

I/426530/2023

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

No.Labr/ .736. ./(LC-IR)/ 11L-14/17 Date: .14/08/2023.

ORDER

WHEREAS under the Government of West Bengal, Labour Department Order No. Labr/440-(LC-IR)/I.R./11L-14/17 dated 17.04.17 the Industrial Dispute between M/s. Camellia Institute of Technology(Camellia Educational & Manpower Development Trust), Digberia, Badu Road, Madhyamgram, Kolkata - 700129 and its workman Sri Debashis Dutta, Vill. - Reckjoani, Indra Nagar, P.O.+P.S. - Rajarhat, Kolkata - 700135 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 24/07/2023 in case no. VIII - 03/2017 on the said Industrial Dispute vide memo no. 1013 - L. T. dated. 09/08/2023.

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,

Sd/-
Assistant Secretary
to the Government of West Bengal

I/426530/2023

No. Labr/736/1(5)/(LC-IR)

Date: . . 14/08./2023.

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

1. M/s. Camellia Institute of Technology (Camellia Educational & Manpower Development Trust), Digberia, Badu Road, Madhyamgram, Kolkata - 700129.
2. Sri Debashis Dutta, Vill. - Reckjoani, Indra Nagar, P.O.+P.S. - Rajarhat, Kolkata - 700135.
3. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The O.S.D. & E.O. Labour Commissioner, W.B. New Secretariate 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

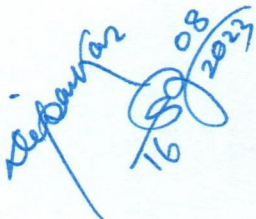
No. Labr/736/2(2)/(LC-IR)

Date: . . 14/08 /2023.

Copy forwarded for information to:

1. The Judge, First Industrial Tribunal, West Bengal with reference to his Memo No. 1013- L. T. dated. 09/08/2023.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata -700001.

Assistant Secretary



16/08/2023

In the matter of an Industrial Disputes exists between M/s Camellia Institute of Technology (Camellia Educational & Manpower Development Trust), Digberia, Badu Road, Madhyamgram, Kolkata – 700 129 and their Workman named Shri Debashis Dutta, Vill. – Reckjoani, Indra Nagar, P.O.+P.S. – Rajarhat, Kolkata – 700 135.

G.O. No. Labr./404/(LC-IR)/IR/11L-14/17, dated 17.04.2017

BEFORE THE FIRST INDUSTRIAL TRIBUNAL: WEST BENGAL

PRESENT

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

Date of Order: 24.07.2023

Case No.: VIII – 03/2017

The instant case has been initiated on receipt a copy of order of reference vide Government order No. Labr./404/(LC-IR)/IR/11L-14/17, dated 17.04.2017 from the Labour Department, Government of West Bengal referring an industrial dispute exists between M/s Camellia Institute of Technology (Camellia Educational & Manpower Development Trust), Digberia, Badu Road, Madhyamgram, Kolkata – 700 129 and their Workman named Shri Debashis Dutta, Vill. – Reckjoani, Indra Nagar, P.O.+P.S. – Rajarhat, Kolkata – 700 135 referred to this Tribunal for adjudication and for submitting its Award before the State Government along with issues being framed by the Department as follows:

ISSUES

- 1) Whether the termination of service of Shri Debashis Dutta w.e.f. 01.03.2016 is justified?
- 2) To what relief/reliefs, if any, is the Workman entitled?

The fact of the case of the Workman, Shri Debashis Dutta is as per his Written Statement of claim in a nutshell to the effect that Mr. Debashis Dutta joined the service in Camellia Institute of Technology as Lab Assistant in the Department of Physics on 01.09.2007, subsequently he was transferred to the Department of Computer Application as Technical Assistant on 25.03.2009 and then on 07.11.2009. He was re-designated as Technical Assistant.

It is further stated his service was confirmed on and from 01.09.2010 and his nature of job was all time Technical-cum-Clerical. From the month of September 2014 Mr. Debashis Dutta was denied further payment of his monthly salaries and subsequently for the month of February 2015 to 06.08.2015 his monthly salaries were totally stopped without any reason whatsoever. He intimated the entire matter to the management on 20.07.2015 and also by letter dated 06.08.2015 in spite of regularly done his duties without any stop. Then the Workman requested the management for releasing his unpaid amount to the tune of Rs. 1,23,836/- (Rupees one lakh twenty three thousand eight hundred thirty six) only being pending from September 2014 to 31.08.2015 followed by the order of authority of Shops and Establishments in respect of entitlement to have the said amount with statutory compensation/interest.



It is further stated that on 11.09.2015, Director of the Institution Mr. Avijit Das asked the Workman to meet with him for collecting his unpaid salaries and as soon as the Workman reached before Mr. Director he abused him and physically tortured with the help of one person named Mr. Dipendu chakraborty for which the Workman lodged a G.D.E. before Madhyamgram Police Station on that day i.e. on 11.09.2015 being G.D.E. No. 757. In spite of that, the Management was very much reluctant to paid up his unpaid dues of wages, lastly on 14.09.2015 the Workman espoused his grievances before the Assistant Labour Commissioner, Barasat followed by series of letters dated 06.11.2015, 19.11.2015, 03.12.2015 and 20.12.2015 by stating his severe financial constraints being cropped up for non-payment of those unpaid salaries, want of which his father expired after prolong illness.

Then suddenly the management issued a purported show-cause notice on 27.01.2016 based on series of unfounded and false allegations against which the reply was made on 02.02.2016 and again on 08.02.2016 the management alleged various allegations against the Workman by their letters which were all fictitious and false against which the reply was made on 11.02.2016 from the end of the Workman. The Workman demands allegations as referred by the Management were all misconceived, misleading, concocted and false.

He further demands that during his employment he used to deliver his duties both technically and clerically.

He further demands that the rude, indecent and frightening behaviour of the management forced the Workman abstaining himself from the duty in the month of September 2015 by taking his all kinds of leave facilities which was authorized to him.

The Workman further demands that a fictitious Disciplinary Committee was constituted by the strength of rare imagination without any knowledge of existence of such committee by the Workman having no scope of self-defence being offered and without any copy of any such proceeding and actually there is no existence of any such Committee followed by a letter dated 01.03.2016 terminating the service of the Workman on 01.03.2016, which was made illegally and unjustifiedly.

Against the said action of the management the present dispute has been raised before the Labour Commissioner, Government of West Bengal

Be it mentioned here that the Workman has admitted that the Learned Referee under Shops and Establishment Act, 1963 passed an order in favour of the Workman on 21.11.2016 by the strength of which the Workman had become entitled to get a sum of Rs. 1,87,350/- (Rupees one lakh eighty seven thousand three hundred fifty) only from the management to the extent of his unpaid salaries. It is claimed by the Workman that he is not gainfully employed anywhere while he was terminated for which he has been passing his days through severe economic constraints and absolutely dependent on the charity and help of the well wishers.

The Workman demands that he is/was never a staff of management and administration or supervisory power of authority and no one was under him nor



accountable to him or having no power to take any disciplinary or administrative action against any workman. It is clear that he is/was all along a workman under the Company.

The Workman prays before this Tribunal for passing an Award holding that the order of termination on and from 01.03.2016 is illegal, invalid in the eye of law and also for passing the relief of reinstatement with back wages and other consequential benefits in the interest of justice.

On the other hand the Company had appeared and contested the case by filing Written Statement denying all material allegations and contended to the effect that the contents of claim statements filed by the Workman are false, fake and baseless and the application is not maintainable and the order of dismissal by the Company is fair and well founded and therefore, the Workman is not entitled to any relief as prayed for.

Thereafter, in due course of time in spite of repeated summons, notices the Company desires not to contest the case anymore. Hence the Tribunal thinks fit and proper by fixing the case for ex parte hearing. Accordingly the case is taken up for ex parte hearing and in support of the case the Workman Shri Debashis Dutta has been examined himself as PW-1 along with filing of documents which have been marked as Exhibit-1 to Exhibit-14.

- 1) Photocopy of letter of the Institute dated 01.09.2007 to the Workman. **Marked as Exhibit – 1.**
- 2) Photocopy of letter of the Workman dated 16.10.2007 to the Institute. **Marked as Exhibit – 2.**
- 3) Photocopy of letters of the Institute dated 25.03.2009, 07.11.2009 and 01.09.2010 to the Workman. **Marked as Exhibit – 3, 3/1 & 3/2.**
- 4) Photocopy of Pay slip for the month of May, 2014 and Identity Card of the Institute issued to the Workman. **Marked as Exhibit – 4 & 4/1.**
- 5) Photocopy of letters of the Workman dated 20.07.2015, 06.08.2015, 31.08.2015, 01.09.2015 & 11.09.2015 to the Institute and Labour Commissioner. **Marked as Exhibit – 5 (series).**
- 6) Photocopy of GDE lodged before the Madhyamgram Police Station dated 11.09.2015 by the Workman. **Marked as Exhibit – 6.**
- 7) Photocopy of letter dated 14.09.2015 to the Assistant Labour Commissioner by the Workman. **Marked as Exhibit – 7.**
- 8) Photocopy of Workman's letters dated 06.11.2015, 19.11.2015, 03.12.2015 and 20.12.2015 to the Institute. **Marked as Exhibit – 8 (series).**
- 9) Photocopy of Workman's letter dated 02.02.2016 and 11.02.2016. **Marked as Exhibit – 9 & 9/1.**
- 10) Photocopy of Death Certificate of father of the Workman. **Marked as Exhibit – 10.**
- 11) Photocopy of Institute's letter dated 01.03.2016 terminating the service of the Workman. **Marked as Exhibit – 11.**
- 12) Photocopy of Workman's letter dated 02.03.2016 to the Institute. **Marked as Exhibit – 12.**
- 13) Photocopy of Workman's letter dated 03.03.2016 to the Assistant Labour Commissioner, Barasat. **Marked as Exhibit – 13.**



14) Photocopy of Findings of the Referee, dated 21.11.2016. **Marked as Exhibit – 14.**

Thereafter argument was heard at length on 25.10.2021 and 26.11.2021. Thereafter, dates were fixed for filing Written Notes of Arguments and ultimately no Written Notes of Arguments filed though Workman is/was present. Even then Company never appears during this length of period from 26.11.2021 to till date.

Considering all unchallenged testimony and documents I am of opinion that the Workman has succeeded to prove his case beyond all reasonable doubts and therefore, he is entitled to reliefs as prayed for

In sum the case succeeds.

Hence it is

AWARDED

That the instant case No. VIII – 03/2017 u/s 10 of the Industrial Disputes Act be and the same is allowed on exparte with cost of Rs. 10,000/- (Rupees ten thousand) only.

The Company is directed to reinstate the Workman in his service, if, he does not cross the age of retirement along with full back wages and other consequential benefits thereto.

The Company shall also pay a compensation to the Workman to the tune of Rs. 1,00,000/- (Rupees one lakh) only for the severe mental agony and pain and also for unnecessary harassment arising out of this litigation followed an illegal unjustified attitude of the management as well as the Company.

The Company is also directed to pay all the dues and outstanding, cost and compensation as ordered above by this Tribunal within 3 (three) months from the date of publication or the date of receipt of this order, whichever is earlier, in default the Workman shall have the right to execute the Award as per provisions of law being applicable in this respect

This is my Award.

Let the Award be sent to the Government.

Sd/-

(Uttam Kumar Nandy)
Judge
First Industrial Tribunal
Kolkata

JUDGE
FIRST INDUSTRIAL TRIBUNAL
WEST BENGAL

Dictated & corrected by me

Sd/-

(Uttam Kumar Nandy)
Judge

JUDGE
FIRST INDUSTRIAL TRIBUNAL
WEST BENGAL

