

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

No. Labr/ 188 / (LC-IR)/ 22015(12)/17/2018

Date : 11-02-2026

ORDER

WHEREAS under Labour Department's Order No. 574-I.R./IR/7L-01/2014 dated 07.05.2014 with reference to the Industrial Dispute between M/s. Birla Corporation Limited (Unit: Birla jute Mills, Nodakhali, P.O. Birlapur, South 24- Parganas, Pin-743318) Registered Office Address: Birla Building, 9/1, R.N. Mukherjee Road, Kolkata-700001 and its workman Sri Radheshyam Tewari, S/o. Late Suresh Tewari, 20/384, Birla Line, P.O. Birlapur, P.S. Nodakhali, South 24-Parganas, PIN-743318, regarding the issues mentioned in the said order, being a matter specified in the Second Schedule of the Industrial Dispute Act' 1947 (14 of 1947), was referred for adjudication to the 8th Industrial Tribunal, Kolkata.

AND WHEREAS the 8th Industrial Tribunal, Kolkata, has submitted to the State Government its Award dated 06.02.2026 in Case No. VIII-58/2014 on the said Industrial Dispute Vide e-mail dated 09.02.2026 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. labour.wb.gov.in.

By order of the Governor,


Assistant Secretary
to the Government of West Bengal

No. Labr/ 188 /1(5)/(LC-IR)/ 22015(12)/17/2018

Date : 11-02-2026

Copy forwarded for information and necessary action to:

1. M/s. Birla Corporation Limited (Unit: Birla jute Mills, Nodakhali, P.O. Birlapur, South 24- Parganas, Pin-743318) Registered Office Address: Birla Building, 9/1, R.N. Mukherjee Road, Kolkata-700001.
2. Sri Radheshyam Tewari, S/o. Late Suresh Tewari, 20/384, Birla Line, P.O. Birlapur, P.S. Nodakhali, South 24-Parganas, PIN-743318.
3. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The O.S.D. & E.O. Labour Commissioner, W.B. New Secretariat Building, 1, K. S. Roy Road, 11th Floor, 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/ 188 /2(3)/(LC-IR)/ 22015(12)/17/2018

Date : 11-02-2026

Copy forwarded for information to :

1. The Judge, 8th Industrial Tribunal, Kolkata, with reference to e-mail dated 09.02.2026.
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 between Sri Radheshyam Tewari, S/o. Late Suresh Tewari, 20/384, Birla Line, P.O. Birlapur, P.S. Nodakhali, South 24-Parganas, PIN-743318 and M/s. Birla Corporation Limited (Unit: Birla jute Mills at Nodakhali, P.O. Birlapur, South 24-Parganas, Pin-743318) Registered Office Address: Birla Building, 9/1, R.N. Mukherjee Road, Kolkata-700001 vide G.O. No. 574-I.R./IR/7L-01/2014 dated 07.05.2014.

(Case No. VIII-58/2014)

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

Shri Radheshyam Tewari**Applicant / workman**

Vs.

M/s. Birla Corporation Limited O.P. Company

A W A R D
Dated : 06.02.2026

Received a copy of order of reference vide G. O. No. 574-I.R./IR/7L-01/2014 dated 07.05.2014 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 Sri Radheshyam Tewari, S/o. Late Suresh Tewari, 20/384, Birla Line, P.O. Birlapur, P.S. Nodakhali, South 24-Parganas, PIN-743318 and M/s. Birla Corporation Limited (Unit: Birla jute Mills at Nodakhali, P.O. Birlapur, South 24-Parganas, Pin-743318) Registered Office Address: Birla Building, 9/1, R.N. Mukherjee Road, Kolkata-700001 for adjudication on the following issues:-

I S S U E (S)

1. Whether the termination of service of Sri Radheshyam Tewari by the management of Birla Jute Mills with effect from 31.03.2012 is justified?
2. What relief, if any, is the workman entitled to?

The case of the workman as pleaded in the written statement and supported by evidence is that Sri Radheshyam Tewari joined the management on 01.09.1977 and continuously served the establishment till 31.03.2012. He discharged his duties sincerely, honestly and to the satisfaction of the management and was covered under statutory benefits including ESI and Provident Fund.

The workman contended that he was a permanent workman and never held any supervisory or managerial powers. He had no subordinate under him, no authority to grant leave or initiate disciplinary proceedings and his duties were purely manual and clerical in nature.

It is the specific case of the workman that he was an active member of Birla Jute Majdur Morcha Union and for his legal and legitimate trade union

activities he became an eyesore of the management. The management repeatedly warned him to stop union activities.

According to the workman he was illegally terminated from service by the company with effect from 31.03.2012 by issuance of a letter of termination of even date which contained certain baseless, false, concocted allegations and workman was not given any opportunity to respond also. The workman in his written statement has stated that he never committed for which the company had any occasion to take any steps and for which his service could be terminated. According to the workman no show cause or charge sheet was issued to the workman for any alleged misconduct and no domestic inquiry was ever held in respect of the workman. According to him issuance of termination order without even giving chance to the workman to reply with a predetermined and close mind of determining the services of the workman and nonobservance of principal of natural justice. The workman has stated in his written statement that only reason for his termination of service was his participation in legal and legitimate trade union activities. The workman states that the company took an uncompromising attitude to the genuine grievance of the workman.

The workman asserted that the termination was punitive, vindictive and amounted to victimization for trade union activities and hence illegal, unjustified and void ab initio.

The workman prayed for reinstatement with full back wages and continuity of service till the date of superannuation.

The management filed its written statement denying the allegations of the workman. It was contended that Sri Radheshyam Tewari joined the mill on 01.09.1977 as a budli/temporary workman and never acquired permanent status.

According to the management, on 30.03.2012 at about 6:00 a.m. the workman along with others left their place of work and resorted to a flash strike in the spinning department causing total stoppage of production. It was alleged that the workman abused, intimidated and threatened managerial and supervisory staff, creating a reign of terror inside the mill.

The management further alleged that the workman again incited other workers at about 11:00 a.m. on the same day leading to suspension of work with effect from 6:00 a.m. of 31.03.2012 and substantial financial loss.

On the ground of riotous and disorderly behaviour, the management deleted the name of the workman from the budli roll and issued the termination letter dated 31.03.2012.

The management denied that the workman had completed 240 days in any year and relied upon attendance data and service records marked as Exhibits.

Based on the pleadings and evidence, the following point is emerged apart from the main issues –

1. Whether Sri Radheshyam Tewari was a budli workman or not ?

The workman examined himself and filed following documents which have been marked as Exhibits :-

1. Xerox copy of the ESI Card (Exhibit 1)
2. Xerox copy of the letter dated 4.1.2013 of the workman addressed to the Labour Commissioner, Govt. of West Bengal (Exhibit 2)
3. Xerox copy of the Order of the Hon'ble High Court dated 24.07.2013 (Exhibit 3)
4. Xerox copy of the conciliation memos (Exhibit 4)

The management examined three witnesses (OPW-1, OPW-2 and OPW-3) and relied upon the following documents marked Exhibits A to I :-

1. Xerox copy of the attendance data of Sri Tewari (Exhibit A)
2. Xerox copy of the General Notice dated 30.03.2012 issued by the Company (Exhibit B).
3. Xerox copy of Notice of suspension of work dated 30.03.2012 (Exhibit C)
4. Xerox copy of the Letter dated 31.03.2012 of the Company issued to Sri Tewari (Exhibit D)
5. Xerox copy of Certified Standing Order (Exhibit E)
6. Xerox copy of the Letter dated 21.08.2013 of the Company to ALC, Alipore (Exhibit F)
7. Computer generated production report of the company for the period 22.3.2012 to 30.3.2012 (Exhibit G series)
8. Copy of the memorandum dated 15.12.2015 issued by Personal Department to H.O.D (IT) Department (Exhibit H)
9. Copy of the Agreement dated 10.07.2000 (Exhibit I)

For the sake of convenience all the issues including the aspect of budli workman are taken up together for consideration.

It is admitted by the management witness OPW-1 that the workman joined the mill on 01.09.1977. According to OPW-1 the workman was in the Category – 'P' and from the very beginning Sri Tewari had been assigned job as and when required by the mill. OPW-1 further stated in his evidence that the worker's attendance data would reveal that Sri Tewari had worked for more than 240 days in a year in 1987 for 245 days, 2005 for 281 days and in the year 2006 for 290 days. In none of the year Sri Tewari had worked for more than 240 days in a year.

The concerned workman has claimed in his evidence and his pleadings that he was a permanent employee of the company at its jute mill and he was in continuous service during the period of his employment and was covered under the provisions of ESI and PF immediately upon his joining. Sri Tewari produced ESI Card being Exhibit 1.

Considering the contention of the both parties and their evidence it is admitted position that Sri Tewari joined on 01.09.1977 and according to the management the service of Sri Tewari has been dismissed vide letter dated 31.03.2012 being Exhibit D. The said Exhibit shows that the alleged misconduct has been formulated in terms of the certified standing order being followed by the mill. The letter of dismissal does not reflect that Sri Tewari was a budli workman rather the attendance data covers some period when Sri Tewari had worked more than 240 days.

The workman was admittedly covered under ESI and PF, which strongly indicates continuous engagement. The management failed to produce any appointment letter, budli register or any contemporaneous document conclusively proving that the workman never attained permanent status.

In view of the above the plea of the management that the workman remained a budli workman throughout his tenure of more than 35 years is wholly unbelievable and against normal industrial practice. Merely describing a workman as "budli" in internal records without cogent proof cannot dislodge the workman's long and continuous service.

This Tribunal, therefore, holds that there is not the slightest stretch of imagination to accept that Sri Tewari remained a budli workman till the end of his service.

The OPW-1 in his evidence has stated that the notice of lifting suspension of work shows that the workers were directed to report for duty in their respective department on 18.10.2012 and the said notice was displaced at the gate of the mill and at all conspicuous places in the vicinity of the mill and its surroundings for the notice of the workers. He has further stated in his evidence that although the name of the worker was struck off from the master rolls on and from 31.3.2012 of the company since Sri Tewari was a budli workman but he was called for to resume his duty but he did not report for duty as directed. The said versions of the OPW-1 is contrary to the contention made in the letter dated 31.3.2012 whereby the concerned workman alleged to have been committed misconduct of willful subordination or disobedience and riotous or disorderly behavior during working hours at the establishment or any act subversive of discipline more so misconducts runs striking work or inciting others to strike work in contravention of the provisions of law and act subversive of discipline. According to Exhibit - D the management's contention is that considering the prevalent hostile circumstances in an around the factory premises conducting of any domestic enquiry in the matter is not possible accordingly the service of the workman were dismissed with immediate effect. The workman concerned has denied that he committed any act of misconduct and termination order was issued without giving any chance to him to reply to the said order. Although he has stated in his evidence that he was never been served with any termination letter

however at the mill gate he was informed by the security that he had been indeed been terminated and he would not be allowed to enter the mill gate and not provided with any work. The said contention remained un-assailed in his cross examination.

Analyzing the evidence of both parties it is admitted position that -

1. No show cause notice was issued
2. No charge sheet was served
3. No domestic enquiry was conducted
4. No opportunity of hearing was given to Sri Tewari.

The management witnesses admitted that no written complaint was lodged by any managerial or supervisory staff and no documentary evidence of threat or intimidation was produced. Moreover the alleged strike was never declared illegal by any competent authority and no enquiry was possible allegedly due to tense situation which is no justification in law.

It is seen from the record that the amount of evidence as come out from the side of the management both oral and documentary does not establish the charges leveled against the workman in the letter of dismissal. In one pretext the management is contending that the name of Sri Tewari was struck off from the roll of the company which itself indicates the termination since striking the name from the roll of the company is deemed as termination of service. On the other hand the management issued the letter of termination wherein it is seen that the service of Sri Tewari has been dismissed. Obviously such dismissal is stigmatic in nature for which the enquiry was essential. The management had the opportunity to establish the allegations and misconducts before the Tribunal. Considering all the exhibits and oral evidence the Tribunal is on the view that no cogent evidence in support of the misconduct against the workman are present. The management has failed to prove the misconducts leveled against the workman before the Tribunal.

I have perused and considered the following Case Laws cited on behalf of the workman i.e. 1973(26) FLR 359(SC), 1994(2) LLJ 56 (CAL HC), 2003 LLR 337 (SC), 1981 LIC 806 (SC), 2013 LIC 4249 (SC), 1978(36) FLR 217 (SC).

The termination letter dated 31.03.2012 (Exhibit-D) itself shows that it is clearly punitive in nature, being founded on alleged misconducts. The management relied on the Case Laws reported in 2005(8) SCC 450, 2002(8) SCC 400, 1986(3) SCC 1586, 2009(7) SCC 473, 1972 Vol I SCC 595, 2015 (3) SCC 101, 2007 AIR SCW 1331.

I have carefully gone through the case laws as cited by the management but in my view those case laws have no manner of applicability so far as the present facts and circumstances of the case is concerned.

Tribunal is of the view that in even in cases of alleged serious misconduct, compliance with principles of natural justice is mandatory. The

management utterly failed to prove the alleged misconduct by any reliable oral or documentary evidence. The plea that legal formalities could not be followed due to fear or tension is wholly untenable.

Accordingly, this Tribunal holds that the termination of service of the workman was illegal, unjustified, arbitrary and violative of principles of natural justice .

Hence ordered

The workman was terminated on 31.03.2012 and would have normally superannuated in the year 2015. The termination having been held illegal, the workman is entitled to continuity of service till the date of superannuation. Considering the long service of the workman, the nature of illegal termination and absence of proof of gainful employment, the workman is entitled to back wages.

In view of the findings above, the reference is answered as follows :

The termination of service of Sri Radheshyam Tewari by the management of Birla Jute Mill with effect from 31.03.2012 is illegal, unjustified and void and the workman is entitled to continuity of service till the date of his superannuation. Sri Radheshyam Tewari is also entitled to full back wages from 31.03.2012 till the date of his superannuation along with all consequential benefits.

This is my award.

Let the necessary number of copies of this judgment and award be sent to the Secretary, to the Government of West Bengal, Labour Department, New Secretariat Buildings, 12th Floor, 1 No. Kiran Shankar Roy Road, Kolkata – 700 001.

Dictated & Corrected by me

Judge

-Sd-
Judge
(Amit Chattopadhyay)
Eighth Industrial Tribunal,
Kolkata
06.02.2026

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

Memo No. Dte/8th I.T./008/2026

Dated Kolkata, the 06.02.2026

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From: Shri Amit Chattopadhyay,
Judge,
8th Industrial Tribunal,
Kolkata - 1.

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

Sub: An industrial dispute between Radheshyam Tewari and M/s. Birla Corporation Limited vide G.O. No. 574-I.R./IR/7L-01/2014 dated 07.05.2014.

(Case No. VIII - 58 of 2014)

Sir,

I am sending herewith the Award passed in the matter of an industrial dispute between Sri Radheshyam Tewari, S/o. Late Suresh Tewari, 20/384, Birla Line, P.O. Birlapur, P.S. Nodakhali, South 24-Parganas, PIN-743318 and M/s. Birla Corporation Limited (Unit: Birla jute Mills at Nodakhali, P.O. Birlapur, South 24-Parganas, Pin-743318) Registered Office Address: Birla Building, 9/1, R.N. Mukherjee Road, Kolkata-700001 being Case No. VIII-58/2014 vide G.O. No. 574-I.R./IR/7L-01/2014 dated 07.05.2014 for information and necessary action.

Encl: As stated above.

Yours faithfully,

-Sd-

(Amit Chattopadhyay)
Judge,
Eighth Industrial Tribunal,
Kolkata
06.02.2026