

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

No. Labr/ 702 / (LC-IR)/ 22015(16)/37/2025

Date : 19-06-2025

ORDER

WHEREAS under Labour Department's Order No. Labr./2188/(LC-IR)/22015(16)/37/2021 dated 08.12.2021 with reference to the Industrial Dispute between M/s. Emmanuel Ministries Calcutta, 48, Ripon Street, Kolkata – 700016 and their workman Sri Prodip Mondal, S/o Late Augustin Mondal, Vill. & P.O. – Gosaba, Dist. South 24 Parganas, Pin - 743370, regarding the issues mentioned in the said order, being a matter specified in the Second Schedule of the Industrial Dispute Act, 1947 (14 of 1947), was referred for adjudication to the 7th Industrial Tribunal, Kolkata.

AND WHEREAS the 7th Industrial Tribunal, Kolkata, has submitted to the State Government its Award dated 12.06.2025 in Case No. 19/2021/10 on the said Industrial Dispute Vide e-mail dated 16.06.2025 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/ 702 /1(5)/(LC-IR)/ 22015(16)/37/2025

Date : 19-06-2025

Copy forwarded for information and necessary action to:

1. M/s. Emmanuel Ministries Calcutta, 48, Ripon Street, Kolkata – 700016.
2. Sri Prodip Mondal, S/o Late Augustin Mondal, Vill. & P.O. – Gosaba, Dist. South 24 Parganas, Pin - 743370.
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 request to cast the Award in the Department's website.


Assistant Secretary
to the Government of West Bengal

No. Labr/ 702 /2(3)/(LC-IR)/ 22015(16)/37/2025

Date : 19-06-2025

Copy forwarded for information to :

1. The Judge, 7th Industrial Tribunal, Kolkata, N.S. Building, 1, K.S. Roy Road, Kolkata-700001 with reference to her e-mail dated 16.06.2025.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata -700001.
3. Office Copy.


Assistant Secretary
to the Government of West Bengal

In the matter of – An Industrial Dispute exists between M/s. Emmanuel Ministries Calcutta, 48, Ripon Street, Kolkata – 700 016 AND Their workman Sri Prodip Mondal , S/o Late Augustin Mondal, Vill. & P.O. Gosaba, Dist. South 24 Parganas, Pin - 743370

(Order of reference being No. G.O. No. Labr./2188/(LC-IR)/22015(16)/37/2021 dated 08.12.2021 u/S 10(2A) of the Industrial Disputes Act, 1947)

**IN THE SEVENTH INDUSTRIAL TRIBUNAL, KOLKATA
WEST BENGAL
New Secretariat Buildings, Kolkata**



**Present:
Miss Yogita Gaurisaria,
Judge, Seventh Industrial Tribunal, Kolkata, West Bengal**

Case No. 19/2021/10

This Award delivered on Thursday 12th day of June, 2025

A W A R D

1. The instant case has been initiated on 09.12.2021 on receipt of copy of Labr./2188/(LC-IR)/22015(16)/37/2021 dated 08.12.2021 under section 10 read with Section 2A of Industrial Disputes Act, 1947 from the Labour Department, IR Branch, Government of West Bengal referring an industrial dispute between M/s. Emmanuel Ministries Calcutta, 48, Ripon Street, Kolkata – 700 016 AND Their workman Sri Prodip Mondal , S/o Late Augustin Mondal, Vill. & P.O. Gosaba, Dist. South 24 Parganas, Pin – 743370 for adjudication of the matter and for submitting its Award to the State Government in respect of the issues mentioned below—

ISSUE(S)

- I) Whether the dismissal from service of Sri Prodip Mondal S/o Late Augustin Mondal, Vill. & P.O. Gosaba, Dist. South 24 Parganas, Pin - 743370 w.e.f. 1st April, 2018 by the management of M/s. Emmanuel Ministries Calcutta, 48, Ripon Street, Kolkata – 700 016 is justified ?
- II) To what relief, if any, the workman is entitled ?

Yogita Gaurisaria
12/06/25
Judge
Seventh Industrial Tribunal

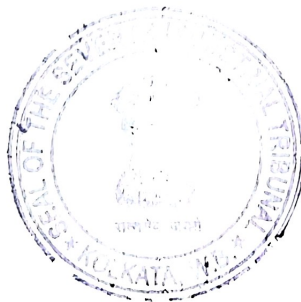
2. Case of the applicant-workman

The facts of the case of the applicant-workman as per his written statement in a nutshell is that the applicant Prodip Mondal was an employee of M/s. Emmanuel Ministries Calcutta/Opposite Party and had been working there since 13.07.2007 without having any break and/or without having spot as Warden. The applicant used to work from 10. a.m. to 5 p.m. and his salary was Rs. 3500/- per month at the time of his appointment. The applicant also stated that due to shortage of staffs, he was asked to do his duty 24 hours temporarily for 15 days with an assurances that he would be paid overtime wages for rest of the day, which the Opposite Party subsequently made a permanent practice to do 24 hours of service with same assurances. Lastly he used to work at Anandalaya, 28B, Creak Row, Kolkata – 700 014 an unit of the Opposite Party. The applicant further stated that he had to do the jobs of maintenance of staffs, looking after the orphan boys and control the Home . He further stated that the management enhanced his salary from time to time and lastly he used to draw a monthly salary of Rs. 11,254/-. He further stated that when he used to make his demand for overtime wages, the management asked him to leave the job. But due to financial paucity, he used to work without raising any voice. He also further stated that he took leave on 22.03.2018 for one month which was duly sanctioned by the management and it was told by the management that he will be called to join after expiry of sanctioned leave.

He also further stated that after expiry of the said leave, he was not called on and as such he wanted to know for his joining over phone on 24.04.2018. The P.R.O. of the said O.P. informed him that he will be informed shortly. The applicant/workman further stated that on 02.05.2018 , the P.R.O. of the said O.P. intimated him that his services has been terminated w.e.f. 02.05.2018 as per the order of the highest authority. He also stated that he made protest to such unfair and illegal termination over phone and demanded reinstatement

along with the due overtime wages, but in vain. The applicant further stated that having no other alternative, he made demand in writing through his Ld. Lawyer Mr. Narayan Chandra Bhandari on 21.05.2018 which was also turned down. The applicant furthermore stated that he raised an industrial dispute by his letter dated 27.06.2018 challenging the said illegal termination of his service before the Labour Department and the Opposite party replied by their letter dated 14.11.2018 and thereafter the applicant vide his letter dated 07.01.2019 replied to the letter dated 14.11.2018 of the O.P. The applicant also stated that due to adamant and/or uncompromised attitude of the management, the matter was not settled and accordingly, the said matter was referred to this Ld. Tribunal for adjudication. The applicant further stated that the termination of his service is /was prima facie illegal, unjustified and/or against the principles of law as the same has been done without following the statutory provisions of law. The applicant also stated that without giving any sort of opportunity to defend himself, the said termination is done which is bad in law and is liable to be set aside. The applicant further stated that during his service tenure, no show cause/ charge sheet and/or any disciplinary action was/were taken for any faults whatsoever. The applicant further stated that since the date of termination of his service he is unemployed and passing his days with hardship due to want of money. The applicant further stated that the said termination is/was nothing but is a case victimization using the colourable exercise of power and/or unfair labour practices adopted by the management. The applicant-workman prayed to answer the issues of reference in his favour and for directing the Opposite Party to reinstate the applicant-workman in service with full back wages and all consequential benefits thereto by passing an appropriate award.

Yojita Bhandari
12/06/25
Sewank Industrial Tribunal



3. Case of the Opposite Party

It appears from the order dated 26.04.2022 that the Opposite Party did not appear before this Tribunal even after receiving notice of the instant case. It further appears from the order dated 26.04.2022 that the notice sent to the O.P. under the registered post with A/D was duly served upon the Opposite Party on 15.01.2022 and this Tribunal vide order dated 26.04.2022 fixed the instant case for ex-parte hearing against the O.P. fixing 09.06.2022 for ex-parte hearing and according the instant case proceeded ex-parte against the O.P..

4. EVIDENCES

The case proceeded exparte against the Opposite party as discussed hereinabove.

The applicant Prodip Mondal led evidence and was examined as PW-1. The following documents were marked as Exhibits on his behalf—

<u>Sl. No.</u>	<u>Description</u>	<u>Exhibit No.</u>
1.	Photocopy of identity card of the workman	Exbt-1
2.	Photocopy of salary certificate dated 11.04.2016 of the workman issued by the Co./O.P	Exbt-2
3.	Photocopy of bank passbook.	Exbt-3
4.	Photocopy of demand of justice issued by Sri M.C. Bhandari, Advocate dt. 21.05.2018.	Exbt-4
5.	Photocopy of letter dated 27.06.2018 written by Sri Prodip Mondal to the Labour Commissioner, W.B.	Exbt-5
6.	Photocopy of the O.P's comment dated 14.11.2018.	Exbt-6
7.	Photocopy of reply to the O.P's letter dated 14.11.2018 by the workman's letter dt. 07.01.2019 to the A.L.C.	Exbt-7
8.	Photocopy of Conciliation Notice dated 29.11.2018	Exbt-8

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. The Ld. Advocate for the applicant/ workman further

submitted that the termination of employment of the applicant/workman over

phone on 02.05.2018 w.e.f 02.05.2018 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 O.P. did not comply the condition precedent to retrenchment as laid down under section 25F of the said Act, 1947 being compulsory obligation on the O.P. 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. Anand Regional Coop. Oil Seedsgrowers Union Ltd Vs. Shailesh Kumar Harshadbahi Shah (2006) 6 SCC 548
2. Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.ED) & Ors (2013) 10 SCC 324
3. Narottam Chopra Vs P.O. Labour Court 1989 Supp (2) SCC 97
4. Raj Kumar Vs Director of Education (2016) 6 SCC 541
5. Devinder Singh -VS- Municipal Council, Sanaur [2011(3) CLJ (SC)]
6. Anoop Sharma Vs Public Health Division Haryana (2010) 5 SCC 497
7. Harjinder Singh Vs. Punjab State Warehousing Corporation 2010 (1) CLJ (SC) 113
8. Mohanlal -VS- The Management Bharat Electronics Ltd. AIR 1981 SC 1253.

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

The evidence of the applicant/ workman remained uncontroverted and unchallenged.



Yojit K. Singh
Judge
Seventh Industrial Tribunal

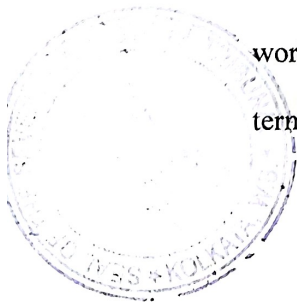
1. Whether the dismissal from service of Sri Prodip Mondal S/o Late Augustin Mondal, Vill. & P.O. Gosaba, Dist. South 24 Parganas, Pin - 743370 w.e.f. 1st April, 2018 by the management of M/s. Emmanuel Ministries Calcutta, 48, Ripon Street, Kolkata – 700 016 is justified ?
2. To what relief, if any, the workman is entitled ?

In light of the aforesaid contentions as well as uncontroverted evidences of the applicant/ workman brought in support thereof by the applicant/ workman and the settled position of law as regard to the term '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. The applicant categorically averred in the Written Statement filed by him that his primary and essential duty was to do the job of maintenance of staffs, looking after the orphan boys and control the Home from every corner . He also deposed the same in his Affidavit-in-chief.

From the Exhibit-2 (salary certificate dated 11.04.2016 issued by the O.P. to the applicant) it appears that the designation of the applicant was Community Worker as on 11.04.2016 which fortifies that the applicant falls within the definition of the workman under section 2(s) of the Industrial Disputes Act, as amended.

From the exhibits,. I also do not find any supervisory power and/or function assigned to the applicant. So, the applicant squarely falls within the definition of the workman under section 2(s) of the Industrial Disputes Act, as amended.

I also find that the O.P has terminated the services of the applicant/ workman over phone on 02.05.2018 by stating that the applicant has been terminated from today (02.05.2018) as per the order of the highest authority.



Yojita Gaurin
12/06/25
Judge
Seventh Industrial Tribunal

The termination of services of the applicant/ workman over phone with effect from 02.05.2018 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 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 Opposite Party and the said retrenchment is illegal retrenchment.

The salary structure of the applicant/workman appears from the Exhibit 2 being the salary certificate dated 11.04.2016 issued by the O.P. and it also appears from page 9 of Exhibit 3 (Xerox copy of the Bank Passbook) that there are two entries of the deposit by salary for April 2018 i.e. Rs. 2000/- and RS. 8587/- total Rs. 10,587/- (Net, after statutory deduction etc.) in the bank account of the applicant.

V. Ogilvie
Judge
12/06/25
Circuit Court of the United States

above made discussions and findings, I have no other alternative but to hold that the termination of service of the workman namely Sri Prodip Mondal , S/o Late Augustin Mondal, Vill. & P.O. Gosaba, Dist. South 24 Parganas, Pin – 743370 by way of refusal of employment by the management of **M/s. Emmanuel Ministries Calcutta, 48, Ripon Street, Kolkata – 700 016** w.e.f. 02.05.2018 is not justified. Further, I have no hesitation to hold that he was terminated from his service by the Opposite party over phone on 02.05.2018 w.e.f. 02.05.2018 without complying with the mandatory provision of Section 25F of the Industrial Disputes Act, 1947, which is not only illegal , void ab initio but also bad and against the principles of natural justice. So, his claim for reinstatement in service under the OP is quite justified.

So, considering all aspects, evidence as well as materials on record, armed with discussions, discussed above, I hold that the applicant/workman has been able to prove his case successfully and therefore, he is entitled to get an order of reinstatement in service in the OP with full back wages alongwith all consequential benefits thereto and of continuity of service.

Both the issues are, thus, disposed of in favour of the applicant and against the OP.

Hence, it is,

O r d e r e d

that the case being No. 19/2021/10 under Section 10 of the Industrial Disputes Act, 1947 be and the same is allowed exparte with cost of Rs. 50,000/- (Rupees fifty thousand only). The termination of employment of the applicant w.e.f. 02.05.2018 is set aside being bad, illegal and unjustified.

The OP is hereby directed to reinstate the applicant / workman namely, Prodip Mondal in service with full back wages alongwith all consequential benefits thereto and the services of the said

applicant/workman shall be deemed to be continuous service without any break for all purposes. Besides the cost of Rs. 50,000/- , the OP is further directed also to pay a sum of Rs. 1,00,000/- (Rupees one lakh only) as compensation to the said applicant/workman for his mental agony and unnecessary harassment arising out of this litigation. The OP is further directed to comply with the Award within a period of 30 days from the date of this Award, in default, the OP has to pay interest @ 10% per annum from the effective date of this Award till the realization of the entire due amount, failing which the applicant / workman will be at liberty to put the Award in execution in accordance with law.

This is my Award.

Let a copy of the Award be forwarded to the appropriate authority as envisaged under the law.

Dictated & corrected by me

Yogita Gaurisaria
Judge

Judge
Seventh Industrial Tribunal

Yogita Gaurisaria
(YOGITA GAURISARIA)

Judge,
Seventh Industrial Tribunal
Kolkata
12.06.2025

Judge
Seventh Industrial Tribunal

