

I/556422/2024

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

No. Labr /923/(LC-IR)/22015(16)/11/2019

Date: 10/09/2024.

ORDER

WHEREAS under the Government of West Bengal, Labour Department Order No. Labr/912-IR/11L-52/13 dated 10.07.2014 the Industrial Dispute between M/s. Duropolyprene Ltd., 47B, Diamond Harbour Road, Kolkata - 700038 and its workman Sri Susanta Das, Vill + P.O. – Bishnupur, Dist. – 24-Pgs(South), Pin - 743503 regarding the issue mentioned in the said order, being a matter specified in the Second / Third Schedule to the Industrial Dispute Act, 1947 (14 of 1947), was referred for adjudication to the Judge, Eighth Industrial Tribunal, West Bengal.

AND WHEREAS the Eighth Industrial Tribunal, West Bengal, has submitted to the State Government its award dated 30.08.2024 in Case No. VIII-84/2014 on the said Industrial Dispute vide Memo No. Dte/8th IT/097/2024 dated – 03.09.2024.

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

No. Labr/923/1 (5)/(LC-IR)

Date: 10/09/2024.

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

1. M/s. Duropolyprene Ltd., 47B, Diamond Harbour Road, Kolkata - 700038.
2. Sri Susanta Das, Vill + P.O. – Bishnupur, Dist. – 24-Pgs (South), Pin - 743503.
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.

Sd/-

Assistant Secretary

No. Labr/923/1(3)/(LC-IR)

Date: 10/09/2024.

Copy forwarded for information to:

1. The Judge, Eighth Industrial Tribunal, West Bengal with reference to his Memo No. Dte/8th IT/097/2024 dated – 03.09.2024.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.
3. Office Copy.

O.S.D. (IT) / Department Sec.
10/09/2024

Assistant Secretary

In the matter of an industrial dispute between M/s. Duropolyprene Ltd., 47B, Diamond Harbour Road, Kolkata-700038 and its workmen Sri Susanta Kumar Das, Vill + P.O. – Bishnupur, Dist. 24-Parganas, Pin - 743503 referred to this Tribunal Vide G. O. No. 912-I.R./I.R./11L-52/13 dated 10.07.2014 and reference no. 3115-IR/IR/3A-6/59, dated 21/06/1960.

(Case No. VIII-84/2014)

Before the Eighth Industrial Tribunal: West Bengal
Present Sri Amit Chattopadhyay,
Judge, Eighth Industrial Tribunal,
West Bengal.

A W A R D

Dated 30.08.2024

Received a copy of order of reference vide G. O. No. 912-I.R./I.R./11L-52/13 dated 10.07.2014 from the Labour Department, Govt. of West Bengal and reference no. 3115-IR/IR/3A-6/59, dated 21/06/1960 referring an industrial dispute which exists between M/s. Duropolyprene Ltd., 47B, Diamond Harbour Road, Kolkata-700038 and its workmen Sri Susanta Kumar Das, Vill + P.O. – Bishnupur, Dist. 24-Parganas, Pin – 743503 to this Tribunal for adjudication on the following issues:-

I S S U E (S)

1. Whether the dismissal of Sri Susanta Kumar Das from service w.e.f. 27.05.2013 by the management of M/s. Duropolyprene Ltd. is justified ?
2. To what relief, is he entitled ?

The Ld. Advocate for the workman argued that workman Sushanta Kr. Das joined in his present employment in the year 1996 at Rubber Factory /works at Bishnupur as Casual Temporary Workman and his wages paid through Company's vouchers payment made by M/s. Duropolyprene Ltd., Rubber Industries, hereinafter referred to as "the said company", situated at Diamond Harbour Road, Chakbagi, P.O. & P.S. – Bishnupur, South 24 Parganas, Pin – 743503.

Thereafter the Management of the said Company issued Temporary E.S.I. Corporation family Identity paper dated 30.07.2004 and thence further issued original E.S.I. Corporation Family Identity Card dated 09.12.2004 of the said workman Shri Susanta Kumar Das mentioned his date of Entry of the Employment on 01.07.2004 and thereby the said company issued Computer Family Identity Card of E.S.I. Corporation to the Said workman, those are collectively mark as Exhibit No. 1.

That the management of the said company considering the efficient capabilities of the said workman Shri Susanta Kr. Das, issued an appointment letter dated 18.08.2009 as Permanent Workman Category with effect from 01.08.2009 to work any department / sections and any type of job and even for extra hours and any shift in Grade-‘A’ category pay scale Rs. 250-20.00-450 EB 22.50-675 EB-25.00-925 wages structure as

Basic	Rs.	250.00
VDA	Rs.	3,300.00
HRA	Rs.	178.00
T.A.	Rs.	50.00
Total	Rs.	3,778.00

And thereafter the management of the said company pleased to increased Basic Salary Rs. 60/- (Rupees Sixty) only with effect from 01.08.2010 by letter dated 16.08.2010 in pay scale grade "A", Rs. 250-20X10-450 EB-22.50X10-675EB-25X10-925, Wages Structure as,

Basic	Rs.	310.00
VDA	Rs.	4141.00
HRA	Rs.	223.00
T.A./Conveyance	Rs.	75.00
Total	Rs.	4749.00

That both of said appointment letters dated 18.08.2009 and letter dated 16.08.2010 are collectively marked s Exhibit No. 2.

That the said workman Shri Susanta Kr. Das is the one of Office Bearers as General Secretary of the Trade Union namely "Duropolyprene Limited Permanent Mazdoor Sangha", affiliated to Bharatiya Mazdoor Sangha (B.M.S.) That said Trade Union letter dt. 05.02.2012 are collectively marked as Ext. No. 3.

That due to illegal acts and continuous unfair labour practice of the management of the said company, the said workman the trade union leader compelled to lodge four general diary entress against the management of the said company before the local police station at Bishnupur, bearing G.D.E. Nos. 16 dt. 01.07.2012, No. 154 dt. 02.07.2012, No. 1450 dt. 18.07.2012 and No. 2013 dt. 22.11.2012 and those are collectively marked as Ext. No. 4.

That the said workmen's trade union namely Duropolyprene Limited Permanent Mazdoor Sangha became a recognized registered trade union from the Government of West Bengal by Form-I for reorganisation of registered trade union dt. 01.08.2012 and accepted challans fees No. 2809 dt. 01.08.2012 those are collectively marked as Ext. No. 5.

That the president of the said workman trade union serve a letter dt. 26.03.2012 to the Director of the said company /Opposite Party requested for meeting / appointment with the management of the said company to solve the harassment and suffering to the workmen at works / factory to intimate the said workman /applicant but in vain and the said trade union letter dt. 26.03.2012 has been marked as Ext. No. 6.

That all on 25.05.2015 Shri Basabjeet Nag, Director on behalf of Shri Ranjit Kr. Roy, Director of M/s. Duropolyprene Ltd. motivatedly and illegally issued show cause-cum-suspension order/letter dt. 25.05.2012, Ext. No. 7 against Shri susanta Kr. Das, the workman, without having any preliminary enquiry stated that acts of gross insubordination to the company on 23.05.2012, the said punitive workman displayed a poster without having any detailed particulars subject matter of the said alleged poster inside the factory premises of the company caused provoking and was aimed at disturbing the industrial harmony and peace of this company which was grievous and serious misdeeds of defying the order of the management and tantamount to deliberate and gross insubordination against the company and threaten the disruptive alleged poster displayed will be removed the said workman from his service with this company by the management.

That the delinquent workman shri susanta Kr. Das submitted his comprehensive written explanations dt. 02.06.2012 and 21.06.2012, Ext. No. u8 collectively against show cause-cum-suspension order / letter dt. 25.05.2012, Ext. No. 7 whereupon the said workman prayed to

revoke /withdrawn the motivated show cause-cum-suspension order / letter dt. 25.05.2012, and for resumption of his usual duties and the workman vehemently and categorically stated that to protect the right of the workmen, being the registered trade union members, pasted 'posters' was their part of B.M.S. Trade Union performance of Trade Union activities to resists against the unfair labour practice of the management of the company, within purview of trade union activities and legal rights as well.

That the said workman Sri Susanta KAr. Das, the General Secretary of the workmen Trade Union served a letter /representation dt. 18.06.2012, Ext. No. 9 to the Managing Director of the said company / opposite party for fixing date of joint meeting to exchange views relating to the issues of demand of the workmen to built up a cordial relation and better interest as industry but in vain.

That all on a sudden without having any preliminary enquiry into the alleged matter, on 07.07.2012 whimsically Shri Tapan Chakraborty, the commercial officer, who was not a managerial category employee of the Company, issued a baseless charge sheet dt. 07.07.2012, exhibit No. 11 without served copy of standing orders and service rule of the company, against the said workman sri Susanta Kr. Das, and without having particular details of the subject matter of alleged postering inside the factory canteen and the management of the said company strict to initiate disciplinary action against the said workman Sri Susanta KR. Das and directed to submit written explanation within two days from the date of receipt of the said charge-sheet which issued following a show cause-cum-suspension order letter dt. 25.05.2012, Ext. No. 7 and the charges levelled;

That the said workman Sri Susanta Kr. Das, the General Secretary of the workmen trade union served a letter / representation dt. 18.06.2012, Ext. No. 9 to the managing director of the said company /opposite party for fixing date of joint meeting to exchange views relating to the issues of demand of the workmen to built up a cordial relation and better interest as industry but in vain.

That the said workman being the General Secretary of the workmen Trade Union further served a letter / representation dt. 16.07.2012, Ext. No. 10 to management of the said Company for fixing a meeting in the matter of annual agreement for workmen demands with the said Company but in vain.

That all on a sudden without having any preliminary enquiry into the alleged matter, on 07.07.2012 whimsically sri Tapan Chakraborty, the Commercial Officer, who was not a managerial Category employee of the company, issued a baseless charge sheet dt. 07.07.2012, Ext. No. 11 without served copy of standing orders and service Rule of the company, against the said workman sri Susanta KR. Das, and without having particular details of the subject matter of alleged postering inside the factory canteen and the management of the said company strict to initiate disciplinary action aga9inst the said workman sri Susanta Kr. Das and directed to submit written explanation within two days from the date of receipt of the said charge-sheet which issued following a show cause-cum-suspension order letter dt. 25.05.2012, Ext. No. 7 and the charges levelled;

- (i) You displayed a poster inside the canteen within the factory premises without any permission or authority from the Management.

- (ii) The contents of the said poster is not acceptable to the Management as the same were connected with other industries and was very much provocation, misguiding and disturbing and was very much against the interest of the company.
- (iii) On 24th May, 2012, you were called by the Management and was directed to remove the said illegal poster from the canteen, but you refused to comply with the said directive. You also threatened the superior officer that you will display more such posters if necessary. This tantamount to gross misconduct on your part and on act insubordination.
- (iv) You have threatened the management through your letter dt. 02.06.2012, with dire consequences in the event of removal of your poster from the canteen.
- (v) Commission of any subversive of discipline of the Company / Factory.
- (vi) Failure to carry out a specific instruction given by your superior officer.

And the said charge-sheet dt. 07.07.2012 Ext. No. 11 issued without formulated the norms of standing orders and service rule of the said company and same charge-sheet is baseless and invalid as well.

That the said workman Sri Susanta Kr. Das, served his comprehensive reply / explanation dated 19.07.2012, Ext. No. 11 whereupon the said workman explained that the Workmen Registered Trade Union namely "Duropolyprene Limited Permanent Mazdoor Sangha is within the purview of the Trade Union activities and performance part to resist the unfair labour practice and tactics of the management of the said company as per moral rights to protect the employees / workmen by the said trade union activities under Section 02(qq) of the Industrial Disputes Act, 1947 as amended, causing the posters pasted / displayed by the trade union leaders in the factory canteen premises with a view to settled the disputes against the illegal acts of the management of the company whereupon the management of the company picked and choose the said workman only by issued baseless charge sheet dated 07.07.2012, Ext. No. 11 on flimsy ulterior intention to remove him from service who holding his about 16 (sixteen) years, unblemished service with this company and the said workman prayed for resumption of his usual duties with back wages.

That shri Tapan Kr. Chakraborty, the Commercial Officer of the said Company / Opposite Party issued Domestic Enquiry Notice dated 24.07.2012 fixed domestic enquiry proceeding on 09.08.2012 at 11.30 a.m. by appointed Mr. Saikh Hamedul Quader, Learned Advocate as "Enquiry Officer" to hold the Domestic Enquiry Proceeding in the said baseless charge-sheet dated 07.07.2012 Ext. No. 11.

That the said charge-sheeted workman served letter dated 08.08.2012 Ext. No. 18 to the said Company Opposite Party, prayed to supply / serve him the standing orders and service rule of the Company, prior to further commencement of the Domestic Enquiry Proceeding to defend himself but in vain.

That Shri Tapan Chakraborty of the said Company issued Domestic Enquiry Notice dt. 24.07.2012, Ext. No. 14 fixed Domestic Enquiry Proceeding on 09.08.2012 at 11.30 a.m. at the Office situated at 47B, Diamond Harbour Road, Kolkata – 700038, to be conducted by Mr. Aikh Hamedul Quader, Advocate, the Enquiry Officer.

That during pendency of the Domestic Enquiry Proceeding the said Charge-sheeted workman served his demand of Justice letter /representation dt. 13.09.2012, Ext. No. 13 upon the Managing Director of the said Company / Opposite Party and MR. SAikh Hamedul Quader, Ld. Advocate and Enquiry Officer, whereupon the said workman stated the entire facts of the case and prayed for immediate resumption of his usual duties with full back wages / salaries since 26.05.2012 to till the date of joining to his post but in vain.

That Sri Tapan Chakraborty, the Authorised Singnatory of the said Company replied the Company replied the Company comments dt. 27.09.2012, Ext. No. 22 to the workman and copy to the enquiry officer and the said Company failed to reply para-wise against the said workman's demand of justice letter / representation dt. 13.09.2012, Ext. No. 13.

That in reply to the said workman's demand of justice letter / representation dt. 13.09.2012 Ext. No. 13 Shri Tapan Chakraborty, Authorised Signatory of the said Company further submitted their written statement dt. 03.10.2012, Ext. No. 23 stated that the Management of the said Company did not give permission to performed Trade Union activities to the said Workmen Trade Union.

That in reply to the Company's written statement dt. 03.10.2012, Ext. No. 23, the said workman filed his joint rejoinder dt. 12.10.2012, Ext. No. 24 addressed to the Managing Director of the said Company / Opposite Party and Mr. Saikh Hamedul Quader, Learned Advocate and Enquiry Officer during Domestic Enquiry Proceeding, whereupon the said workman prayed to supply / serve four (04) relevant documents as relied upon by the said company, enabling the said workman to avail reasonable opportunity to defend himself in the Domestic Enquiry Proceeding conducted by the Enquiry Officer and those four (04) documents are mentioned as follows :-

“(i) The wages / salaries pay structure settle with two recognised unions.

(ii) Alleged preliminary investigation proceeding and preliminary enquiry report for formulation suspension order / letter dt. 25.05.2012, Ext. No. 7.

(iii) Alleged poster which was pasted inside the canteen hall of the factory.

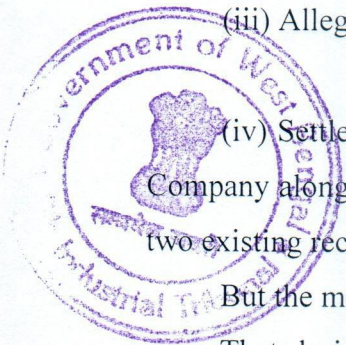
And

(iv) Settlements / agreements of benefits to the workmen given by the management of the Company along with long term settlement / agreement held memorandum of settlement between two existing recognised unions and the management of the Company.”

But the management of the said company did not supply / served to the said workman.

That during pendency of the Domestic Enquiry Proceeding the Management of the said Company filed few documents before the Enquiry Officer, the list of documents dt. 12.10.2012, Ext. No. 25 series, whereupon it reveals that following a written complaint letter dt. 24.05.2012 of Sri Prasanta Chakraborty, junior production officer of the Company that poster of M/s. Century Plyboard (India) Limited Agreement pasted Ext. No. 25 series in part and without having any preliminary enquiry, motivatedly Shri Basabeet Nag, director of the said Company issued illegal show cause-cum-suspension order / letter dt. 25.05.2012, Ext. No. 7, against Shri Susanta Kr. Das, the workman hereto which was against the statute itself.

That the said in written explanations dt. 02.06.2012 and 21.06.2012, Ext. No. 8 collectively, the said workman stated that to protect the rights of the workmen, being Registered



Trade Union Members, pasted posters which was the part of their Trade Union B.M.S., performed their Trade Union activities to resist / protest against the unfair labour practice of the Management of the said Company / Opposite Party within purview of the Trade Union activities and legal rights whereupon the posters displayed in the union office near the main gate entrance of the said Company duly marked Ext. No. 31 series.

That Shri Tapan Chakraborty, the Senior Officer Commercial & H.R. of the said Company / Opposite Party issued letters dated 29.11.2012 and 06.05.2023 to the said workman, Ext. No. 29 series, for payment of bonus during the year July, 2011 to June, 2012 and for payment of eight (08) days leave encashment for the period January, 2011 to December, 2011 being kept with the case record.

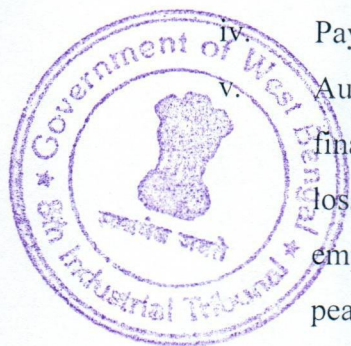
That during the Domestic Enquiry Proceeding the said workman Shri Susanta Kr. Das filed his affidavit in chief dt. 22.01.2012 along with relevant documents thereto, Ext. No. 31 series, and prayed for reinstate with full back wages since 25.05.2012 till the date of joining with retrospective effect in the interest of Justice. That the said workman filed his two salary / wages pay slips for December, 2012 and January, 2013 marked Ext. No. 32 by this learned Tribunal.

That the said workman Shri Susanta Kr. Das, Secretary of "Duropolyprene Ltd. Permanent Mazdoor Sangah", Regd. No. 26732 filed an application dt. 07.03.2013 to the Registrar of Trade Union, West Bengal and an application dt. 08.03.2013 to the Managing Director of the said Company / Opposite Party for fixing date of Trade Union Election Recognition of Governing Body for the year 2013, Ext. No. 33 and 34 but not materialized.

That the said workman Shri Susanta Kr. Das further filed an application dt. 08.08.2013, Ext. No. 34 to supply copy of five (05) documents, Company relied upon by the Company as follows:

- i. Article of memorandum of M/s. Duropolyprene Ltd.
- ii. Article of Association of M/s. Duropolyprene Ltd.
- iii. All Agreements of Memorandum of Settlements made recognized Trade Unions in this Company.
- iv. Pay structures of workmen working in M/s. Duropolyprene Limited.
- v. Audited balance sheets for last two years of 2010 to 2011 and 2011 to 2012 financial years alongwith manufacturing accounts, trading accounts and profit and loss accounts, to maintaining industrial peace and harmony relations between the employees / workman and the employer / company to run this organization peacefully but in vain.

That the whole carade followed by pre-pentinaltimate such as issuance of wrongful show cause-cum-suspension order / letter dt. 25.05.2012, Ext. No. 7 then issued baseless charge-sheet dt. 07.07.2012, Ext. No. 11 both are without mentioning the standing orders and service rule of the Company against Shri Susanta Kr. Das, the workman and thereby so-called Domestic Enquiry Proceeding became a mockery of trial without given reasonable opportunities to the said workman to defend himself before the Enquiry Officer, conducted by the Company / Opposite Party from 09.08.2012 to 28.03.2013 without considering the Standing Orders and service rules of the Company which, became a perverse and vitiated in the said Domestic Enquiry Proceeding of the Enquiry Officer.



That Shri Tapan Chakraborty, the senior officer of the said Company/ Opposite Party served a letter dt. 26.04.2013 enclosed copy of the Enquiry Report and Findings dt. 19.04.2013 of the Enquiry Officer, MR. Saikh Hamedul Quader, Ld. Advocate, Ext. No. 35 series where upon the enquiry officer without considering the standing orders and service rules of the Company hold that charges levelled against the charge-sheeted workman Shri Susanta Kr. Das has been established as per charge-sheet dated 07.07.2012, Ext. No. 11, without applied his mind judiciously and fairly considering the materials on record in the Domestic Enquiry Proceeding and the same became perverse ab initio.

That the punitive workman Shri Susanta Kr. Das served his written explanation / submission dt. 08.05.2013, Ext. No. 37 to the Managing Director of the said Company / Opposite Party against the perverse enquiry report and findings dt. 19.04.2013 of Mr. Saikh Hamedul Quader, Ld. Advocate and Enquiry Officer, Ext. No. 35 series, in the matter of baseless charge-sheet dt. 07.07.2012, Ext. No. 11 issued without mentioning the standing orders and Service Rules of the Company, following a wrongful show cause-cum-suspension order / letter dt. 25.05.2012, Ext. No. 7 against the said workman Shri Susanta Kr. Das initiated a motivated written complaint letter dt. 24.05.2012, Ext. No. 25 series, made by Shri Prasanta Chakraborty, Junior Production Officer of the Company and Management witness No. 3, mentioned in the domestic enquiry proceeding, page No. 58 in Question No. 16 did not know the person who pasted the alleged poster and on the relevant time, the said alleged poster was not pasted in the Canteen having any preliminary enquiry the said baseless charge-sheet was issued and thereby the Ld. Enquiry Officer following a so-called domestic enquiry proceeding as mocary of trial had been performed against the said workman who holding his unblemished about seventeen (17) years of service since the year of 1996 with the said Company / Opposite Party. That Shri Tapan Kr. Chakraborty, the Commercial Officer of the said Company is not empowered to issue a Charge-sheet against any workman who is not in a position or rank of a manager as the Senior Management Cader of the said Company in compliance to Rules – 4(b) and 27(1), 27(2)(a), 27(2)(f), 29 and 33 of the purported bi-partite agreement of service rules for employees dt. 19.10.1994 between M/s. Duropolyprene Ltd. and Duropolyprene Ltd. Employees' Union exist thereto. That reasonable opportunities, permanently deprived to defend the said workman Shri Susanta Kr. Das during the Domestic Enquiry presence of the Ld. Enquiry Officer as as to non-supply served relevant documents to the said workman those were relied upon by the Management of the said Company in spite of the said workman's letter dt. 08.08.2012, Ext. No. 18, workman's Joint Rejoinder dt. 12.10.2012, Ext. No. 24, workman's application dt. 08.08.2013, Ext. No. 34, and the entire so-called Domestic Enquiry Proceeding became a mocary of trial and the said Company did not paid the actual subsistence allowances to the said charge-sheeted workman. Thereby the Ld. Enquiry Officer Mr. Saikh Hamedul Quader, Advocate submitted to the said Company / Opposite Party, his perverse Enquiry Report and findings dt. 19.04.2013, Ext. NO. 35 series became vitiated in the eye of Industrial Law, and motivatedly harassing in nature against the said workman. The said workman prayed for immediate resumption of his usual duties with full back wages and arrear outstanding payment with other consequential benefits by withdrawing baseless charge-sheet dt. 07.07.2012.

That the said company has no standing orders and service rules of the said Company/ Opposite Party M/s. Duropolyprene Ltd. and as such issuance of show cause, charge-sheet and conducting domestic enquiry proceeding against any workman / employee became infrastructures as occurred non-compliance to the Standing Orders and Service Rules of the Company itself.

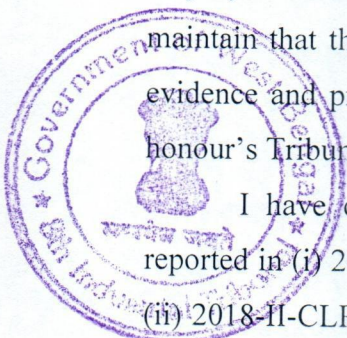
That the perverse enquiry report and findings dated 19.04.2013, Ext. No. 35 series, did not drafted by the Ld. Enquiry Officer, Mr. Saikh Hamedul Quader, Advocate in accordance with the standing orders and service rules of the said company.

That the said workman submitted his written explanation / showing cause dated 20.05.2013 Ext. No. 39 against the Company / Opposite Party's second show cause notice / letter dated 15.05.2013, Ext. No. 38, addressed to Shri Ranjit Kr. Roy, the Director of the said Company and prayed for immediate resumption of his workman's usual duties with full back wages along-with baseless charge-sheet dated 07.07.2012, Ext. No. 11 as earliest possible dated but in vain.

That without considering the materials of Records the Management of the said Company, Mr. Ranit Kr. Roy, Director of the Company motivatedly issued a wrongful dismissal letter dated 27.05.2013 along with wrongfully calculated outstanding dues sum of Rs. 15,735/- only which not been accepted by the said workman Ext. No. 40 series against said workman Shri Susanta Kr. Das, who was holding unblemished about seventeen (17) years of track record of service with the said Company / Opposite Party. That the Management of the said Company did not paid on month Wages notice money to the said workman for issuance of the purported dismissal or order / letter dated 27.05.2013.

That the said workman Shri Susanta Kr. Das, P.W.-1 adduced his evidence and produced relevant documents Exts. No. 01 to 48 series before this Ld. Tribunal in support his case matter and duly cross-examined in full by the Ld. Advocate for the company / Opposite Party. But the management of the said company did not adduced any evidence and produce document before your Honour's Tribunal in support the domestic enquiry proceeding conducted by the management of the said company appointing Mr. Sekh Hamedul Quader, Ld. Advocate as enquiry officer to hold the domestic enquiry proceeding in the instant case. It is pertinent to maintain that the enquiry officer Mr. Sekh Hamedul Quader, Ld. Advocate did not adduce his evidence and produced any documents in support his enquiry report and findings before your honour's Tribunal.

I have carefully gone through the reported decision of the Hon'ble Supreme Court reported in (i) 2024(1) CLR 274(1) CLR 274 S.C. in Union of India & Others Vs. K. Suri Babu, (ii) 2018-II-CLR – 09 S.C. in Kurukshetra University Vs. Prithvi Singh, (iii) 2017-II-CLR-858-Patna H.C, in Rabindran Nath, Son of Late Krishna Das Pandit, Patna, Vs. Chairman , Uttar Bihar Gramin Bank, Muzafarpur & Ors., (iv) 2020-I-CLR-250-Madras H.C. in Management, TAmilnadu State Transport Corporation (Madurai) Limited Dindigu Vs. Presiding Officer, Labour Court, Trichy, Dindigul & Another , v) 2023-I-CLR-178-Orissa H.C. (D.B.) in Ashok Dalkies, Rayagada Vs. Presiding Officer, Labour Court, Jeypara, Korapur, & Another and also scrutiny of the exhibited documents i have no hesitation to hold that the domestic enquiry was held without giving reasonable opportunities to the said charge-sheeted workman Susanta Kr.



Das and thereby the domestic enquiry report and findings dated 19.04.2013 Ext. 35 series submitted to the management of the said Company, which clearly proved void ab initio and thereby the management of the said Company issued wrongful dismissal order / letter dated 27.05.2013 Ext. 40 series against the workman Susanta Kr. Das and the domestic enquiry proceeding has been vitiated null and void and thereby motivated enquiry report and findings of the Ld. Enquiry Officer can perverse and void ab initio and the same is not justified in accordance with Industrial Law.

So, this Tribunal has got no other option but to hold that the dismissal of Susanta Kr. Das from service w.e.f. 27.05.2013 by the management M/s. Duropolyprene Ltd. is not justified and hereby cancelled.

Hence, it is

ORDERED

that the dismissal of Susanta Kr. Das from service w.e.f. 27.05.2013 by the Management is hereby cancelled / set aside.

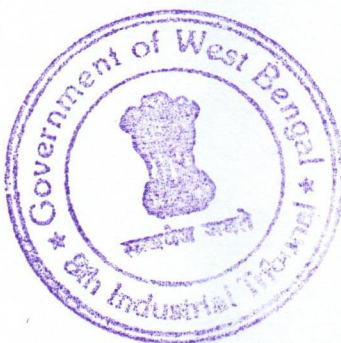
It is further ordered that Susanta Kr. Das be reinstated in service with all consequential benefits.

Accordingly, this case is disposed off on ex-parte and this order is to be treated as an Award of this Tribunal.

Dictated & Corrected by me

sdf
Judge

Judge
8th Industrial Tribunal
Govt. of West Bengal



-Sd-
Judge
Eighth Industrial Tribunal
Kolkata
30.08.2024

Judge
8th Industrial Tribunal
Govt. of West Bengal