

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Shampa Dutt (Paul), J.

WPA 5049 of 2021

**West Bengal Medical and Sales Representatives' Union & Ors.
vs.
Union of India & Anr.**

For the Petitioner : Mr. Suvadip Bhattacharjee,
Mr. Balaram Patra.

For the Respondent No.1 : Mr. Shyamal Mukherjee.

Hearing concluded on : 06.08.2025

Judgment on : 06.08.2025

Shampa Dutt (Paul), J.:

- 1.** Copy of notice showing due service upon the respondents is filed.
Let the same be placed on record.
- 2.** Learned counsel appearing for the petitioner has filed written notes and relied upon a judgment of a Coordinate Bench passed in W.P. 14454(W) of 2019 with W.P. 17402(W) of 2019 on 18.11.2019.
- 3.** It appears that the petitioners in the present case stand on the same footing as that of the petitioners in the judgment of the Coordinate Bench as stated hereinabove.

4. The writ petition has been preferred challenging the award dated 15.01.2020 passed by the Central Government Industrial Tribunal cum Labour Court, Kolkata in Reference No. 17 of 2012 and to pass an award granting full back wages instead of 70% back wages.
5. The petitioners' case is that one of their member namely Late Partha Tarafdar since deceased (hereinafter shall be referred to as deceased workman) was employed by the respondent no. 2 on 03.11.1982 as a "Medical Representative" in the Marketing Department. Since, then he had discharged his duties sincerely and diligently till date of suspension by the respondent no. 2.
6. It is submitted that all on a sudden by order dated 09.05.2000, deceased workman was transferred from Kolkata to Dharampuri in the State of Tamil Nadu, which was intimated with a forwarding letter dated 15.05.2000, issued from the Kolkata Branch Office of the respondent no. 2 and he was released from Kolkata Office on 22.05.2000.
7. As the petitioner did not comply with the order, a domestic enquiry was ordered and no subsistence allowance was paid to the deceased workman even during the period of enquiry.
8. A reference was made by the Government of West Bengal vide G.O. No. 1811-Ir dated 12.12.2000 read with corrigendum No. 352-IR dated 23.02.2001 under the Industrial Disputes Act, 1947 on the issue of transfer along with another issues relating to justification

of discontinuation of operation of Kolkata Office of the respondent No. 2 with effect from 05/06/2000 and was sent to the Learned Eight Industrial Tribunal for adjudication.

9. Upon hearing the parties, the Learned Tribunal was pleased to pass an Award on 14.07.2003 holding the transfer orders of petitioner No. 3, as not justified and that he is entitled to join in Kolkata Office of the respondent No. 2 along with the benefits as admissible from the date of transfer and such Award was duly published by the Government of West Bengal vide G.O. No. 1530-IR/IR/11L-307/99(KW) dated 8.08.2003.
10. The management of the respondent No. 2 had challenged the Award by filing writ application before Hon'ble High Court at Calcutta vide W.P. No. 1954 of 2003.
11. On a reference to the Central Government Industrial Tribunal, the Tribunal passed its award on 13.01.2020. Vide the said award, the Tribunal directed as follows:-

"26. In the present case there is no prayer by the company in any form, either oral or by any application or in the pleading asking for opportunity to lead evidence to prove the charge of misconduct. Hence no question of giving opportunity to the employer to lead evidence arises. Consequently dismissal of the workman concerned on the basis of invalid, illegal and improper enquiry cannot be sustained and liable to be quashed. Admittedly the workman, Partha Tarafdar has died, therefore, he is entitled only for back wages.

27. The workman concerned in his statement of claim has pleaded that during the period of suspension he was

not gainfully employed anywhere. This fact is also supported by affidavit filed by the workman. There is no rebuttal of this pleading. Therefore, the workman is entitled for back wages. However, it is admitted case of the workman that after his transfer from Calcutta to Dharampuri, he never joined his duty at transferred place. In these circumstances, the workman is entitled for 70% back wages only.

**Sd/-
Presiding Officer”**

- 12.** Now, in view of **the judgment of the Coordinate Bench relied upon by the learned counsel appearing for the petitioners** and on considering the materials on record, this Court finds no reason to interfere with the award under challenge, the same being in accordance with law.
- 13.** Accordingly, the writ application is disposed of with a direction that the company shall release the gratuity, provident fund amount and all other dues to which the deceased employee was entitled to, within a period of two months from the date of this order and also the back wages as directed by the Tribunal, in the award under challenge.
- 14. WPA 5049 of 2021 stands disposed of.**
- 15.** Connected applications, if any, stands disposed of.
- 16.** Interim order, if any, stands vacated.
- 17.** There will be no order as to costs.

- 18.** Urgent certified Photostat copy of this Judgment, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Shampa Dutt (Paul), J.)