

Government of West Bengal  
Labour Department, I. R. Branch  
N.S. Buildings, 12<sup>th</sup> Floor  
1, K.S. Roy Road, Kolkata - 700001

No. Labr/534/(LC-IR)/IR/11L-65/10

Date : 20.07.2018

ORDER

WHEREAS under the Government of West Bengal, Labour Department Order No. 1326 - IR dated 21.12.2010 the Industrial Dispute between M/s Eastern Technicians, M/s Bharat Chemicals & Paints, M/s Mana Contractors, M/s Haldia Enterprise, M/s Sarkar Construction and other contractors engaged by M/s TATA Chemicals Ltd., P.O. – Durgachak, Haldia, Dist. – Purba Medinipur, West Bengal – 721602 and their workmen represented by M/s Tata Chemicals Thikadar Mazdoor Union (Registration No. 16740), Ranichak, Dist. – Purba Medinipur regarding the issue mentioned in the said order, being a matter specified in the Third Schedule to the Industrial Dispute Act, 1947 (14 of 1947), was referred for adjudication to the Judge, Fifth Industrial Tribunal, West Bengal.


AND WHEREAS the Judge of the said Fifth Industrial Tribunal, West Bengal, has submitted to the State Government its award on the said Industrial Dispute.

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,

  
Deputy Secretary


to the Government of West Bengal

No. Labr./534/1(5)/(LC-IR)

Date : 20.07.2018

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

1. M/s TATA Chemicals Ltd., P.O. – Durgachak, Haldia, Dist. – Purba Medinipur, West Bengal – 721602.
2. The Secretary, Tata Chemicals Thikadar Mazdoor Union (Registration No. 16740), Ranichak, Dist. – Purba Medinipur.
3. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The Labour Commissioner, W.B. New Secretariate Buildings, 1, K. S. Roy Road, 11<sup>th</sup> Floor, Kolkata- 700001.
5. The O.S.D., IT Cell, Labour Department, with the request to cast the Award in the Department's website.

  
Deputy Secretary

No. Labr./534/2(2)/(LC-IR)

Date : 20.07.2018

Copy forwarded for information to :

1. The Judge, Fifth Industrial Tribunal, West Bengal with reference to his Memo No. 844 – L.T. dated 04.05.18.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.

Deputy Secretary

In the matter of an Industrial Dispute between M/s. Eastern Technicians, M/s. Bharat Chemicals & Paints, M/s. Mana Contractors, M/s. Haldia Enterprise, M/s. Sarkar Construction and other contractors engaged by M/s. TATA Chemicals Ltd., P.O. – Durgachak, Haldia, Dist. – Purba Medinipur, West Bengal – 721602 and their workmen represented by M/s. Tata Chemicals Thikadar Mazdoor Union (Registration No. 16740), Ranichak, Dist. – Purba Medinipur.

[Case No. VIII – 54/10]

BEFORE THE JUDGE, FIFTH INDUSTRIAL TRIBUNAL, KOLKATA

Present

Shri Tapan Kumar Das, Judge,

Fifth Industrial Tribunal

**A W A R D**

Record is put up for final order. No step has been taken by the parties to this case.

It appears from the record that an industrial dispute between M/s. Eastern Technicians, M/s. Bharat Chemicals & Paints, M/s. Mana Contractors, M/s. Haldia Enterprise, M/s. Sarkar Construction and other contractors engaged by M/s. TATA Chemicals Ltd., P.O. – Durgachak, Haldia, Dist. – Purba Medinipur, West Bengal – 721602 and their workmen represented by M/s. Tata Chemicals Thikadar Mazdoor Union (Registration No. 16740), Ranichak, Dist. – Purba Medinipur has been referred by the Labour Department, I.R. Branch, Government of West Bengal vide its Order No. 1326-IR/IR/11L-65/10 dated 21<sup>st</sup> December, 2010 to this Tribunal for adjudication on the following issues namely :-

**I S S U E (S)**

1. Whether the management is justified in signing a settlement at bipartite level with one of the unions for finalization of the charter of demands during the pendency of conciliation proceeding?
2. What relief, if any, the workmen are entitled to?

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It has been stated in the order of reference that there is an industrial dispute between M/s. Eastern Technician Pvt. Ltd. and their workmen represented by M/s. Tata Chemicals Thikadar Mazdoor Union (Registration No. 16740).



Initially M/s. Eastern Technician, M/s. Bharat Chemicals and Paints, M/s. Manna Contractors, M/s. Haldia Enterprises, M/s. Sankar Construction and other contractors were engaged by M/s. Tata Chemicals Ltd. and their workmen represented by M/s. Tata Chemicals Thikadar Mazdoor Union were mentioned in the order of reference. Subsequently, other contractors were also impleaded vide its Corrigendum No. 43/1(1) – IR dated 13.01.2012. So in total 23 contractors are involved in the present case and the above mentioned Thikadar Mazdoor union is involved in the case. During pendency of the case M/s. Tata Chemicals Ltd. filed an application before this Tribunal on 01.07.2011 praying for an order that M/s. Tata Chemicals Ltd. was not proper or necessary party in the case and so their name be struck off from the case. That petition was contested by the above mentioned union and finally this Tribunal passed an Order No. 33 dated 13.08.2012 allowing the petition of M/s. Tata Chemicals Ltd. and struck off the name of the said company. Thereafter the above group of contractors and above named Thikadar Mazdoor union are contesting this case and filed their respective written statement.

The facts and circumstances revealed from the written statement of both parties, it appears that there was a bipartite settlement between the above contractors and Tata Chemicals Ltd. Nationalist Contractors Shramik Union (Registration No. 25342). In the order of reference the name of this union i.e. Tata Chemicals Ltd. Nationalist Contractors Shramik Union has not been mentioned, in spite of the fact that there was bipartite settlement between this union and the contractors. No one of the contesting parties have denied the fact of bipartite settlement between the above union and contractors. The name of the above union comes to the light first from the copy of bipartite settlement filed by the Mazdoor Union and that copy of settlement has been marked as Ext. – 4.

The fact remains that the Government though admitted the fact of bipartite settlement between *the contractors (management) and one of the Unions* regarding charter of demands and asked in the order of reference for adjudication as to whether such settlement is justified or not but omitted to mention the name of said one of the unions. It appears that the name of contesting **Tata Chemicals Thikadar Mazdoor Union** who is not party to the settlement has been mentioned in the order of reference but the name of **Tata Chemicals Nationalist Contractors Shramik Union** who is a party to the settlement has not been mentioned in the order of reference.

In view of decision reported in 2003-II-LLJ Page 485 Mayurakshi Cotton Mills and another – Vs. – Pancha Mayurakshi Cotton Mills Mazdoor Union and ors. this Tribunal passed order No. 112 dated 27.11.2017 and impleaded Tata Chemicals

Nationalist Copntractors Shramik Union and notice was accordingly issued to this Shramik Union.

It appears from the Order No. 115 dated 09.02.2018 that notice was duly served upon the aforesaid added party and A/D Card to that effect clearly shows that such notice was served upon said union but it did not turn up on the date fixed nor in any subsequent date.

After scrutiny of record it appears that group of contractors as well as both the unions did not come to contest the case on the date fixed.

That being the position, there is no confusion that parties to the case are not interested to proceed with the case and therefore it can safely be inferred that there is no existence of any dispute between the parties at present.

So considering the facts and circumstances and in the light of my above observation I find and hold that there is no existence of the dispute at present between the parties and so this case is liable to be disposed of in view of Rule 22 of West Bengal Industrial Disputes Rules, 1958.

**Hence, it is ordered,**

That the industrial dispute under reference vide No. 1326-IR/IR/11L-65/10 dated 21<sup>st</sup> December, 2010 is no longer in existence and accordingly the case is disposed of and this order is to be treated as "No Dispute Award" between the parties.

**This is my Award.**

Dictated and corrected by me.

*Sdt*  
Judge,  
5th Industrial Tribunal  
Govt. of West Bengal

*Sdt*  
(TAPAN KUMAR DAS)  
Judge  
5<sup>th</sup> Industrial Tribunal  
24.04.2018

**Judge,**  
**5th Industrial Tribunal**  
**Govt. of West Bengal**

