Exbt. 13.
14. Copy of the letter by the workman dated 25.09.2021 is marked as Exbt. 14.
15. Copy of the letter of Union dated 27.11.2021 is marked as Exbt. 15.
16. Copy of the complaint petition dated 05.10.2021 (2 pages) marked as Exbt. 16.
17. Copy of the termination letter dated 30.11.2021 (2 pages) is marked as Exbt. 17.

18. Copy of the letter of revering termination dated 28.12.2021 (2 pages) is marked as Exbt. 18.
19. Copy of the complaint petition to the Labour Commissioner dated 05.10.2021 (3 pages), marked as Exbt. 19.

Heard the Ld. Advocate for the applicant/ workman. The Ld. Advocate for the applicant submitted that the applicant is a workman within the definition of workman under section 2(s) of the Industrial Disputes Act, 1947 read with the West Bengal Amendment Act 33 of 1986 (with effect from 21.08.1984) and West Bengal Act 57 of 1980 (with effect from 30.11.1981). The Ld. Advocate for the applicant/ workman submitted that the Sales Promotion employees are also within definition of workman in view of West Bengal Amendment. The Ld. Advocate for the applicant/ workman further submitted that the termination of the applicant/ workman vide letter dated 30.11.2021 is nothing but retrenchment as defined under section 2(oo) of the Industrial Disputes Act, 1947 and does not fall within the exceptions as provided under section 2(oo) of the said Act and is illegal termination of the service of the applicant/ workman since the OP/Company did not comply the condition precedent to retrenchment as laid down under section 25F of the said Act, 1947 being compulsory obligation on the company and as such the said retrenchment is illegal retrenchment. The Ld. Advocate for the applicant/ workman further submitted that the applicant/ workman has not been in any gainful employment elsewhere since his said illegal retrenchment and therefore is entitled to full back wages with reinstatement with all consequential benefits including interest, costs and prayed for continuity of service.

The Ld. Advocate for the applicant/ workman relied on the following citations in support of his case-

1. Narottam Chopra - VS - P.O. Labour Court 1989 Supp (2) SCC 97

2. Ajay Pal Singh – Vs- Haryana Warehousing Corporation (2015) 6 SCC 321
3. Raj Kumar – vs - Director of Education (2016) 6 SCC 541
4. Ramesh Kumar – vs - State of Haryana 2010(1) CLJ SC 195
5. Devinder Singh –vs- Municipal Council (2011) 3 CLJ SC 58
6. Deepali Gundu Surwasu – vs- K.J.A. Mahavidyalaya (D.Ed.) & Ors
(2013) 10 SCC 324
7. Hari Nandan Prasad – vs – Employer I/ R to Management of FCI & Anr
(2014) 7 SCC 190
8. BSNL – vs – Burumal 2014 Lab I.C. 1093

Perused the case record alongwith the documents and the evidences, both oral and documentary.

The evidence of the applicant/ workman remained uncontroverted.

In light of the aforesaid contentions as well as uncontroverted evidences of the applicant/ workman brought in support thereof by the applicant/ workman, I find that the applicant/ workman falls within the definition of workman as laid under section 2(s) of the Industrial Disputes Act, 1947 read with the West Bengal Amendment Act 33 of 1986 (with effect from 21.08.1984) and West Bengal Act 57 of 1980 (with effect from 30.11.1981). The applicant categorically averred in his application that his primary and essential duty, as will also reflect from the appointment letter- terms & conditions, was to promote sales of the Pharmaceutical products of the Company by visiting different doctors, hospitals, chemists, stockiest, dealers and other purchasing agencies as per standard room, rules and regulations of the Company. He also deposed the same in his Affidavit-in-chief. The Exhibit-1 (terms & conditions therein) fortifies that the nature of job

performed by the applicant was of Sales Promotion employee. The Sales Promotion employees are also within the definition of workman in view of West Bengal Amendment. I also find from Exhibit-8 being letter of the Op/Company dated 09.09.2021 that the Op/company in the beginning of the said letter is directing the applicant/ workman to join at Nagpur HQ but in the last para of the said letter advised to report at the transferred HQ Bangalore on or before 11.09.2021. It seems the Op/ Company itself has been oscillating between Nagpur & Bangalore and the OP/Company itself not been able to fix where to transfer the applicant/ Workman and the same is utterly confusing and does not make clear the underlying reason of transfer.

I further find that the OP/Company terminated the services of the applicant/ workman by letter dated 30.11.2021 (Exhibit-17) by paying one month notice pay as stated in the said letter. From the said exhibit, the OP/Company itself reproduced one of the clauses of the terms and conditions of employment as under-

“Clause- The management may at its discretion transfer you from one location to another location in India or abroad or to associate companies or to the factory or to the head office or any other office in the country. Refusal to obey such transfer order will be misconduct and you will be liable for disciplinary proceedings. Management has the sole right and discretion to lay off , transfer and promotion.”

The OP/ Company in the said letter dated 30.11.2021 further stated that ---

“In view of the above, the management regret to inform you that your service is being terminated with effect from 30th November, 2021....”

This Tribunal finds that the OP/company despite being aware of the necessity of initiating disciplinary proceedings, if any, has not conducted any disciplinary proceedings which is reflected from Exhibit-17 itself.

The termination of services of the applicant/ workman vide letter dated 30.11.2021 falls within the definition of retrenchment as laid under section 2(oo) of the said Act, 1947 and does not fall within the exceptions as provided under section 2(oo) of the said Act and is illegal termination of the service of the applicant/ workman since the OP/Company did not comply the statutory conditions precedent to retrenchment as laid down under section 25F of the said Act, 1947 being compulsory obligation on the company and the said retrenchment is illegal retrenchment.

The applicant/ workman has averred and deposed that the applicant/ workman has not been in any gainful employment elsewhere since his said illegal retrenchment and is entitled to full back wages with reinstatement with consequential benefits and prayed for continuity of service. The same also remains unchallenged and uncontroverted.

In view of the aforesaid facts and circumstances and the settled position of the law and unchallenged and controverted evidence of the applicant/ workman, this Tribunal finds that the applicant/ workman has been able to prove his case by cogent and consistent evidence that his alleged termination vide letter dated 30.11.2021 is bad, illegal and unjustified and is liable to be set aside and that the applicant/Workman is entitled to reinstatement with full back wages and consequential reliefs and the services of the applicant/ workman be deemed to be continuous service without any break.

Hence, it is

ORDERED

that the instant case being No. 03/2022 u/s. 2A(2) of the Industrial Disputes Act, 1947 be and the same is allowed exparte with costs of Rs. 1 Lac (Rupees One Lac only) against the OP/Company. The letter of termination dated 30.11.2021 (Exhibit-8) is set aside being bad, illegal and unjustified.

The OP/Company is directed to reinstate the applicant/ workman in service with full back wages alongwith all other consequential benefits thereto arising out of such reinstatement and continuity of service and the service of the applicant/ workman shall be deemed to be continuous service without any break.

The OP/Company is also directed to further pay a sum of Rs. 2 Lacs (Rupees Two Lacs) as compensation to the applicant/ workman for the applicant's mental agony and unnecessary harassment arising out of this litigation.

The OP/Company is also directed to pay all the dues and outstanding as directed by this Tribunal with interest @ 10% per annum within thirty days from the date of this order.

The OP/Company is directed that while calculating the arrears payments and all other consequential benefits thereto and while fixing the present pay of the applicant/ workman, the applicant/ workman shall not be deprived from any such benefits which are paid to the similar workman who joined on the similar post at the then time.

The aforesaid is the Award of this Tribunal passed in this instant case no. 03/2022/ 2A(2).

The case no. 03/2022/ 2A(2) stands disposed of ex parte.

Let copy of this Award be sent to the appropriate authority(ies) as envisaged under the law.

Dictated & corrected by me.

Judge

(Yogita Gaurisaria)
Judge
7th Industrial Tribunal
Kolkata
27.12.2024

I/593929/2025

Government of West Bengal
Labour Department, I. R. Branch

N. S. Building, 12th Floor, 1, K. S. Roy Road, Kolkata – 700001

No. Labr/ 33 / (LC-IR)/22015(16)/3/2025

Date : 08/01/2025

ORDER

WHEREAS an industrial dispute existed between M/s. Dr. Reddy Laboratories Limited, 7-1-27, Amerpet, Hyderabad-500016, Telngana and its West Bengal Office at BA-38, 2nd Floor, PNB More, Sector – 1, Salt Lake, Kolkata – 700054 and their workman Shri Sudipta Das, S/o Kajal Baran Das, MIG E 12, Niva Park, Phase – 2, Brahmapur, Badamtala, Near Bara Masjid, Kolkata – 700096, regarding the issues, being a matter specified in the second schedule to the Industrial Dispute Act, 1947 (14 of 1947);


AND WHEREAS the 7th Industrial Tribunal, Kolkata has submitted to the State Government its Award dated 27.12.2024 in Case No. 03 of 2022 on the said Industrial Dispute Vide e-mail dated 02.01.2025 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 as shown in the Annexure hereto.

ANNEXURE

(Attached herewith)

By order of the Governor,


Assistant Secretary
to the Government of West Bengal

No. Labr/ 33 /1(5)/(LC-IR)/ 22015(16)/3/2025

Date : 08/01/2025

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

1. M/s. Dr. Reddy Laboratories Limited, 7-1-27, Amerpet, Hyderabad-500016, Telngana and its West Bengal Office at BA-38, 2nd Floor, PNB More, Sector – 1, Salt Lake, Kolkata – 700 054.
2. Shri Sudipta Das, S/o Kajal Baran Das, MIG E 12, Niva Park, Phase – 2, Brahmapur, Badamtala, Near Bara Masjid, Kolkata – 700096.
3. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The OSD & EO Labour Commissioner, W.B., New Secretariat Building, 11th Floor, 1, Kiran Sankar Roy Road, Kolkata – 700001.
5. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.


Assistant Secretary

No. Labr/ 33 /2(3)/(LC-IR)/ 22015(16)/3/2025

Date : 08/01/2025

Copy forwarded for information to :-

1. The Judge, 7th Industrial Tribunal, N. S. Building, 3rd Floor, 1, K.S. Roy Road, Kolkata - 700001 with respect to his e-mail dated 02.01.2025.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.
3. Office Copy.


Assistant Secretary