

1/475332/2024

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/. 51. / (LC-IR)/22015(16)/5/2024 Date: 17/01/2024

**ORDER**

WHEREAS an industrial dispute existed between M/s. Khaitan & Co., Emerold House, 13, Old Post Office Street, Kolkata - 700001 and their workman Smt. Sandhya Dutta, 9/4A, Gopal Banerjee Lane, Kolkata - 700026 regarding the issue, being a matter specified in the second schedule to the Industrial Dispute Act, 1947 (14 of 1947);

AND WHEREAS the workman has filed an application under section 10(2A) of the Industrial Dispute Act, 1947 (14of 1947) to the Judge, Second Industrial Tribunal, Kolkata specified for this purpose under this Deptt.'s Notification No. 1085-IR/12L-9/95 dated 25.07.1997.

AND WHEREAS, Second Industrial Tribunal, Kolkata heard the parties under section 10(2A) of the I.D. Act, 1947 (14of 1947).

AND WHEREAS Second Industrial Tribunal, Kolkata has submitted to the State Government its Award under section 10(2A) of the I.D. Act, 1947 (14of 1947) on the said Industrial Dispute.

Now, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Dispute Act, 1947 (14of 1947), the Governor is pleased hereby to publish the said Award dated 10/01/2024 in Case No. VIII-41 of 2006 as shown in the Annexure hereto vide Memo No. Dte/2ndIT/004/2024 dt. 10.01.2024.

**ANNEXURE**

(Attached herewith)

By order of the Governor,

Sdt  
Assistant Secretary  
to the Government of West Bengal



475332/2024

:2:

No. Labr/. 51. 1(5)/(LC-IR)

Date: 17/01/2024

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

1. M/s. Khaitan & Co., Emerold House, 13, Old Post Office Street, Kolkata - 700001.
2. Smt. Sandhya Dutta, 9/4A, Gopal Banerjee Lane, Kolkata - 700026.
3. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The O.S.D. & E.O. Labour Commissioner, W.B., New Secretariat Building, (11<sup>th</sup> 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/. 51. 2(2)/(LC-IR)

Date : 17/01/2024

Copy forwarded for information to: -

1. The Judge, Second Industrial Tribunal, West Bengal, with respect to his Memo No. Dte/2ndIT/004/2024 dt. 10.01.2024.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.

  
Assistant Secretary

**Before the 2<sup>nd</sup> Industrial Tribunal, Kolkata**

**Present : Shri Partha Sarathi Mukhopadhyay, Judge**

**2<sup>nd</sup> Industrial Tribunal, Kolkata**

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**Case No. VIII- 41 of 2006**

**Under Section 10(2A) of The Industrial Disputes Act, 1947**

**Smt. Sandhya Dutta**

Address: 9/4A, Gopal Banerjee Lane,  
Kolkata – 700 026.

..... **Applicant**

**-Vs-**

**M/S. Khaitan & Co.,**

Address: Emerold House, 13, Old Post  
Office Street,  
Kolkata – 700 001.

----- **Opposite Party.**

**Date: 10.01.2024**

**J U D G E M E N T**

This case has been received from the Labour Department, Government of West Bengal, I.R. Branch, Writers Buildings, Kolkata – 700001 for disposal of

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Industrial disputes under section 10(2A) of The Industrial Disputes Act, 1947 between both the parties of this case.

As per the case of the petitioner, since 14.03.1995 she had been working as the Steno-Typist by virtue of one appointment letter and some staff of the OP company used to misbehave with her and on 00.03.2001 she was beaten by one staff namely Saroj Agarwal in the office premises and the said staff used to ask her to marry one Partha Bhattacharjee, another staff of that office but she did not agree and again on 06.05.2003 one staff namely Sukumar Ganguli asked her to marry the said Partha Bhattacharjee but she did not agree and then said Ganguli abused her with filthy languages and harassed her by passing ugly remarks and one staff namely Tapan Chakraborty physically assaulted her elder brother and she lodged one complaint before the Deputy Commissioner of Police, Kolkata in respect of her harassment on 06.05.2003 and then by one notice dated 06.05.2003 the OP company suspended her and asked her to file show cause about her conduct in respect of the incident dated 06.05.2003 and then she gave one reply dated 13.05.2003 and then one Enquiry Officer provided her certain information about the enquiry and she gave reply and then in the Domestic Enquiry, the Enquiry Officer found her guilty and then on 29.09.2004 the OP company dismissed her from service and by a letter dated 04.10.2004 she requested the OP company to cancel the order of dismissal and the said Domestic Enquiry was illegal and the Principles of Natural Justice were not followed and since then she has been out of work having no income. Hence the petitioner has filed one petition praying of interim relief from the OP company and she has also prayed for reinstatement of her service and payment of full back wages and other consequential benefits in this case.



In the written objection the OP company submitted that the Domestic Enquiry was held legally and correctly according to the Principles of Natural Justice and the petitioner contested the said Domestic Enquiry and thereafter the Enquiry Officer accordingly found the petitioner guilty in respect of the charges after considering the evidences of both sides in the Domestic Enquiry and on the basis of the report the Enquiry Officer, the OP company legally dismissed the petitioner from service and the petitioner is not entitled to get any interim relief in this case and all her allegations are totally false.

Record shows that during hearing of the interim relief petition both sides examined some witnesses and proved some documents and then after hearing both sides this Tribunal allowed the interim relief petition filed by the petitioner on contest and directed the OP company to pay Rs. 9,68,149/- as interim relief till the month of September 2022 and continue the said current payment of Rs. 4481.25/- per month each as interim relief to the petitioner from October 2022 till disposal of this case and this Tribunal fixed date for evidence on merit.

Record shows that thereafter the OP company challenged the said Order No. 244 dated 22.09.2022 passed by this Tribunal in respect of the said interim relief before the Hon'ble High Court, Calcutta in WPO No. 574 of 2023.

Then on 05.12.2023 the OP company filed one copy of order dated 01.12.2023 passed by the Hon'ble High Court, Calcutta in WPO No. 574 of 2023 and on perusing the said order dated 01.12.2023 passed by the Hon'ble High Court, Calcutta, I find that the case has been settled before the Hon'ble High Court,



Calcutta by both parties in the form of Memorandum of Settlement duly executed and signed by both parties and witnesses.

**Both the parties of this case have not produced the copy of the said Memorandum of Settlement before this Tribunal.**

On perusing the paragraph no. 04 of the order passed by the Hon'ble High Court, Calcutta dated 01.12.2023, I find that in terms of Memorandum of Settlement the petitioner agreed to receive a sum of Rs. 25 lakhs subject to deduction of applicable TDS certificate and on deduction of tax the cheque bearing no. 003977 dated 11.10.2023 drawn on HDFC bank for Rs. 2047600/- in favour of the petitioner has been handed over by the learned advocate for the OP company in the High Court to the learned advocate for the petitioner i.e. respondent no.1 as full and final settlement of all dues of the petitioner relating to her employment with the OP company and she has agreed that she will not have any further claim for reinstatement or re-employment with the OP company or claim for money, statutory or otherwise from the OP company and this payment included any claim toward her gratuity, bonus and leave encashment dues and all the above payment has been made to represent claims of the petitioner including for the period from the date of her dismissal upto date within the permishable limit and the petitioner shall be entitled to claim the benefit under section 89 of the Income Tax Act, 1961 and Income Tax Authorities shall process and decide upon the refund expeditiously and the said amount of Rs. 25 lakhs shall be treated as back wages along with all consequential benefits also from the date of termination till actual payment to the petitioner.



According to the paragraph no. 08 of the abovementioned order dated 01.12.2023 passed by the Hon'ble High Court, Calcutta, since the parties have settled the disputes amongst themselves, there is no point in keeping the matter pending before the Tribunal and hence reference case no. VIII- 41/2006 has been disposed of in the light of Memorandum of Settlement filed in the Hon'ble High Court Calcutta.

So according to the above mentioned order dated 01.12.2023 passed by the Hon'ble High Court, Calcutta in WPO no. 574 of 2023, the reference case being VIII- 41/2006 has been disposed of in the light of Memorandum of Settlement by the Hon'ble High Court, Calcutta.

After receiving the abovementioned order passed by the Hon'ble High Court, Calcutta on 05.12.2023, 21.12.2023 was fixed for appearance of both sides and further hearing on the point of receiving the settlement amount for passing award and on 21.12.2023 the learned advocate for the OP company filed a petition stating therein that the OP company has paid Rs. 2047600/- to the petitioner of this case by one Cheque after deduction of tax as full and final settlement and the petitioner also filed a petition stating therein that the petitioner has received Rs. 2047600/- and prayed of necessary order.

As the case has been settled before the Hon'ble High Court, Calcutta by both the parties in the light of one Memorandum of Settlement executed by both parties and as the Hon'ble High Court, Calcutta has been pleased to declare that case no. VIII-41/2006 has been disposed of on 01.12.2023 after payment of Rs. 25 lakhs



to the petitioner as full and final settlement of all dues for her service in the OP company, I hold that this case has to be disposed of today by passing one award.

Hence, it is

**ORDERED**

That case no. VIII-41/2006 under section 10(2A) of the Industrial Disputes Act, 1947 is disposed of on compromise in terms of Memorandum of Settlement filed before the Hon'ble High Court, Calcutta by both the parties of this case.

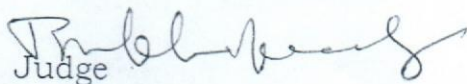
Let the Memorandum of Settlement filed before the Hon'ble High Court, Calcutta by both the parties to this case be made a part of this award.

Let the judgement and order to be treated as an award.

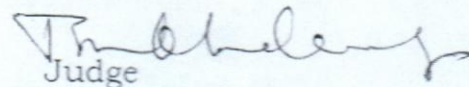
According to Section 17AA of The Industrial Disputes Act, 1947, let a certified copy of this Award be sent to the Principal Secretary to the Government of West Bengal, Labour Department, New Secretariat Buildings, 1, K.S. Roy Road, Kolkata 700 001 for information, and let a certified copy of this Award be supplied to each of both the parties of this case, free of cost, forthwith for information.

The case is disposed of today.

Dictated & corrected by me.

  
Judge

**Judge**  
**2nd Industrial Tribunal**  
**West Bengal**

  
Judge

**2nd Industrial Tribunal**  
**10.01.2024**

**Judge**  
**2nd Industrial Tribunal**  
**West Bengal**