

# The Odisha Gazette

**EXTRAORDINARY  
PUBLISHED BY AUTHORITY**

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**No. 1972 CUTTACK, THURSDAY, NOVEMBER 27, 2014 / MARGASIRA 6, 1936**

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**LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT**

**NOTIFICATION**

The 11th November 2014

No. 8988—IR (ID)-156/2014-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 23rd August 2014 in Industrial Dispute Case No. 11 of 2013 of the Presiding Officer, Labour Court, Bhubaneswar wherein the industrial dispute between the Management of Project Director, National Child Labour Project, Angul and its workman Shri Girish Chandra Behera was filed by the workman under Section 2-A(2) of I. D. Act, 1947 for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER, LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 11 OF 2013 [(Under Section 2-A(2))]

Dated the 23rd August 2014

*Present :*

Shri Saroj Kumar Sahu, M.A.,LL.M.,  
Presiding Officer,  
Labour Court,  
Bhubaneswar.

*Between :*

The Project Director,  
National Child Labour Project, Angul,  
At/P.O. Angul,  
Dist. Angul.

. . First Party—Management

And

Shri Girish Chandra Behera,  
S/o Bansidhar Behera,  
At Karada Khaman, P.O. Kantiapashi,  
Via Talcher, Dist. Angul.

. . Second Party—Workman

*Appearances :*

None	. . For the First Party—Management
Shri Girish Chandra Behera	. . For the Second Party—Workman himself.

**AWARD**

This case has been initiated on an application filed under Section 2-A(2) of the Industrial Disputes Act, 1947, by the second party workman.

The case of the second party workman is that he was engaged as a Vocational Instructor under first party management with effect from the 21st August 2007. On the 1st March 2009 the first party management illegally terminated the service of the second party without complying the statutory provisions of I. D. Act, 1947. So, an industrial dispute was raised before the D.L.O., Angul, on submission of a complaint petition by the second party on the 29th November 2012. As the second party could not get any relief and no action was taken on his complaint by the D.L.O., Angul, even after lapse of 2 and half months the second party has filed the present application before this Court for necessary relief. The second party was to impart vocational skill and to discharge manual and technical in nature. For all, practical purpose he was a workman under the first party. The first party is the employer and coming under the definition of Section 2(J) of the I. D. Act, 1947. The second party workman had approached Collector, Angul and some other authorities for necessary relief but in vain. He has prayed for reinstatement in service alongwith full back wages.

In spite of notice the first party management did not turn up to contest the case although filed its written statement. The case of the first party management is that the first party organisation is a Regd. Society and the functions of the said organisation are philanthropic in nature and to provide education up to 5th standard and to bring the rescued child labourers to the mainstream by imparting formal education. The organisation is performing the work of a charitable institution for which it is not coming under the definition of industry as defined under Section 2(J) of the I. D. Act. The second party is a volunteer engaged by an agency on honorarium basis. He was not engaged on payment of wages. The first party management is not the employer of the second party. During the engagement of the second party it was observed that he was not able to provide vocational trade education nor he could improve to make himself able to know in the trade within a period of 2 years. His service could not be beneficial to the students. The engaging agency Rural Development Council was intimated for discontinuance of the service of the second party on the report of the Master Trainer of the Project Society. Hence the second party is not entitled for any relief.

The workman is examined as W.W. 1 and Exts. 1 to 7 are marked on his behalf. Ext. 1 is copy of Letter No. 293, dated the 21st August 2007 issued to Mother Teresa Self Help Group by Project Director of the first party management. Ext. 2 is the engagement order No. 2 of 2007, dated the 23rd August 2007 issued to the second party workman by the Secretary, Mother Teresa Self Help Group, Khalspal, Ext. 3 is Memo. No. 48, dated the 28th February 2009 issued by the Project Director of the first party management to the second party. Ext. 4 to the personal photo copy of representation submitted by the second party to the Hon'ble Chief Minister, Odisha, dated the 9th March 2010. Ext. 5 is the personal photo copy of the representation submitted by the second party to the Collector, Angul, dated the 22nd March 2010. Ext. 6 is the personal photo copy of the application filed by the second party before the Assistant Labour Officer, dated the 29th November 2012. The first party is set *ex parte* and non is examined on its behalf.

In his evidence W.W. 1 deposed that he was engaged as a Vocational Instructor in Cycle Fitting Trade with effect from the 21st August 2007 under the first party management. He proved the engagement letter issued by the first party management to the Mother Teresa S.H.G., Khalspal, which is marked Ext. 1. He further deposed that he was working under the first party management from the 23rd August 2007 till the 28th February 2009 on a consolidated monthly wages of Rs. 1,500, but illegally terminated on the 1st March 2009. On perusal of Ext. 1 it transpires that the Project Director, N.C.L.P., Angul, has issued the said letter to Mother Teresa S.H.G., Khalspal on the 21st August 2007 for engagement of the volunteer Shri Girish Chandra Behera. Ext. 2 is also proved by the second party. On perusal of Ext. 2 it is clear that as per the instruction of the Project Director, the Secretary of Mother Teresa S.H.G. had engaged the present second party as Vocational Instructor on contract basis on consolidated honorarium. It is also clear from Ext. 2 that the second party was engaged as a volunteer. From the evidence W.W. 1 and the contents of Exts. 1 and 2 it is clear that the engagement of second party was not as a worker under the management but as a volunteer on payment of honorarium on contractual basis. The honorarium paid to the second party by Mother Teresa S.H.G. cannot be termed as wage and the second party is not a workman under the first party or Mother Teresa S.H.G., but he was engaged as a volunteer to teach rescued child labour. The service rendered by the second party is not of a worker but, by volunteer who served voluntarily. Mother Teresa S.H.G. is working for education of the rescued child labourers which is also not coming under the definition of 'industry' under the I. D. Act, 1947.

In view of my aforesaid analysis of the evidence on record it is clear that the second party is not a worker under the first party management and removal from his service by the second party is not termination/disengagement or retrenchment under I. D. Act, 1947. The disengagement of the second party by the first party is legal and justified.

In view of my findings under issue No. 1 the second party is not entitled for any other relief.

The termination/retrenchment/disengagement of the second party by the first party is legal and justified. The second party is not entitled for any relief.

Dictated and corrected by me.

S. K. SAHU  
23-08-2014  
Presiding Officer  
Labour Court, Bhubaneswar

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23-08-2014  
Presiding Officer  
Labour Court, Bhubaneswar

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By order of the Governor  
M. NAYAK  
Under-Secretary to Government