

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

No. Labr/ 766 / (LC-IR)/ LABR-22015(16)/87/2025

Date: 07/07/2025

ORDER

WHEREAS under Labour Department's Order No. Labr/709-IR/IR/9L-27/99(pt) Dated 28.06.05. with reference to the Industrial Dispute between M/s. Nepuchapur Tea estate, P.O- Baradighi, Dist. Jalpaiguri and their workman Sri Francis Munda and four others represented by West Bengal Cha Sramik union (Regd. No. 2233), P.O- & Dist. Jalpaiguri 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 6th Industrial Tribunal, Jalpaiguri.

AND WHEREAS the 6th Industrial Tribunal, Kolkata, has submitted to the State Government its Award dated 13.06.2025 in Case No. VIII 05/2005(VI) on the said Industrial Dispute Vide e mail dated 02.07.2025 in compliance of Section 10(2A) of the I.D. Act' 1947.

NOW, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Dispute Act's 1947 (14 of 1947), the Governor is hereby pleased 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/ 766 /1(5)/(LC-IR)/ LABR-22015(16)/87/2025
Copy forwarded for information and necessary action to:

Date: 07/07/2025

1. M/s. Nepuchapur Tea estate, P.O- Baradighi, Dist. Jalpaiguri.
2. Sri Francis Munda and four others represented by West Bengal Cha Sramik union (Regd. No. 2233), P.O- & Dist. Jalpaiguri.
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/ 766 /2(3)/(LC-IR)/ LABR-22015(16)/87/2025

Date: 07/07/2025

Copy forwarded for information to:

1. The Judge, 6th Industrial Tribunal, Jalpaiguri, nawab Bari Judicial Complex, P.O & Dist. Jalpaiguri-735101. with reference to her e-mail dated 02.07.2025.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata -700001.
3. Office Copy.



Assistant Secretary
to the Government of West Bengal



Government of West Bengal
Office of the Sixth Industrial Tribunal
Nawab Bari Judicial Complex
Jalpaiguri

No. 190 /I.T.(J)

Dated, Jalpaiguri the 26/06 /2025

From : The Judge, Sixth Industrial Tribunal
Nawab Bari Judicial Complex,
P.O. & Dist. Jalpaiguri-735101.

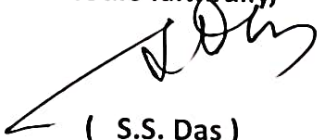
To : The Assistant Secretary to the Govt. of West Bengal
Labour Department, I.R. Branch,
New Secretariat Building, 12th Floor,
1, Kiran Sankar Roy Road,
Kolkata-700001.

Sir,

I am forwarding herewith copy of the award dt. 13.06.2025 passed in connection with Case No. VIII-05/2005(Vi), referred to this Tribunal by Labour Department, Government of West Bengal, I. R. Branch, Writers' Buildings, Kolkata-700001, vide No. 709-I.R./I.R./9L-27/99 (Pt) dt. 28.06.2005 U/s. 10 read with Section 2A of the Industrial Dispute Act, 1947 for your kind information and taking necessary action.

Encl: As stated

Yours faithfully,



(S.S. Das)
Judge
Sixth Industrial Tribunal
Nawab Bari Judicial Complex
Jalpaiguri

JUDGE
Sixth Industrial Tribunal
Jalpaiguri

Case No. VIII-05/2005(Vi)

BEFORE THE JUDGE, SIXTH INDUSTRIAL TRIBUNAL, JALPAIGURI



Present

Sri S. S. Das, Judge,

Sixth Industrial Tribunal, Jalpaiguri

A P P E A R A N C E S

1. Sri Kamal Krishna Banerjee, Advocate for the Workman

This Industrial Dispute in between M/s. Nepuchapur Tea Estate, P.O. Baradighi, Dist. Jalpaiguri and their workmen Sri Francis Munda and four others represented by West Bengal Cha Sramik Union (Regd. No. 2233), P.O. & Dist. Jalpaiguri has been referred to this Tribunal by the Assistant Secretary, Govt. of West Bengal, Department of Labour in exercise of power conferred U/s. 10 of the Industrial Disputes Act with a direction to this Tribunal to submit its award within the period as stipulated by the Order dt. 28.06.2005.

A W A R D

The fact of the case in resume which gives rise the disputes in between the parties is hereunder : -

On 30th June, 2001 the management of Nepuchapur Tea Estate issued suspension letter to the workmen individually alleging that on 19.06.2001 at about 8.30 a.m. the workmen along with others forcibly entered into the office of the Manager of the Tea Estate and abused the Manager by using filthy languages and threatened the Manager without any provocation and demanded explanation about the proposed employment of a staff of the Tea Estate and they physically assaulted Mr. Anwindu Behari Ray Manager, Mr. Malay Sarkar and other office bearers including the Head Clerk of the garden with lethal weapons like swords and caused grievous physical injury to all the office bearers. The workmen also alleged to have obstructed the injured persons to be admitted in Hospital for medication. The company management also alleged that the workmen ransacked the office, destroyed the furniture and garden documents and all these activities tent amounts to willful damage of employer's property and also an hindrance to the good running of estate violating all the norms and procedures of the standing orders.

The management having considered the aforesaid alleged misconduct being serious in nature suspended the workmen and called for an explanation within three days

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from the receipt of chargesheet showing cause as to why further disciplinary action will not be taken against the workmen.

Following the chargesheet dt. 30.06.2001 an enquiry was held on 16.02.2002 and on 08.04.2002 wherein the workmen were found guilty and the workmen were terminated from their service with immediate effect and by letter dt. 31.12.2002 the management communicated the dismissal order / termination order to the workmen.

On receipt of order of the Government Labour Department referring the disputes to this Tribunal notices were issued to the parties and pursuant to that both the sides appeared and on behalf of the workmen written case was filed to this Tribunal on 29.04.2015 but unfortunately despite sufficient opportunity no written case was filed by the employer side and ultimately on 11.01.2019 the case was fixed for ex parte hearing and the case was heard against the employer exparte.

So far as the written case of the workmen is concerned as it is revealed from the case statement filed by the workmen on 29.04.2015 I find that all through all the allegations of the management have been denied. It has been specifically denied that on 19.06.2001 at about 8.30 a.m. the workmen along with others forcibly entered into the office of the manager or abused him by using filthy languages or physically assaulted the office bearers or ransacked the office and / or in any way obstructed the injured persons in shifting them to hospital or did any misconduct contrary to the standing orders. It has been specifically stated that the chargesheet as it was filed against them are baseless and concocted and it has been categorically stated that despite submission of written explanation by the workmen, management did not accept the same and in most utter disregard to all norms and procedures of the standing orders and in violation of principles of natural justice terminated their service on the basis of a false and frivolous enquiry by appointing an Enquiry Officer who throughout the entire enquiry proceedings did not ever act as partisan. It has been categorically stated in the written case of the workmen that their termination of service and or dismissal of service by the management of the company was totally illegal, motivated and beyond any principles of natural justice and finally by the workmen the dismissal / termination order by the company is sought to be cancelled with a prayer for reinstatement of the workmen in their service with full back wages and for other relief which the workmen are entitled to.

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From record it appears that despite having sufficient opportunity to contest the case by filing case statement the employer did not file any case statement and thereby no pleading on behalf of the company employer is forthcoming before this Tribunal.

On the face of the disputes this Tribunal has been asked to resolve the following issues :-

- 1) Whether the dismissal of (i) Francis Munda (Chowkidar, Plantations)
(ii) Harinder Karmakar, D.R.W.
(iii) Deo Nath Routia, D.R.W.
(iv) Kunwari Lohar D.R.W.
(v) Seema Oraon, from their services by the management of Nepuchapur Tea Estate is justified ?
- 2) What relief, if any, are the workmen entitled to ?

From the workmen side oral and documentary evidences have been adduced and altogether, for the workmen seven witnesses have been examined including the four workmen whose services have been terminated except Francis Munda whose service was also terminated but who died pending the proceeding and in his place his son Ranjit Munda has been examined in this case as PW-7.

So far as the documentary evidences are concerned a number of documents have been filed by the workmen which are marked exhibits in this case as Exhibit Nos. 1 to 18.




DECISION WITH REASONS

Now this Tribunal has to consider, on the face of the materials on record, as to whether the services of the workmen was terminated by the management of Nepuchapur Tea Estate legally in due adherence to the principles of natural justice and in accordance with the provisions of law.

At the very outset the point to be noted that throughout the entire proceedings the management of Nepuchapur Tea Estate remained absent in court. Though at the very initial stage of the proceeding they appeared through their representative but ultimately remained absent without filing any case statement and thereby allowed the proceeding to be continued ex parte against them and therefore

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a very pertinent question arises when the dispute has been referred to this Tribunal for adjudication with the notice to the Nepuchapur Tea Estate what prompted them not to come to this Tribunal to ventilate their case properly ? When the workmen who are alleged to have been terminated by the management of Nepuchapur Tea Estate illegally repeatedly harped the issue of "illegal dismissal" right from the beginning by challenging the chargesheet as well as domestic enquiry and ultimately had gone to the Government of West Bengal Labour Department, seeking the intervention of the government and ultimately reference has been made by the Government to this Tribunal to resolve the disputes, the management of Nepuchapur Tea Estate should have come to this Tribunal to contest the proceeding justifying their act of dismissal of services of the workmen, but it is unfortunate enough that no pleading has been filed by the management of the Tea Estate denying the case of the workmen and throughout the entire case the management remained absent in court and to my considered opinion absence of the management before this Tribunal, reluctant attitude of the management to file any pleading against the case of the workmen speaks a volume which should not be ignored by this Tribunal. It is the settled principles of law that unless any facts is not controverted or denied specifically that should be deemed to have been admitted. Here, in our case to controvert the contention of the workmen no pleading is filed by the employer and no facts has been denied and therefore the court can very well accept the contention of the workmen to be true. It is the specific case of the workmen that on the basis of a false and concocted story which has been coloured further by the management they have been illegally terminated from their services. It was pleaded by the workmen in their case statement that on 19.06.2001 at about 8.30 a.m. they never entered into the office of the Manager or demanded any explanation about the proposed employment of a staff of the Tea estate or they never abused the management or the office bearers by using any unparliamentary words or they never ransacked the office and destroyed the furniture of the garden or physically injured any office bearers. The workmen categorically in their case statement stated that they never did any misconduct or did any act contrary to the provisions of the standing orders. All the five workmen except Francis Munda who died in course of the proceedings coming on dock testified before this Tribunal and on oath all the workmen stated that on the



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day of 19.06.2001 at about 8.30 a.m. they did not forcibly entered into the office of the Manager and demanded any explanation or physically injured the manager or other office bearers or ransacked the office etc. etc. The workmen further on dock stated that the domestic enquiry was conducted by the henchman of the company who in violation of the principles of natural justice conducted the enquiry without giving any opportunity to the workmen to cross-examine the management witnesses and without supplying any copy of the evidence of the management depriving the right of the workmen to put forth their case before the enquiry officer and it is also categorically stated in the testimony of the workmen that the enquiry officer did not allow them to examine any witness on their behalf. The testimony of the workmen have duly been corroborated in this case by other PWs (PW-1 and PW-6). The testimony of the five terminated workmen remained unchallenged. No cross-examination is done and no rebuttal evidences are forthcoming.

Keeping in mind the chequered history of the case and on the face of the facts and circumstances enjoins and overall on the face of the materials on record I have no hesitation to hold that the dismissal of the services of the five workmen, namely, (i) Francis Munda(since deceased), (ii) Harinder Karmakar, D.R.W., (iii) Deo Nath Routia, D.R.W. (iv) Kunwari Lohar, D.R.W. and (v) Seema Oraon with effect from 31.12.2002 is illegal and arbitrary and in violation of principles of natural justice and as such all the above named five workmen are entitled to be reinstated with their services with all benefits to which they were entitled on the date of their termination of service. Hence, it is

ORDERED

That the order of dismissal of services of (i) Francis Munda (since deceased) , (ii) Harinder Karmakar, D.R.W., (iii) Deo Nath Routia, D.R.W., (iv) Kunwari Lohar, D.R.,W. and (v) Seema Oraon with effect from 31.12.2002 are illegal and the orders are hereby set aside.

The management of Nepuchapur Tea Estate is directed to reinstate the workmen above named except Francis Muda (since deceased) in their original post along with all back wages, continuity of service, seniority etc. with immediate effect along with other service benefits to which they were entitled to prior to their dismissal.



[Signature]
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The Management of Nepuchapur Tea Estate is further directed to disburse all the back wages together with service benefits of Francis Munda, since deceased, to which the workman Francis Munda was entitled to till his death, to his legal heirs.

This award is passed on this day authorizing the workmen the liberty to take steps according to law in case of non compliance of the award by the management of the company .

The award shall be enforceable after 30 days from the publication of this award in the Gazettee notification.

Dictated & corrected by me

S. S. Das

(S.S. Das)

Judge

13/06/2025

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Jalpaiguri

S. S. Das

(S.S. Das)

Judge

13/06/2025

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