

Title Suit No.535 of 2022.

**Present:- Sri Anupam Mukherjee, Judge, Bench-VI
(J.O. Code : WB00605)**

Order No.23// Dated : 22.12.2025

Today is fixed for passing order in respect of the present suit.

Plaintiff files hazira through Ld. Advocate.

The case of the Plaintiff, in a nutshell, is that he is the engineer by profession while Defendant is a Private Limited Company incorporated under Companies Act, 1956. In the year 1995, the Plaintiff was applied for a job for the post of Junior Engineer under the Defendant/Company which was initially known as Simplex Concrete Piles (India) Ltd. which was subsequently known as M/s. Simplex Infrastructures Ltd. The Defendant/ Company on 04.09.1995, issued the Appointment Letter in favour of the Plaintiff and working under the Defendant for about 25 years without any complaint. Due to some personal inconvenience or for unavoidable circumstances, the Plaintiff was bound to resign the service and he accordingly sent a mail to the Defendant/Company on 25.10.2020 and in the said resignation letter, the Plaintiff requested the Defendant to make payment of P.F., Gratuity and also 11 months salary, declared bonus for the year 2018-2019, LTA Claim for the block period 2017-2019 and also medical reimbursement from April 2020 to October 2020. That letter was duly accepted by the Defendant by its letter dated 24.12.2020 where it was assured by the Defendant that "your final dues, if any, will be paid to you in due course. For your Provident Fund Dues, you are requested to apply in prescribed forms to the trustees, Simplex Employees Provident Fund, 12/1, Nellie Sengupta Sarani, Kolkata-700087. As regards your gratuity dues, you are requested to apply the trustees, Simplex Concrete Piles Gratuity Fund, 12/1, Nellie Sengupta Sarani, Kolkata-700087. As per advise, the Plaintiff already received the Provident Fund and Gratuity from the concerned Department, but the Plaintiff's legitimate 11 months salary and others total dues of Rs.11,38,702/- are still due and payable. Since the Defendant fails to demand of the Plaintiff, the present suit has been filed for declaration with a prayer to recover a sum of Rs.11,38,700/- for service of amenities and also 18% interest over the said amount and also for other consequential reliefs.

The Defendant appeared and filed Written Statement on 06.01.2023 where in para no.10, it has been mentioned that with reference to para 8 of the plaint regarding claim of the Plaintiffs 11 months salary which the Plaintiff may get Rs.7,15,596/- only as per the office record of the Defendant. Any other claim of the Plaintiff is not justified and are denied to pay by the Defendant accordingly.

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Pertinent to mention that at the initial stage, when the Defendant fails to file any Written Statement or to show any interest to contest the present suit, the suit was fixed for ex-parte hearing. Subsequently, the Defendant came with an intention to contest the suit, but failed to contest the suit subsequently without taking any steps, though in the earlier occasion they have filed Written Statement against the plaint of the Plaintiff.

Now, it is to be decided whether the admission of the Defendant in the Written Statement can be considered as an admission of the Defendant in respect of the salary or it is to be decided whether the Plaintiff is entitled to get any other relief as claimed.

Decision with reasons

The present suit has been heard ex-parte, since the Defendant fails to contest the present suit.

From the evidence of the Plaintiff, i.e. Sri Srikanta Pal (PW-1), it appears that he deposed in the present suit on 30.01.2025 and during his examination, he proves the Appointment Letter, which was issued by Mr. A.R. Banerjee, the then Director of the Defendant/Company and the said Appointment Letter has been marked as Exbt.-1.

The said witness during course of his examination, also has been able to prove the email dated 25.10.2020, which was addressed to the Defendant/Company, the said email has been marked as Exbt.-2.

The said witness also proves the letter which was addressed to him by the Senior Vice President of the Defendant/Company on 24.12.2020, which has been marked as Exbt.-3.

On 10.03.2025, the Plaintiff has been able to prove the Salary Slips for the month of July 2019, September 2019, November 2019, February 2020, April 2020, May 2020, June 2020, July 2020, September 2020 and October 2020, those have been marked as Exbt.-4 Series. That witness also proves the email dated 25.03.2021, which was sent by him to Mr. Nitish Goswami, Senior G.M. of the Defendant/Company. The said email is marked as Exbt.-5 Series. That witness also proves the Demand Notice dated 27.01.2022, which was addressed to the Defendant/Company, along with Postal Receipt and Track Consignment Report, which have been marked as Exbts.-6, 6/1 and 6/2 respectively.

From the admission made in the Written Statement where the Defendant has admit the non-drawal of salary of the Plaintiff and according to them, the Plaintiff is entitled to get a sum of Rs.7,15,596/-, but as per the Defendant, the

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Plaintiff is not entitled to any other amount of money as claimed for reimbursement of Medical Bill, LTA and Bonus.

When the Defendant admits their liability about non-payment of salary though confronted about the quantum of salary amount, but from the admission of the Defendant, it is suffice to say that the Plaintiff is entitled to get money from the Defendant/Company as his salary.

Now, it is to be adjudicated how much amount of money the Plaintiff is entitled to get from the Defendant as salary or other components relating to the service rendered to the Defendant/Company.

In the instant suit, from Exbt.-5, it has been depicted that the Plaintiff has reminded for 12 times to the Defendant to pay his salary starting from the month of July 2019, September 2019, November 2019, February 2020, April 2020, May to September 2020, i.e. for 11 months amounting to Rs.10,44,192/-. Though, the Defendant challenged the said amount admitting that the Plaintiff is entitled to the tune of Rs.7,15,596/- only as salary, nothing more, nothing less. But, when the averment made in the plaint has not properly been confronted by the Defendant by filing/showing any necessary document that the claim of the Plaintiff is illegal, motivated or purposeful, in no way it can be thought otherwise about the genuineness of the claim.

From the said angle, it is proper to say that the demand of the Plaintiff has not been properly confronted by producing documents, the Defendant fails to confront the claim of the Plaintiff, either by producing documents or by adducing witness in this regard. Since the testimony of the Plaintiff has not been properly confronted, whatever prayer has been made by the Plaintiff in this regard should be considered as genuine until contrary is proved.

Exbt.-1 is sufficient to prove that the Plaintiff was appointed by the Defendant as Junior Engineer on 04.09.1995. As per Appointment Letter, the Plaintiff is entitled to a sum of Rs.880/- per month as basic salary and in addition, he is entitled to get a sum of Rs.925/- per month as Special Scarcity Allowance, Rs.845/- per month as site allowance and Rs.450/- per month as ex-gratia and also Rs.150/- per month as Project Allowance. He is also entitled to get Leave Travel Allowance, which is allowed after completion of 18 months service in anticipation of remaining in service 42 years and also allowed medical facilities as per Companies Rules.

It is pertinent to mention here that though the Plaintiff has claimed a sum of Rs.11,38,702/-, but he has failed to prove any such document to show that he raised a bill for reimbursement of LTA for the block period 2017-2019 before the

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Defendant/Company showing the Expenditure Reference Voucher No.NP 33153315/190910000002 dated 10.09.2019 and NP 33153315/19123000. Absence of any such document, this Court cannot allow his prayer. Not only that, no such document has been produced by the Plaintiff to show about his entitlement of bonus for the period 2018-2019 to the tune of Rs.7,000/-, or to show any document that for the said period, the Defendant/Company has paid bonus to the other staffs attached with that Company. No medical papers have been produced or proved by the Plaintiff during course of examination that he is entitled to get a sum of Rs.10,500/- upto September 2020.

Therefore, from absence of any documents regarding claim as made by the Plaintiff, this Court cannot grant any prayer in favour of the Plaintiff.

In my understanding, from the above discussion, when the Plaintiff has failed to prove about the other claim like LTA, Bonus or medical reimbursement, he is not entitled to get such amount as claimed, but when there is an admission of the Defendant that as salary, Plaintiff is entitled to get a sum of Rs.7,15,596/- that amounts to an admission of the Defendant regarding non-payment of salary in favour of the Plaintiff. From all correspondence, i.e. email dated 25.10.2020 (Exbt.-2) and its reply of the Defendant dated 24.12.2020 (Exbt.-3), it has been depicted that since the Plaintiff resigned the service without due notice as per terms and conditions of the appointment letter on and from 25.10.2020, the Defendant/Company stated that he is not entitled to get any payment from 01.10.2020 to 25.10.2020, but the Company admits that the Plaintiff is entitled to get an amount equivalent to one month's salary being the shortfall in the notice period and further admits that the final dues if any will be paid to you in due course and also intimate the Plaintiff that his Provident Fund Dues may be withdrawn by applying in prescribed form to the trustees of the Defendant Provident Fund situated at 12/1, Nellie Sengupta Sanari, Kolkata-700087 and for gratuity dues, he has to apply to the trustees to the Simplex Concrete Piles Gratuity Fund, 12/1, Nellie Sengupta Sarani, Kolkata-700087.

From the said admission made in the reply letter dated 24.12.2020 of the Defendant, it has been proved that the Plaintiff is entitled to get salary, which though confronted by the Defendant in their Written Statement, but from their admission, when it appears that the Defendant/Company did not provide salary to the Plaintiff for his gratuitous act towards the Company, the Defendant is bound to pay the claim amount regarding salary to the Plaintiff.

From the available documents and correspondence, it has been proved that the Plaintiff as salary is entitled to get a sum of Rs.11,07,202/- for the month of July 2019, September 2019, November 2019, February 2020. April

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2020 to October 2020. So far the other claim is made by the Plaintiff regarding payment of LTA, bonus or medical expenses when have not been substantiated through document, this Court cannot allow such prayer and is accordingly denied the said prayer.

From the above all discussion, as per understanding of this Court, the Plaintiff is entitled to get a sum of Rs.11,07,202/- as salary for the month of July 2019, September 2019, November 2019, February 2020. April 2020 to October 2020.

C.F. paid is sufficient.

Hence, it is,

ORDERED

that the suit be and the same is decreed ex-parte against the Defendant, without cost.

The Plaintiff is entitled to get a sum of Rs.11,07,202/- as salary for the month of July 2019, September 2019, November 2019, February 2020. April 2020 to October 2020.

Defendant is hereby directed to pay such amount within 3 months from the date of order, failing which the Plaintiff is entitled to get 10% interest over the said unpaid amount from the date of order, till its realisation.

D.A. to draw the decree.

Dictated & corrected by me,
Sd/-

Judge.

Sd/- A. Mukherjee
Judge, Bench-VI,
City Civil Court, Calcutta.