

I/472096/2024

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

No. Labr/ . . . /(LC-IR)/ 11L-141/11 Date: . . . 2024.

ORDER

WHEREAS under the Government of West Bengal, Labour Department Order No. Labr/1064-(LC-IR)/I.R./11L-141/11 dated 21.10.2011 the Industrial Dispute between M/s. Santragachi Co-operative Bank Ltd., Sastitala, Ramrajatala, P.O. - Santragachi, Howrah - 711104 and their workmen represented by the Union 1) The Santragachi Co-operative Bank Ltd. Employees' Union, C/o. - The Santragachi Co-operative Bank Ltd., Sastitala, Kona Road, P.O. - Santragachi, Howrah - 711104, 2) The Santragachi Co-operative Bank Ltd. Staff Union (affiliated to INTUC), C/o. - The Santragachi Co-operative Bank Ltd., Sastitala, Kona Road, P.O. - Santragachi, Howrah - 711104, 3) The Santragachi Co-operative Bank Ltd. Staff Union, C/o. - The Santragachi Co-operative Bank Ltd., Sastitala, Kona Road, P.O. - Santragachi, Howrah - 711104 regarding the issue 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 Judge, First Industrial Tribunal, West Bengal.

AND WHEREAS the First Industrial Tribunal, West Bengal, has submitted to the State Government its award dated 27/12/2023 in case no. VIII - 41/2011 on the said Industrial Dispute vide memo no. Dte/1st IT/001/2024 dated. 02/01/2024.

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,

Sdt

Assistant Secretary
to the Government of West Bengal

472096/2024

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No. Labr/ 33/1/6 (LC-IR)

Date: 09/01/2024.

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

1. M/s. Santragachi Co-operative Bank Ltd., Sastitala, Ramrajatala, P.O. - Santragachi, Howrah - 711104.
2. The Santragachi Co-operative Bank Ltd. Employees' Union, C/o. - The Santragachi Co-operative Bank Ltd., Sastitala, Kona Road, P.O. - Santragachi, Howrah - 711104.
3. The Santragachi Co-operative Bank Ltd. Staff Union (affiliated to INTUC), C/o. - The Santragachi Co-operative Bank Ltd., Sastitala, Kona Road, P.O. - Santragachi, Howrah - 711104.
4. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
5. The O.S.D. & E.O. Labour Commissioner, W.B. New Secretariate Building, 1, K. S. Roy Road, 11th Floor, Kolkata- 700001.
- ✓ 6. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.

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Assistant Secretary

No. Labr/ 33/2/7 (LC-IR)

Date: 09/01/2024.

Copy forwarded for information to:

1. The Judge, First Industrial Tribunal, West Bengal with reference to his Memo No. Dte/1st IT/001/2024 dated. 02/01/2024.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata -700001.

Sikandar / Sandeep (SSP)
09/01/2024
Assistant Secretary

In the matter of an Industrial Disputes exists between M/s Santragachi Co-operative Bank Ltd., Sastitala, Ramrajatala, P.O. – Santragachi, Howrah – 711 104 and their employees represented by the Unions – 1) The Santragachi Co-operative Bank Ltd. Employees Union (affiliated to All Bengal Co-operative Bank Employees' Federation), C/o. – The Santragachi Co-operative Bank Ltd., Sastitala, Kona Road, Santragachi, Howrah – 711 104, 2) The Santragachi Co-operative Bank Ltd. Staff Union (affiliated to INTUC), Sastitala, Kona Road, Santragachi, Howrah – 711 104 and 3) The Santragachi Co-operative Bank Ltd., Staff Union, C/o. – The Santragachi Co-operative Bank Ltd., Sastitala, Kona Road, Santragachi, Howrah – 711 104.

G.O. No. 1064 - I.R/IR/11L - 141/11, dated 21.10.2011

BEFORE THE FIRST INDUSTRIAL TRIBUNAL: WEST BENGAL

PRESENT

**SHRI UTTAM KUMAR NANDY, JUDGE
FIRST INDUSTRIAL TRIBUNAL, KOLKATA**

Date of Order: 27.12.2023

Case No.: VIII – 41/2011

The instant case has initiated on receipt of a copy of G. O. No. 1064 - I.R/IR/11L - 141/11, dated 21.10.2011 from Labour Department, Government of West Bengal referring an Industrial Dispute between M/s Santragachi Co-operative Bank Ltd., Sastitala, Ramrajatala, P.O. – Santragachi, Howrah – 711 104 and their employees represented by the Unions – 1) The Santragachi Co-operative Bank Ltd. Employees Union (affiliated to All Bengal Co-operative Bank Employees' Federation), C/o. – The Santragachi Co-operative Bank Ltd., Sastitala, Kona Road, Santragachi, Howrah – 711 104, 2) The Santragachi Co-operative Bank Ltd. Staff Union (affiliated to INTUC), Sastitala, Kona Road, Santragachi, Howrah – 711 104 and 3) The Santragachi Co-operative Bank Ltd., Staff Union, C/o. – The Santragachi Co-operative Bank Ltd., Sastitala, Kona Road, Santragachi, Howrah – 711 104 for adjudication the present dispute u/s 10 of the Industrial Disputes Act upon the following issues:

ISSUES

- 1) Whether the calculation of Dearness Allowance for their employees by the management of M/s Santragachi Co-operative Bank Ltd is proper?
- 2) What relief, if any, are the employees entitled to?

Be it mentioned here that on perusal of the record it is revealed that the instant case was initiated on 14.11.2011 being reached this Tribunal from the Government of West Bengal.

Examination of PW-1 was ended on 18.02.2019 and cross was continued up to the date 15.07.2022 and on and from 24.08.2022 the evidence of company was started but since the company has failed to produce the CW-1 Shri Sumit Kumar Chatterjee



till 18.04.2023 this Tribunal has been expunged the evidence of CW-1 who was a summoned witness and date was fixed for further evidence on behalf of the Company. Even none on repeated calls appeared on behalf of the company. The company failed to produce any further witness before this Tribunal even after completion of last and final chance on repeated occasions.

Thereafter on 28.08.2023 evidence of the Company as well as evidence as a whole has been ordered as stands closed and record was fixed for argument.

On 19.09.2023 even then none appeared on behalf of the company and considering the age of the case and conduct of the company this Tribunal took up the case for hearing the argument on behalf of the company and since no person was found present on behalf of the company the argument on behalf of the company was ordered as stands closed and union was directed to file written notes of arguments if so desires.

On 16.10.2023 the company filed an petition duly verified through Ld. Counsel for the company praying for recalling the orders dated 28.08.2023 and 19.09.2023 and accordingly those orders were kept in abeyance for the next date only i.e. up to 31.10.2023 and it was ordered that the case shall be proceeded at its own course i.e. to say for delivery of award without giving any chance to either parties if union or the company fail to abide by the order of this court dated 16.10.2023.

Since P.O. was on leave on the next date i.e. on 31.10.2023 the date was fixed for producing the witness named Shri Sumit Kumar Chatterjee on behalf of the company i/d delivery of award.

On 06.12.2023 again none was present for the company. Record was taken up for necessary order when Ld. Counsel for the company prays for a chance for advancing argument and accordingly the matter was fixed for hearing on 07.12.2023 when Ld. Counsel for the company was again absent and date was fixed for hearing i/d necessary order on 11.12.2023 when it was learnt from the submission of Ld. Counsel for the both parties and relevant order dated 16.10.2023 to the effect that the company was given a conditional opportunity to the effect the summoned witness namely Shri Sumit Kumar Chatterjee shall be produced on 31.10.2023 i/d delivery of award without giving any chance either to the parties shall be passed.

Thereafter 3 dates have been passed without any improvement being shown by the company. So, the case was fixed for delivery of award on 27.12.2023 and accordingly today the case is taken up for delivery of award.

UNION's CASE

The case of the union under reference in short is that the Bank under reference has two unions namely Santragachi Co-operative Bank Ltd. Employees Union and secondly Santragachi Co-operative Bank Ltd. Staff Union – both the unions are under reference.



It is pertinent of the case of the unions under reference is that a Memorandum of Settlement was executed on 01.05.2005 in between the unions under reference and the management of the Bank under reference. In that settlement the entitlement of Dearness Allowance has been mentioned in item No. 5 which has been settled between the parties to the case. Subsequently another Memorandum of Settlement was executed on 07.06.2009 in between the another stooge union of the management. In that settlement the entitlement of Dearness Allowance has been mentioned in item No. 4.

Presently i.e. at the time of filing of this case the unions under reference have come to know that the Bank management was going to pay the VDA (Variable Dearness Allowance) as per their own interpretation. As a result of which the employees having basic salary is/was Rs. 11,000/- and above shall get less VDA contrary to the settlement which was executed on 01.05.2005.

The matter was informed to the Chairman of the Bank on 27.10.2009 by the Employees' union which was duly received but without no effect. Although the employees of the Bank submitted their letter of protest through unions under reference on 31.10.1999 to the Bank under reference disputing the payment of VDA and they have been receiving the revised salary with an intimation with protest from the month of October 2009 and onwards but again without no effect and therefore, the present disputes being referred by the Labour Department, Government of West Bengal to this Tribunal with a direction to consider the matter whether the calculation of Dearness Allowance for the employees by the management of the Bank under reference is proper or not.

BANK's CASE

On the other hand the Bank under reference appeared in this case, denied all allegations being raised by the unions under reference and contended inter-alia to the effect that both the unions raised the allegation against the management that the management unilaterally revised the pay and allowance of the Bank employees which according to the management is totally false and fabricated facts and far from the actual facts.

It is further submitted by the Bank under reference that both the unions under reference submitted the statement for the month of June and July 2009 but they did not submit any payment statement prior to June- July 2009 and subsequently thereto.

It is further claimed, the management made the last agreement with both the unions in the year 2009 and amicably settled the terms and conditions of the said bipartite agreement and as per that agreement the employees of the Bank allowed variable Dearness allowance as per CPI and therefore, it depends on up & downs of Dearness Allowance according to the basic pay of the employees usually.



Under the above circumstances it is claimed by the Bank under reference that the present reference does not relate to any industrial disputes at all and they prayed for drawing the conclusion of the alleged dispute after verifying all the records properly.

In view of the above facts and circumstances the following issues have been already framed by the reference being referred by the Labour Department, Government of West Bengal which has been mentioned as above.

Let us scan the evidences on record:

Shri Shyamal Chatterjee an employee of the OP Bank as well as Secretary of the Staff Union has deposed on behalf of the unions under reference in the instant case stating that the management has been going to pay the VDA as per their own interpretation, as a result of which the employees having basic pay of Rs. 11,000/- and above have been getting less VDA in comparison of the earlier principles of earlier settlement. In order to prove the case the PW-1 has filed some documents which has been marked as Exhibit – 1 to 13 & 13/1 and among them 2 (two) documents Exhibit – 6 & 6/1 are marked under objection.

- 1) Photocopy of settlement dated 01.05.2005 (7 sheets). Marked as **Exhibit -1**.
- 2) Photocopy of settlement dated 20.09.2009 (6 sheets). Marked as **Exhibit – 2**.
- 3) Photocopy of letter to the Bank by Employees Union dated 27.10.2009. (2 sheets). Marked as **Exhibit – 3**.
- 4) Photocopy of the letter of the Staff Union to the Bank dated 31.10.2009. Marked as **Exhibit – 4**.
- 5) Photocopy of the letter of the Staff Union to the Bank dated 05.11.2009. Marked as **Exhibit – 5**.
- 6) Photocopy of the letter of the Employees Union to the Bank dated 05.11.2009. Marked as **Exhibit – 5/1**.
- 7) Photocopy of letter to the Deputy Labour Commissioner, Howrah dated 05.11.2009 by two unions (objected). Marked as **Exhibit – 6**.
- 8) Photocopy of letter to the Deputy Labour Commissioner, Howrah dated 11.11.2009 by two unions. Marked as **Exhibit – 6/1**.
- 9) Photocopy of hand written demand justice notice by Advocate of the unions to the Bank (6 sheets). Marked as **Exhibit – 7**.
- 10) Photocopy of letter by the Employees Union to the Bank dated 19.01.2010. Marked as **Exhibit – 8**.
- 11) Photocopy of letter by the Staff Union to the Bank dated 19.01.2010. Marked as **Exhibit – 9**.
- 12) Photocopy of letter of the Advocate of Unions to the Bank dated 21.01.2010 (2 sheets). Marked as **Exhibit – 10**.
- 13) Photocopy of letter to the Assistant Labour Commissioner by the Bank dated 20.05.2010. Marked as **Exhibit – 11**.



- 14) Photocopy of letter of the Unions to Assistant Labour Commissioner a/w comparative statement of DA (7 sheets). Marked as **Exhibit – 12**.
- 15) Photocopy of Conciliation Memo dated 29.01.2010. Marked as **Exhibit – 13**.
- 16) Photocopy of Conciliation Memo dated 03.05.2010. Marked as **Exhibit-13/1**.

(Exhibit 7 to 13/1 has been marked as formal proof having been dispensed with vide order No. 84 dated 18.02.2019)

PW-1 in his cross examination cannot say regarding the parameter of fixing Dearness Allowance.

PW-1 has candidly submitted that the unions under reference do not accept/admit the settlement dated 20.08.2009 to the extent of basic pay over Rs. 11,000/- @ 0.22% per slab for 330 slabs over 2838 points for all cadres of stages as per January 2007 for which they raised the dispute before ALC, West Bengal as well as concerned authority.

Thereafter on the other hand Shri Sumit Kumar Chatterjee an officer of United Bank of India being associated with the Bank under reference as per their prayer has come to depose on behalf of the Bank as CW-1. That apart in support of their case Bank under reference has filed some documents which have been marked as Exhibit – A to F.

- 1) Photocopy of Bipartite Agreement dated 20.09.2009 between Union and Bank. The agreement is marked as **Exhibit-A**.
- 2) The photocopy of reply to the legal cum demand notice for justice vide their memo No. 1020L/2009, dated 29.12.2009 being addressed to Mr. Malay Kumar Roy, Advocate, High Court Calcutta, by the chairman of the Bank under reference, dated 21.01.2010. (2 pages). This is marked as **Exhibit-B**.
- 3) The photocopy of a letter dated 03.03.2010 addressed to Deputy Labour Commission, Government of West Bengal, Labour Department by the Chairman of the Bank under reference. This is marked as **Exhibit-C**.
- 4) The photocopy of a letter dated 23.04.2010 addressed to Assistant Labour Commission, Government of West Bengal, Labour Department by the Chairman of the Bank under reference. This is marked as **Exhibit-D**.
- 5) The photocopy of a letter dated 20.05.2010 addressed to Assistant Labour Commission, Government of West Bengal, Labour Department by the Secretary (CW-1) of the Bank under reference. This is marked as **Exhibit-E**.
- 6) The photocopy of a letter dated 29.07.2010 addressed to Assistant Labour Commission, Government of West Bengal, Labour Department by the Chairman of the Bank under reference. This is marked as **Exhibit-F**.

CW-1 was confronted with the Exhibit-A consisting of 6 pages, who admits his name being mentioned therein as Secretary along with his signature on the second page and last page of the Exhibit-A which was to be effective from 01.01.2007 to 31.12.2011 and the said Exhibit was signed on 20.09.2009 after series of discussions.

It is revealed from his evidence in chief that on 21.01.2010 an advocate's letter was sent in reply of the legal cum demand notice for justice being demanded by the



unions vide their memo No. 1020L/2009 and this letter has been marked as Exhibit – B.

That apart CW-1 has proved some letters addressed to DLC as well as ALC which have been marked as Exhibit-C, D, E and F respectively.

On the date of evidence in chief led by CW-1, he was crossed by and on behalf of the unions under reference wherefrom it is revealed that the written statement dated 11.04.2012 filed on behalf of the company has no signature of the CW-1.

CW-1 admits that on that relevant point of time he was one of the Directors of the Bank under reference and it is also revealed that CW-1 is not aware about the further contents of the written statement filed by the company on the relevant point of time i.e. on 10.02.2023 and thereafter that CW-1 has not been appeared before this Tribunal for facing further acid test of the cross examination to be put by and on behalf of the unions under reference. If, that be so, we could easily set-aside the statements which have gone against the claim of the unions under reference.

On careful perusal of the documents filed by the unions under reference it is well settled that claim made by the unions under reference is unchallenged having no leg to stand.

It is further revealed from the argument as advanced by the Ld. Advocate for the unions under reference that the entitlement of Dearness Allowance shall be calculated on the basis of fresh charter of demands being submitted by the unions under reference which has been specifically mentioned by their letters dated 27.10.2009 vide Exhibit-3 supported by the demands regarding Dearness Allowance whereby it is requested to the management of the Bank under reference to arrange and to disburse the salary for the month of October 2009 as per previous agreement until the discussion in this regard has been made with the authority but that request was unattended with don't care attitude by the Bank under reference and thereafter the salary was received by each and every employee of the Bank under reference without prejudice of the rights and contention on that respect at the relevant point of time.

The Ld. Advocate for the unions under reference has submitted that the management of the Bank has revised the pay and allowance unilaterally at their own whims and transfer to the salary accounts of the employees of the Bank which is unlawful and violation of Section 9A of the Industrial Disputes Act 1947 as well as against the principle of Section – 5 of the service rules for the employees of the Santragachi Co-operative Bank Ltd. being signed by the representatives of the Board of Directors of the Bank under reference and the representatives of the two unions under reference vide dated 29.01.1999 where it is very much mentioned that the VDA shall be payable upto the basic pay of Rs. 2770/- only as per calculation of the rise and falls of price index according to the aforesaid system rather by the recent revision of pay and allowance due to adoption of unscientific, unreasonable



norm of Dearness Allowance, salaries of many employees have been reduced which should be corrected as per established rules and provisions.

Ld. Counsel for the unions further argued that legal cum demand notice for justice which has been marked as Exhibit-7 is very much clear regarding the instant dispute of VDA.

Ld. Advocate for the unions under reference has claimed that the Clause -5 of the Memorandum of Settlement dated 01.05.2005 shall be the correct basis of determining the VDA system.

On careful observation of the submission of Ld. Counsel for the unions under reference as well as the given provisions of the laws coupled with peculiar conduct of the management I find no reason to go against the view being expressed on behalf of the union under reference and therefore, it would be wise to pass award accordingly.

In sum, the case succeeds as per observations made above.

Hence it is

ORDERED

That the instant case being No. VIII – 41/2011 be and same is allowed on contest. The management of the Bank under reference is hereby directed to fix the VDA system as per settlement dated 01.05.2005, Clause - 5 and to pay the VDA on and from January 2012 to till date. The Bank is also directed to pay the current rate of VDA within 3 (three) months from the date of receipt of this order after being published by the Government of West Bengal and the arrear shall be paid with 6 (six) equal instalments along with current VDA.

This is my Award.

Let the Award be sent to the Government of West Bengal.

Sd/-

Dictated & corrected by me

Sd/-

(Uttam Kumar Nandy)
Judge

JUDGE
FIRST INDUSTRIAL TRIBUNAL
WEST BENGAL



(Uttam Kumar Nandy)
Judge
First Industrial Tribunal
Kolkata
JUDGE
FIRST INDUSTRIAL TRIBUNAL
WEST BENGAL