

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/ 877 /(LC-IR)/ 22015(16)/97/2025

Date : 01-08-2025

ORDER

WHEREAS an industrial dispute existed between M/s. Bengal Chamber of Commerce and Industry, Royal Exchange, 6, Netaji Subhas Road, Kolkata-700001 and its workman Smt. Piyasa Bhawal, P-18A, Raja Rajkrishna Street, Kolkata-700006, regarding the issues, being a matter specified in the second schedule of the Industrial Dispute Act' 1947 (14 of 1947);

AND WHEREAS the 5<sup>th</sup> Industrial Tribunal, Kolkata has submitted to the State Government its Award dated 22.07.2025 in Case No. 04/2009 on the said Industrial Dispute Vide e-mail dated 28.07.2025 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' 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/ 877 /1(5)/(LC-IR)/ 22015(16)/97/2025

Date : 01-08-2025

Copy forwarded for information and necessary action to :-

1. M/s. Bengal Chamber of Commerce and Industry, Royal Exchange, 6, Netaji Subhas Road, Kolkata-700001.
2. Smt. Piyasa Bhawal, P-18A, Raja Rajkrishna Street, Kolkata-700006.
3. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The OSD & EO 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 request to cast the Award in the Department's website.

  
Assistant Secretary  
to the Government of West Bengal

No. Labr/ 877 /2(3)/(LC-IR)/ 22015(16)/97/2025

Date : 01-08-2025

Copy forwarded for information to :-

1. The Judge, 5<sup>th</sup> Industrial Tribunal, N. S. Building, 1, K.S. Roy Road, Kolkata - 700001 with reference to e-mail dated 28.07.2025.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.
3. Office Copy.

  
Assistant Secretary  
to the Government of West Bengal

In the matter of an industrial dispute initiated by the Bengal Chamber of commerce and Industry of Royal Exchange. Registered Office at 6, Netaji Subhas Road, Kolkata-700 001 under Section 33(2)(b) of Industrial Dispute Act, 1947 seeking approval for dismissal of the workman Piyasa Bhawal of P-18A, Raja Rajkrishna Street, Kolkata-700006.

**Case No. 04/2009 U/s. 33(2)(b) Industrial Dispute Act**

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**Present : Sri Bibekananda Sur,  
Judge,  
5<sup>th</sup> Industrial Tribunal, Kolkata**

**A W A R D**  
**DATED, 22.07.2025**

The present application under Section 33(2)(b) of Industrial Dispute Act is for seeking approval for the dismissal of the delinquent employee Piyasa Bhowal made on 10.06.2009 on which date she was dismissed and her one month's salary was forwarded to her by post.

The said Piyasa Bhowal appeared and contested the proceedings and also filed an independent application under Section 33(A) of Industrial Dispute Act separately numbered as 3 of 2009.

In view of above following issues were framed:-

- 1) Whether the application U/s. 33(2)(b) of the Industrial Disputes Act, 1947 is maintainable in law and fact?
- 2) Whether the Management is entitled to get relief of approval regarding dismissal of workman from his service as prayed for?
- 3) To what other relief, if any is the Management entitled?

To prove the case the following witnesses adduced evidence for the Management.

1. Ms. Sukanya Bose, MW-1
2. Sri Harisadhan Das, MW-2
3. Sri Sanjay Mukherjee, MW-3
4. Sri Manik Kath Venugopalan Menon, MW-4

Piyasa Bhowal adduced evidence as WW-1 and controverted the evidence of the Management

**List of documents relied upon by the Management on merit (Exhibited on 27.05.2022)**

1. The photocopy of Identity Card of MW-2 (Exbt.A)
2. The photocopy of Aadhaar Card of MW-2 (Exbt.B)
3. The photocopy of Management's letter dated 15.01.2009 (Exbt.C)
4. The photocopy of Management's authorisation letter dated 17.03.2022 (Exbt.D)
5. The original authorisation letter (Exbt. E)
6. Photocopy of Postal A/D Card dated 10.06.2009 (Exbt. F)

7. The Photocopy of Postal Receipt No. RLAD J 3161, dated 10.06.2009 (Exbt.G)
8. Photocopy of Account Payee Cheque dated 10.06.2009 stand in the name of Piyasa Bhowal amounting Rs. 8,150/- of Syndicate Bank, N. S. Road, Dalhousie, Kolkata-1 vide Cheque No. 926489 (Exbt.H)
9. Photocopy of Monthly Salary Statement of Mrs. Piyasa Bhowal for the month of April,2008 Net amount Rs. 6,245/- and it also bears the signature of Piyasa Bhowal dated 23.04.2008 (Exbt.I).
10. Photocopy of receipt letter dated 02.05.2008 duly written by me addressing to Piyasa Bhowal which was duly received by Piyasa Bhowal dated 05.05.2008 (Exbt.J)
11. Photocopy of note dated 29.04.2008 duly written by the then Secretary General, Subhodip Ghosh (Exbt.K)
12. Photocopy of charge sheet dated 05.05.2008 duly issued by me on behalf of the management addressing to Piyasa Bhowal and it content two pages (Exbt.L)
13. Photocopy of 2<sup>nd</sup> show cause notice dated 23.04.2009 duly written by S. Ramkrishnan, the then Secretary General of the Management addressing to Piyasa Bhowal (Exbt.M)
14. The photocopy of dismissal letter dated 10.06.2009 addressing to Piyasa Bhowal duly written by S. Ramkrishnan, the then Secretary General of the Management (Exbt.N)
15. Letter dated 20.07.2022 (Exbt. O)
16. Photocopy of Memorandum dated 26.09.1980 (Exbt. P)
17. Photocopy of letter dated 07.05.2008 written by Piyasa Bhowal addressing to Mr. Khokan Mukherji (Exbt. P/1)
18. Letter dated 20.10.2017 written by the then Secretary General, Subhodip Ghosh addressing to Sri Sanjay Mukherjee (Exbt.Q)
19. Letter dated 12.10.2018 written by the then Secretary General, Subhodip Ghosh addressing to Mr. Sanjay Mukherjee (Exbt.Q/1)
20. Letter dated 14.10.2019 written by the then Secretary General, Subhodip Ghosh addressing to Mr. Sanjay Mukherjee (Exbt.Q/2)
21. Letter dated 14.10.2019 written by the then Secretary General, Subhodip Ghosh addressing to Mr. Sanjay Mukherjee (Exbt.Q/2)
22. Letter dated 19.10.2020 written by the then Secretary General, Subhodip Ghosh addressing to Mr. Sanjay Mukherjee (Exbt.Q/3)
23. Letter dated 19.10.2021 written by the then Secretary General, Subhodip Ghosh addressing to Mr. Sanjay Mukherjee (Exbt.Q/4)
24. Letter dated 24.04.2022 written by the then Secretary General, Subhodip Ghosh addressing to Mr. Sanjay Mukherjee (Exbt.Q/5)

**List of documents filed by the workman**

- 1) Photocopy of appointment letter dated 10.02.1995 (Exbt. A)
- 2) Photocopy of charge sheet dated 05.05.2008 (Exbt. B)
- 3) Photocopy of letter dated 08.05.2008 (Exbt. C)

Prior to going into the merit of the case , the defence case should be discussed and answered in following manner:

**Defence Case**

Defence althrough argued that the Union filed a case for their demand of charter and that case was a meritless one and liable to be dismissed and as a result of that there is no justified ground to file any application under Section 33(2)(b) of the I.D. Act but the management filed the same as a precautionary measure because subsisting of a proceedings is the condition precedent for seeking approval for dismissal of the delinquent employee who was found guilty in an inhouse enquiry. Admittedly a case was pending bearing No. VIII-02 of 2007 and as such filing of application under Section 33(2)(b) of I. D. Act is not a superfluous one.

The Management relied upon various reported judgement as follows:-

Deepak Industries Ltd vs. State of WB reported in (Cal H.C.) 1975 Lab. I.C. 1153 and in the case of Savera & Co. Ltd. vs. Seventh Industrial Tribunal reported in 1983Lab.I.C.(2) Noc 93(Cal) and considering the principle decided in Muksh K. Trapathi Vs. Senior Divisional Manager reported in 2004 Lab.I.C.(4)3688 Para 23

The Management vigorously challenged maintainability of the demand of charter, which compelled the Management to present the application under Section 33(2)(b) of the I.D. Act for seeking approval otherwise there was no obligation to file the application.

**Now the question is whether application under Section 33(2)(b) of the I.D. Act is necessary if the then pending case for demand of charter turns out as meritless on adjudication?**

The Management filed the application under Section 33(2)(b) of the I.D Act admitting the proceedings as subsisting one.

At the time of filing the application under Section 33(2)(b) of I.D. Act the proceedings was found pending and as such there was valid cause of action for filing the application under Section 33(2)(b) of I.D. Act.

In view of above discussion , it appears that at the time of filing the case Under Section 33(2)(b) of I.D. Act , another proceeding was found pending and accordingly, there was a good and valid cause of action , for seeking approval . So , the merit of the subsisting case should not be the criteria to judge the necessity for seeking approval ,

rather subsisting proceeding irrespective of its merit unerringly reflects the necessity for seeking approval.

**All the issues are taken up together for convenience.**

Ms. Sukanya Bose MW-1 adduced in support of the charge against the delinquent employee and further adduced that Piyasa Bhowal was shouting at the top of her voice for which she was prevented to respond her telephonic follow-up action.

This MW-1 did not reveal as to how she was prevented to take follow up action on the basis of telephonic instruction received by her and also did not reveal the kind of official work which was hampered due to alleged shouting by the said Piyasa Bhowal.

MW-2 adduced that on 29.04.2008 Mr. Subhadip Ghosh the then Assistant Secretary lodged a complaint against Piyasa Bhowal, for which she was charge sheeted on 05.05.2008 and prior to that she was suspended by letter dated 02.05.2008.

During cross-examination of MW-2, he categorically admitted that other than charge sheet and complaint there is no document in support of the grave and serious nature misconduct of the delinquent employee warranting her dismissal.

Such admission of the MW-2 revealed that the complaint being the basis of the chargesheet is the only document in support of the misconduct of the delinquent employee .

MW-2 further admitted during cross examination that he did not lodge the written complaint rather the complaint letter dated 29.04.2008 (Exhibit-K) was the basis for charge sheet was the complaint and that has not been proved by the author of the complaint.

MW-3 also revealed that he did not lodge any complaint before the authority of Bengal Chamber of Commerce and the MW-3 is nonest to prove the complaint.

MW-4 Manik Kath Venugopalan Menon adduced evidence in examination in chief that on 28.04.2008 at 1.00 O'clock he asked Piyasa Bhowal about her anger and her reaction was most unexpected because Piyasa Bhowal told him that it was none of his business.

MW-4 did not adduce any evidence to establish that his unilateral approach to interact with Piyasa Bhowal was an outcome of official activity arising out of alleged conduct and behaviour of Piyasa Bhowal .

It further appears from the evidence of MW-4 that Piyasa Bhowal was not interested in talking to MW-4 and that being so, if anyone does not like to talk to others then it is to be presumed that she is an disinterested person and such disinterest should not be taken at par to treat the same as a matter of insult for the MW-4 and also should not be amounting to be an official misconduct as a ground of charge against the delinquent employee.

That apart, when a person personally attempted to talk to his office colleague without being moved by an official communication that attempt to talk to the office colleague should come within the purview of his personal affair and that should not be allowed to treat the same as an official interaction in between the MW-4 and the said Piyasa Bhowal. That apart the MW4 admitted during cross examination that he did not make any communication before the Management regarding the incident dated 23.04.2008, 28.04.2008 and 29.04.2008 and accordingly unilateral approach of MW-4 towards Piyasa Bhowal was a personal and private affairs and should not be a subject matter of charge for levelling the same against Piyasa Bhowal allegedly for insulting the MW-4.

When the MW-4 admitted that he did not make any complaint about the incident for those three days , interaction in between Piyasa Bhowal and MW-4 is safely presumed to be a private and unofficial interaction and accordingly if MW-4 feels insulted that was not an outcome of any official activity or communication and as such that should not be a ground of charge levelled against the delinquent employee.

The evidence of MW-2 reflects that the charge was on the basis of lodging of complaint by the then Assistant Secretary who did not prove the complaint to prima facie establish the charge against Piyasa Bhowal.

In view of above materials on records, it appears that the evidence adduced by the Management is not convincing to prove the charge against the employee Piyasa Bhowal.

In view of above discussion it appears that the ground for dismissal was bad and as such no approval for dismissal of the workman from the service is accorded.

Hence

it is ordered that the application Under Section 33(2)(b) is dismissed on contest without cost.

Dictated and corrected and Award Delivered by

Sd/- BIBEKANADA SUR  
Judge, 5th Industrial Tribunal, Kolkata

GOVERNMENT OF WEST BENGAL  
DIRECTORATE OF INDUSTRIAL TRIBUNALS  
NEW SECRETARIAT BUILDINGS  
BLOCK – 'A', 2<sup>ND</sup> FLOOR  
1, KIRAN SANKAR ROY ROAD  
KOLKATA – 700001

Memo No. Dte/ 5<sup>th</sup> I.T/029/2025

Dated Kolkata, the 24/07/2025

From: Shri Bibekananda Sur,  
Judge,  
5<sup>th</sup> Industrial Tribunal  
Industrial Tribunal,  
Kolkata – 1.

To : The Secretary to the  
Govt. of West Bengal,  
Labour Department,  
New Secretariat Buildings, 12<sup>th</sup> Floor,  
1, Kiran Sankar Roy Road,  
Kolkata – 700 001.

**Sub: The Award between M/s Bengal chamber of commerce and Industry Vs Piyasa Bowal**  
( Case No. 04 of 2009 U/s. 33(2)(b) of the I.D. Act.1947)

Sir,

I am sending herewith the Award passed in the matter of an industrial dispute between M/s Bengal chamber of commerce and Industry, Royal Exchange, 6, Netaji Subhas Road, Kolkata- 700001 and workman Piyasa Bhawal of P-18A, Raja Rajkrishna Street, Kolkata- 700006

Encl: As stated above.

Yours faithfully,

(Bibekananda Sur)  
Judge,  
Fifth Industrial Tribunal  
Kolkata  
22.07.2025