

**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,  
GUWAHATI**

**PRESENT:** Shri Ananda Kumar Mukherjee,  
Presiding Officer / Link Officer,  
C.G.I.T-cum-L.C., Guwahati.

**REFERENCE CASE NO. 12 OF 2020**

**PARTIES:**

Bishaya Roy.

**Vs.**

Management of Archeological Survey of India, Guwahati Circle.

**REPRESENTATIVES:**

For the Employee:

Mrs. Bishaya Roy (in person).

For the Management of ASI:

Dr. N.K. Swain (for Superintending Archeologist, Guwahati).

**INDUSTRY:** Archeological Survey of India (Ministry of Culture).

**STATE:** Assam.

**DATED:** 28.10.2024.

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**A W A R D**

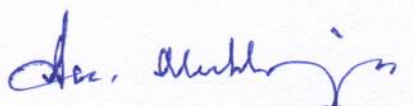
In exercise of powers conferred under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Ministry of Labour, Government of India through the Office of the Deputy Chief Labour Commissioner (Central), Guwahati, vide its Order **No. F. G/R. 8(06)/2020-Dy.CLC(C)/ID** dated 19.10.2020 has been pleased to refer the following dispute between the employer, that is the Management of Archeological Survey of India, Guwahati Circle and Mrs. Bishaya Roy, their employee for adjudication by this Tribunal.

**THE SCHEDULE**

*"Whether the action of the management of Archeological Survey of India, Guwahati Circle, 5th Floor, West End Building, Housefed, Beltola – Basistha Road, Guwahati 781006 (a) in terminating the services of Smt. Bishaya Roy, Workman, C/o Sh. Tapan Sarkar, H. No -16, 3<sup>rd</sup> Bye Lane (Right Side), 4<sup>th</sup> AP Bn. Gate, Lutuma, Binowanagar, Guwahati – 781018 w.e.f. 27.05.2020 is justified without complying the provision of Sec. 25F of the I.D Act, 1947? (b) Whether the demand of the workman for non-payment of wages during February to May, 2020 is justified? If not, what relief Smt. Bishaya Roy, Workman, Guwahati is entitled to?"*

1. On receiving Order **No. F. G/R. 8(06)/2020-Dy.CLC(C)/ID** dated 19.10.2020 from the Office of the Deputy Chief Labour Commissioner (Central), Guwahati, Ministry of Labour, Government of India, for adjudication of the dispute, **Reference case No. 12 of 2020** was registered on 22.10.2020 and an

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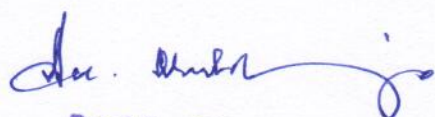


order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. A Corrigendum dated 11.11.2020 was issued by the Deputy Central Labour Commissioner (Central), Guwahati, whereby the name of the employee was corrected. By order dated 22.10.2020 the Tribunal directed that the management shall not engage any advocate in this case since the employee herself did not engage any advocate and raised an objection in the matter of engagement of advocate by the management. Dr. N. K. Swain, Superintending Archeologist represented the management of the Archeological Survey of India, Guwahati Circle (hereinafter referred to as ASI).

3. Claim Statement was filed by Bishaya Roy, the aggrieved employee on 25.11.2020 and a copy of the same was served upon the representative of ASI. Brief fact of the employee, as delineated in her claim statement is that she started working in ASI from 16.06.2014 as a skilled casual worker on consolidated pay and discharged various work at the office of Superintending Archeologist, ASI, as per verbal and written order of the Head of the Office. She was primarily engaged in the Works Section of ASI to carry out various work relating to typing of official documents, maintain budget and expenditure records, billing, etc. She rendered continuous service under ASI from 16.06.2014 till 19.05.2020. on 19.05.2020 she enquired from the Head of the Office of ASI regarding payment of pending salaries from the month of February, 2020 and was informed that the office was under constraints regarding payment of pending salaries and the matter remained unsettled. Bishaya Roy continued to work till 26.05.2020 and approaching the Head of the Office he refused to pay the pending salaries. It is contended in the

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claim statement that without any Notice of termination, the management discontinued the employment, violating the terms and condition precedent to retrenchment of workman as provided under Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as the ID Act, 1947). It is claimed that the management of ASI has not paid her the salaries from the month of February, 2020 and she is entitled to her consolidated pay for the month of February, 2020, March, 2020 and May, 2020 up to 26.05.2020 and retrenchment compensation. She also prayed for her reinstatement in service with back wages. The employee further claimed that during her continuous service for more than five years no bonus had been paid to her according to Section 8 of the Payment of Bonus Act, 1965. It is disclosed that due to such unfair labour practice the employee along with co-employees lodged a complaint before the Deputy Central Labour Commissioner (Central), Guwahati on 14.06.2020. Conciliation proceeding was held on four dates i.e. 24.08.2020, 10.09.2020, 23.09.2020 and 13.10.2020 but the representative of the management remained absent on three occasions. There was failure of conciliation giving rise to this Industrial Dispute.

4. The management of ASI contested the Industrial Dispute by filing their written statement on 19.01.2021. It is contended in the written statement that the Archeological Survey of India looks after the centrally protected monuments of National importance spread over the entire length and breadth of the country. It is neither an industry nor an industrial establishment. It is claimed that the ID Act, 1947 does not apply to the employees of Archeological Survey of India. In support of such claim the respondent / opposite party relied upon a decision in the case of **Bhagirath Sharma S/o Radheshyam Sharma Vs. Superintending Archaeologist, Archaeological Survey of India, Jaipur Circle [CGIT/B-18/97]**, where the CGIT-cum-LC, Jaipur held that the Archeological Survey of India does



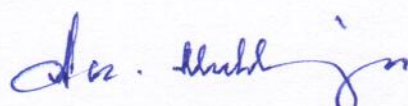


not attract the ID Act, 1947. Therefore, ASI contended that the matter deserves to be dismissed outright.

5. The second contention of the management of ASI is that the petitioner was engaged as a daily wage casual worker on muster roll of the establishment up to May, 2017. The engagement was need based and no letter of engagement was issued to her. The petitioner was thereafter engaged on consolidated remuneration from June, 2017. Payment of remuneration was made by issuing hand receipts. It is asserted that all the payments have been made to the petitioner for the period from 2014 to January, 2020. She was verbally intimated for her disengagement in January, 2020, as there was no requirement of work. It is asserted that ASI did not violate any provisions of the ID Act, 1947. The employee is neither entitled to any arrear pay, retrenchment benefit, nor any bonus as she had been working as a casual worker. It is contended that an employee is entitled to bonus only if she worked for at least two hundred six days (206) in offices following five days a week in each year for three or more years as on 31st March of the relevant financial year. The management urged that the petitioner / employee is not entitled to any relief and the present case is liable to be dismissed.

6. The moot points for consideration before the Tribunal are (a) whether the ID Act, 1947 is applicable to the present case involving ASI, Guwahati Circle, (b) whether the action of the management of ASI, Guwahati Circle, in terminating the services of Bishaya Roy, the employee w.e.f. 27.05.2020 is justified without complying the provisions of Section 25-F of the ID Act, 1947, and (c) whether the demand of the employee for payment of wages from February, 2020 to May, 2020 is and retrenchment benefit is justified. If not, what relief the employee is entitled to.

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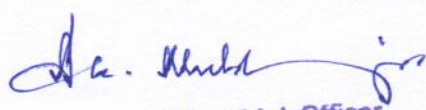


7. The terminated employee in support of her case filed an affidavit-in-chief reiterating the facts stated in the claim petition. It is stated that she started working at ASI from 16.06.2014 as a skilled casual worker on consolidated pay and experience certificate was issued to her on 07.01.2016, which has been produced as Exhibit - 1. She further stated that she performed various types of work and received her consolidated pay of Rs. 18,000/- (Rupees eighteen thousand only) per month for the month of January, 2020 which has been supported by her Bank Statement produced as Exhibit - 14. It is averred that she performed continuous service for ASI from 16.06.2014 to 22.05.2020 and her employment was verbally terminated after she performed her work from February, 2020 to May, 2020 without complying the provisions of retrenchment under Section 25-F of the ID Act, 1947.

8. In cross-examination the witness deposed that on 19.05.2020 she was informed that her engagement with ASI was over. The employee denied the suggestion that she is not entitled to get Bonus. The workman witness produced the following documents in support of her case :

- (i) Copy of certificate dated 07.01.2016 issued by Superintending Archeologist/Head of the Office, ASI, in favour of Bishaya Roy that she was working in the office as a highly skilled Casual Worker from 16.06.2014 on purely temporary basis is produced as Exhibit - 1.
- (ii) Copy of the Bank Statement of Bishaya Roy, as Exhibit - 14.
- (iii) Copy of the Minutes of Meeting dated 24.08.2020, 10.09.2020, 23.09.2020 and 13.10.2020 of the Regional Labour Commissioner (Central), Guwahati in respect of the Industrial Dispute raised by the petitioners and others against ASI, as Exhibit 19, 20, 21 and 22 respectively, which reveals that no one represented ASI on three out of four dates fixed for conciliation.

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- (iv) Copy of a Complaint dated 15.10.2020 lodged by the petitioner before Regional Labour Commissioner (Central), Guwahati regarding discontinuation of service and non-payment of salary, as Exhibit – 23.
- (v) Copy of the letter dated 15.10.2020 issued by the Labour Enforcement Officer (Central) to Superintending Archeologist, ASI, as Exhibit – 24.

9. Dr. N. K. Swain, Superintending Archeologist, ASI submitted his affidavit-in-chief on 18.01.2023, stating that the dispute raised by the petitioner does not attract the provisions of the ID Act, 1947 as the Archeological Survey of India is a Central Government Organisation which looks after the centrally protected monuments of National importance spread over the entire length and breadth of the country. It is further stated in the affidavit-in-chief that the petitioner was engaged for different periods of work between the year 2014 to January, 2020 for which payment has been cleared for the entire period and the instant application is an abuse of process of law. It is stated that Bishaya Roy was initially engaged in ASI on 16.06.2014 on daily wage basis and her attendance was recorded in muster roll up to May, 2017 as per available records. Thereafter, she was engaged on consolidated pay from June, 2017. The management witness denied the claim of the petitioner that she was engaged in the office of ASI on consolidated pay from 16.06.2014. The specific case of ASI is that the Competent Authority did not accorded sanction for the employee for the month of February, 2020 onwards and her work was discontinued. The employee was verbally informed from time to time about discontinuity of engagement. It is further stated that a casual worker is eligible for ad-hoc bonus if he / she worked for at least two hundred six days (206) in offices following five days a week in each year for three or more years as

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on 31<sup>st</sup> March of the relevant financial year. On his examination-in-chief on oath Management Witness - 1 deposed that he has been authorized by the Superintending Archeologist to adduce evidence on behalf of the management. He admitted the fact that Bishaya Roy was engaged at ASI from 16.06.2014 to May, 2017 and thereafter she was engaged as casual worker on temporary basis from June, 2017 to June, 2019 on consolidated pay of Rs. 15,000/- (Rupees fifteen thousand only) per month and subsequently on consolidated pay of Rs. 18,000/- (Rupees eighteen thousand only) from July, 2019. It transpires from his evidence that the Competent Authority did not accord sanction for continuation of service from February, 2020 and her service was discontinued without any Notice. According to the management witness the ex-worker is not entitled to any wages from February, 2020 nor any retrenchment benefits. The copy of sanction order of Competent Authority, whereby service of Bishaya Roy was extended was produced as Exhibit M-1. The proposal for sanction of continuation of service of Bishaya Roy for February, 2020 which was not granted by the Competent Authority has been produced as Exhibit M-2.

10. In cross-examination the witness stated that the proposal for continuation of service of Bishaya Roy was placed before the Competent Authority in March, 2020. Therefore, it is beyond doubt that there was no occasion for discontinuing the service of the employee in the month of February, 2020. It is evident from Exhibit M-2 that sanction used to be obtained post-facto. The evidence also reveals a clear admission that the service of the ex-worker was terminated without any Notice.

11. In course of cross-examination suggestion was put the management witness that Bishaya Roy continued to serve at ASI during February, 2020 to

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22.05.2020, which the witness denied. The witness however admitted that the Vehicle Log Book of ASI dated 11.04.2020 bears the signature of Bishaya Roy, which has been admitted in the evidence as Exhibit M-3. This evidence suggests that the petitioner employee attended the office work on 11.04.2020 and she had access to the Vehicle Log Book of ASI even after January, 2020. The management witness produced copies of Attendance Register of Indrajit Sarma, Bishaya Roy and Salam Arjabhartta Singh, for the months of February, March, April and May 2020, which was maintained at ASI. The copy of the Attendance Register from February, 2020 to May, 2020 has been collectively marked as Exhibit M-4. The witness admitted that no Notice of disengagement was issued and denied that the employee is entitled to payment of retrenchment compensation and wages for the month of February, 2020 to May, 2020.

12. At the outset it would be apposite to consider the contention raised on behalf of ASI that the ID Act, 1947 is not applicable to the Archeological Survey of India. At the time of argument Dr. N. K. Swain, Superintending Archeologist did not press upon this issue. However, taking account of the contention raised in the pleading and in the evidence, this Tribunal cannot lose sight of the fact that before entering into the factual aspects of the case, the legal question raised by the management of ASI needs to be set at rest.

13. In the case of **Bangalore Water-Supply & Sewerage Board, Etc. Vs. R. Rajappa & Others [(1978) 2 SCC 213]** the constitution Bench of the Hon'ble Supreme Court of India laid down a comprehensive guideline that while interpreting the term 'industry', the sovereign functions strictly understood alone qualify for exemption of the establishment. It was observed by the Hon'ble Supreme Court of India as follows:

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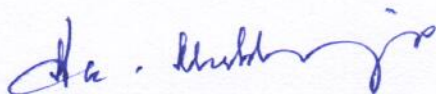


"I would also like to make a few observations about the so-called "sovereign" functions which have been placed outside the field of industry. I do not feel happy about the use of the term "sovereign" here. I think that the term 'sovereign' should be reserved, technically and more correctly, for the sphere of ultimate decisions. Sovereignty operates on a sovereign plane of its own as I suggested in **Kesavananda Bharati Sripadagalvaru and Others Vs. State of Kerala and Another [(1973) 4 SCC 225]** - supported by a quotation from Ernest Barker's Social and Political Theory. Again, the term "Regal", from which the term "sovereign" functions appear to be derived, seems to be a misfit in a Republic where the citizen shares the political sovereignty in which he has even a legal share, however small, inasmuch as he exercises the right to vote. What is meant by the use of the term "sovereign", in relation to the activities of the State, is more accurately brought out by using the term "governmental" functions although there are difficulties here also inasmuch as the Government has entered largely new fields of industry. Therefore, only those services which are governed by separate rules and constitutional provisions, such as Articles 310 and 311 should, strictly speaking, be excluded from the sphere of industry by necessary implication."

14. It is also pertinent to refer to the law laid down by the Hon'ble Supreme Court of India in the case of **Agricultural Produce Market Committee v. Ashok Harikuni, [(2000) 8 SCC 61]**, wherein it was held that :

"..... every governmental function need not be "sovereign". State activities are multifarious. From the primal sovereign power, which exclusively inalienably could be exercised by the Sovereign alone, which is not subject to challenge in any civil court to all the welfare activities, which would be undertaken by any private person. So merely one is employee of statutory bodies would not take it outside the Central Act. If that be then Section 2(a) of the Central Act read with Schedule I gives

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*large number of statutory bodies should have been excluded, which is not. Even if a statute confers on any statutory body, any function which could be construed to be "sovereign" in nature would not mean every other function under the same statute to be also sovereign. The court should examine the statute to sever one from the other by comprehensively examining various provisions of that statute. In interpreting any statute to find it is "industry" or not we have to find its pith and substance. The Central Act is enacted to maintain harmony between employer and employee which brings peace and amity in its functioning. This peace and amity should be the objective in the functioning of all enterprises. This is to the benefit of both, employer and employee. Misuse of rights and obligations by either or stretching it beyond permissible limits have to be dealt with within the frame work of the law but endeavor should not be in all circumstances to exclude any enterprise from its ambit. That is why courts have been defining "industry" in the widest permissible limits and "sovereign" functioning within its limited orbit."*

15. In their pleading as well as affidavit-in-chief of the management witness, ASI relied upon the decision of the Central Government Industrial Tribunal -cum- Labour Court, Jaipur in the case of **Bhagirath Sharma S/o Radheshyam Sharma Vs. Superintending Archaeologist, Archaeological Survey of India, Jaipur Circle [CGIT/B-18/97]**, wherein it was held that ASI does not attract ID Act, 1947. Therefore, the matter deserves to be dismissed ought right. The Hon'ble High Court of Delhi in the case of **Archaeological Survey of India Vs. Presiding Officer, CGIT and Others [W.P.(C) 8154/2005 and C.M. No. 5958/2005]**, relying upon the decision of the Hon'ble High Court of Allahabad in the case of **Union of India v. Surendra Singh Rashtriya Adhayaksha (Supra.)**, concluded that the petitioner satisfies the requisites of an industry as per Section 2(j) of the ID Act, 1947. The functions that were performed by workers of ASI such as

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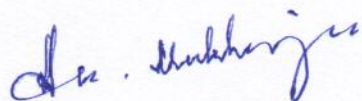
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maintenance of gardens, removal of vegetation, repair works in ancient monuments etc. cannot be said to be the sole function of government. It can be performed by an external agency other than the Government which need not to be an instrumentality of state, and hence cannot be termed as sovereign functions. The decision of the CGIT-cum-LC, Jaipur in the case of **Bhagirath Sharma S/o Radheshyam Sharma (Supra.)** relied by the respondent establishment was overruled in that said case.

16. In the claim petition Bishaya Roy has disclosed that during the period of her service she has discharged various works in the office of the Superintending Archeologist, ASI, as per written and verbal order of the Head of the Office and she was primarily engaged in the Works Section of ASI to carry out work related to typing of official documents, maintaining budget and expenditure records, preparing billing, etc. The nature of work disclosed in Paragraph - 2 of the claim petition has not been denied in the written statement filed on behalf of ASI. Applying the principle of non-traverse, I hold that the work performed by the aggrieved employee does not come within the folds of sovereign functions and the same is necessary for the functioning of any establishment. The triple test laid down by the Hon'ble Supreme Court of India in the case of **Bangalore Water-Supply & Sewerage Board, Etc. (supra.)**, are that the work performed by the petitioner is a (i) systematic activity, (ii) organized by co-operation between employer and employee (the direct and substantial element is chimerical), and (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or service generated to celestial bliss i.e. making large scale Prasad or food). On satisfying these tests it can be concluded that there is an industry in the enterprise consequently the ID Act, 1947 would apply to ASI for the purpose of resolving the dispute raised by the employee.

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17. The second facet of this case is based upon the factual aspects. The employee had been rendering work of various nature at ASI from 16.06.2014 as a skilled casual worker, initially on daily wages and her name appeared in the muster roll of ASI. Thereafter, from June, 2017 till discontinuation of her work she continued to be engaged on consolidated remuneration. The management witness in Paragraph -7 of his affidavit-in-chief stated that Bishaya Roy was engaged in ASI on 16.06.2014 on daily wage basis up to May, 2017 and thereafter on consolidated pay from June, 2017. He has further stated that she was engaged up to January, 2020 as per sanction of the Competent Authority and no payment was made after January, 2020. The management witness did not deny the assertion of the claimant that she continuously worked from 16.06.2014 to 22.05.2020. The management witness has made his statement on the basis of available record but did not come forward with any document that the engagement was discontinued or that she served the company for less than two hundred and forty days a year. An adverse presumption has been drawn against the management for not producing the muster roll as well as attendance register of the concerned employee for the entire period to prove that she worked for less than 240 days every year during those years or that she was not in continuous service as per Section 25-B of the ID Act, 1947. From Exhibit- 4, I find that Bishaya Roy had attended her duty in the month of February, 2020, March, 2020 and May, 2020 up to 22.05.2020. In the month of April, 2020 she appears to have put her signature in the Attendance Register on 11.04.2020 only and not on any other date. Be that as it may, it is well established from Exhibit- 4, a document produced by the management that the employee continued to perform the work at ASI even after January, 2020. The management representative has produced documents which are marked as Exhibit M-1 and M-2. It appears from Exhibit M-1 that on 31.01.2020, after end of the month, sanction was accorded for

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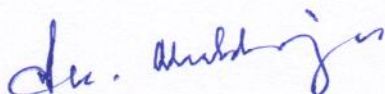


payment of remuneration @ Rs. 18,000/- to Bishaya Roy and two others for the month of January, 2020. From Exhibit M-2 it is gathered that a proposal for according sanction for payment of remuneration to the workers for the month of February, 2020 was submitted on 28.02.2020 but the Competent Authority disapproved the same on 03.03.2020. It would transpire from Exhibit M-2 that after completion of the month's work payment of remuneration was not made to the employee which is a clear violation of natural justice and amounts to unfair labour practice. It is admitted by the management that no Notice of discontinuation / termination was given to the employee. Exhibit M-4 clearly proves that the concerned employee had access to the workplace and had attended her work in the month of February, 2020, March, 2020 and May, 2020 up to 22.05.2020. It is also evident that the employee had attended work only one day in April, 2020 i.e., on 11.04.2020 which was the lockdown period due to COVID-19 pandemic. The Competent Authority of ASI has failed to perform his duties by not serving the Notice of termination / discontinuation to the employee, though she had rendered continuous service from June, 2014 till May, 2020 and thereby violated the provisions of Section 25-F of the ID Act, 1947. In order to appreciate the legitimacy of the petitioner's claim it would be worthwhile to reproduce the following provisions of Section 25-F of the ID Act, 1947 :

*" 25F. Conditions precedent to retrenchment of workmen. - No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-*

- (a) *the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:*

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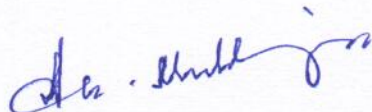


- (b) *the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and*
- (c) *notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette. ”*

In the instant case, I find and hold that due to non-service of one month's prior Notice of termination, to the employee who had been in continuous service for not less than one year, she shall be entitled to the wages for one month's consolidated pay for the period of Notice and shall also be entitled to retrenchment compensation which is equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months from 16.06.2014 till 22.05.2020. The management of ASI shall also clear all monthly remuneration to the worker for the months of February, 2020 to May, 2020 commensurating with.

18. The petitioner in her claim statement, evidence as well as in course of her argument claimed for payment of Bonus for the period from 16.06.2014 to May, 2020 as per provisions of Section 8 of the Payment of Bonus Act, 1965. The management of ASI vehemently opposed the same and contended that she is not entitled to any bonus and further asserted that a casual worker is entitled to ad-hoc bonus only if he or she performed duty for at least two hundred six days in offices following five days a week in each year. From the objection raised by the management it is evident that no bonus was paid to the employee at any point of time and the claim for bonus has not been admitted. On considering the provisions of the Payment of Bonus Act, 1965, it appears to me that same is

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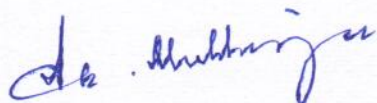
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applicable to every factory and every other establishment in which twenty or more persons are employed on any day during an accounting year provided that the appropriate Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette to apply the provisions of this Act with effect from such accounting year as may be specified in the notification, to any establishment or class of establishments employing such number of persons less than twenty as may be specified in the notification. However, the Ministry of Finance, the Government of India by Office Memorandum bearing F. No. 7/22/2008 E-III(A) dated 26.10.2015 issued an order authorizing payment of a Non-Productivity Linked Bonus (Ad-hoc Bonus) amounting to 30 days emoluments to the eligible central government employees, not covered by Productivity Linked Bonus Scheme. The petitioner having performed continuous service at ASI as a casual skilled worker has fulfilled the requirement of performing at least two hundred six days in office of ASI, which follows five days a week in each year is therefore entitled to Ad-hoc Bonus at the prevailing rate during the period of his work.

19. It is well established from the materials on record and evidence adduced by the parties that the concerned employee was in continuous service of ASI since 16.06.2014 and was terminated from her employment without fulfilling the conditions precedent for retrenchment of workman. The management of ASI is therefore liable to compensate the employee for her retrenchment from service, i.e., stopping her work from 22.05.2020. In her claim statement the employee has prayed for her reinstatement in service and payment of back wages. At the time of advancing her argument Bishaya Roy did not press for her reinstatement and submitted that she is not inclined to opt for reinstatement. From the facts and circumstances of this case, I find that the status of the employee was that of a

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skilled casual worker on temporary basis, initially engaged on muster roll and thereafter on consolidated pay from June, 2017. It is manifestly clear from Exhibit M-1 and M-2 that the employee had served at ASI as a highly skilled casual worker on consolidated pay which was temporary in nature. The employee was not engaged against any sanctioned post, substantive post nor selected through established selection procedure. Under such circumstances the employee is not entitled to the relief of reinstatement in service under Section 25-H of the ID Act, 1947 or back wages for the period during which no service was rendered.

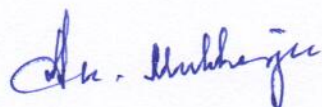
20. In view of my above discussion, the Industrial Dispute raised by the employee is allowed on contest. The management of ASI is directed to pay the aforesaid retrenchment compensation which is equivalent to fifteen days' average pay for every completed year of continuous service, payment in lieu of one month's Notice, usual remuneration / consolidated pay for the month of February, 2020 to May, 2020, commensurating with her attendance and ad-hoc Bonus for each accounting year from 2014 to 2020 within one month from the date of communication of the Award. A copy of Experience Certificate be also issued to the petitioner for the work rendered by her from June, 2014 till the last date of her attendance at ASI.

Hence,

**ORDERED**

that the Industrial Dispute is decided in favour of Mrs. Bishaya Roy on contest against ASI without cost. The Superintending Archeologist, ASI, Guwahati Circle, is directed to pay the consolidated monetary remuneration of Rs. 18,000/-

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per month to the employee for the month of February, 2020, March, 2020 and May, 2020, commensurating with her attendance. The Archeological Survey of India, Guwahati Circle is further directed to pay the retrenchment benefit of one month's pay for the notice period and retrenchment compensation equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months, Bonus as per rules / Notification of the Government of India and issue an Experience Certificate to the employee for the service rendered by her to Archeological Survey of India, Guwahati Circle. Let an Award be drawn up in the light of the above discussion. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.



*Dr. Ananda Kumar Mukherjee*

**(ANANDA KUMAR MUKHERJEE)**  
Presiding Officer / Link Officer,  
C.G.I.T-cum-L.C., Guwahati.