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## LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 29th August 2005

No. 7319-Ii/1 (B)-196/97(Pt)/LE.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award dated the 22nd July 2005, in I.D. Case No. 161/1998 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of Puri Irrigation Division, Puri and its workman Shri Ramesh Chandra Pradhan was referred for adjudication is hereby published as in the schedule below: —

### SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 161 OF 1998

Dated the 22nd July 2005

*Present:*

Shri P.K. Sahoo, O.S.J.S. (Junior Branch),  
Presiding Officer, Labour Court,  
Bhubaneswar.

*Between:*

The Executive Engineer,  
Puri Irrigation Division, Puri  
At/P.O./ Puri, Dist./ Puri.

. . First party—Management

And

Shri Ramesh Chandra Pradhan,  
S/o. Dhiren Chandra Pradhan,  
Vill./ Bahilipada, P.O./ Narirajpur,  
P.S./ Pipili, Dist./ Puri.

. . Second party—Workman

*Appearances:*

None

. . For Management

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Shri R.C. Pradhan

. . Workman himself.

## AWARD

The State Government in exercise of powers conferred by sub-section (5) of section 12 read with clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the matter in dispute to this Court in the Labour & Employment Department Memo. No. 12115 (5)/LE., dated the 29th October 1998 for adjudication and Award.

2. The terms of reference may briefly be stated as follows: —

“Whether the termination of service of Shri Ramesh Chandra Pradhan, DLR-Khalasi with effect from 16-11-1995 by the Executive Engineer, Puri Irrigation Division, Puri by way of refusal of employment is legal and/or justified? If not, to what relief Shri Pradhan is entitled?”

3. The brief facts giving rise to the present reference and that workman Ramesh Chandra Pradhan was engaged as DLR-Khalasi under the Management of Executive Engineer, Puri Irrigation Division, Puri (in short the Management) with effect from 01-08-1993. He continued to work as such till 15-11-1995 with much sincerity, devotion and to the best satisfaction of the Management but on 16-11-1995 he was refused employment. According to the workman, he had rendered continuous service with effect from 01-08-1993 to 15-11-1995 but the Management without any rhyme or reason terminated his service by way of refusal of employment without following the mandate of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act). While challenging the action of the Management the workman has now prayed for his reinstatement in service with back wages along with other service benefits. Hence the reference.

4. The Management, on the other hand, entered its appearance and filed written statement opposing the claim of the workman. At the time of hearing of this case the Management remain absent as a result it was *ex-parte*. The *ex-parte* hearing commenced on 11-10-2004.

5. During *ex-parte* hearing the workman has examined himself as W.W.1 and has relied upon the xerox copies of the office order Dt. 08-02-2004, letter of the Management dt. 22-10-2003 and list of the D.L.R employees marked as Exts.1 to 3 respectively.

During evidence the workman has clearly stated that he was working as N.M.R worker under the Management with effect from 09-04-1991 to 15-11-1995 and he was receiving his wages at the rate of Rs.750/- per month. On 16-11-1995 the Management without giving any notice or notice pay and retrenchment compensation terminated his service without assigning any reason by way of refusal of employment. After such termination the Management gave fresh engagement to one Pravakar Das, Pahali Pani and Chakradhar Jena who were still continuing in their respective job under the Management. He approached the Management for his engagement and after careful consideration of the matter the Management vide office letter No. 56, dt. 06-02-2004 under Ext.1 re engaged him in service. During evidence he was duly proved the letter of the Management addressed to the Superintending Engineer, Central Irrigation Circle, Bhubaneswar-12 and list of the D.L.R employees marked as Exts.2 and 3 respectively. He has now prayed for continuity of service with effect from 16-11-1995 till 7-2-2004 with full back wages. Admittedly to rebuttal evidence has been adduced by the Management. In absence of any rebuttal evidence I find no cogent reason to disbelieve the evidence of the workman in the above context. Neither it is clearly evident from the evidence of the workman that he joined in the establishment of the Management with effect from 09-04-1991 and continued to work till 15-11-1995 but the Management without any rhyme or reason terminated his service with effect from 16-11-1995 by way of refusal of employment without giving any notice or notice pay and retrenchment compensation, which in my view, are in complete violation of the mandatory provisions of Section 25-F of the Act. The settled position of law is that the non-compliance with the provisions of Section

25-F of the Act renders the termination of service of a workman ineffective. The provisions of Section 25-F of the Act is mandatory and any violation thereof will render the retrenchment void *ab initio*. In the present case the condition precedent has not at all been followed by the Management while terminating the services of the workman with effect from 16-11-1995 by way of refusal of employment. On the whole, the workman has successfully proved his case with regard to his claim as averred in his statement of claim. In that view of the matter, the workman is entitled to the relief reinstatement with back wages.

6. The perusal of the evidence of the workman clearly emerges that he has been re-engaged by the Management with effect from 08-02-2004. The workman has only prayed for back wages for the period from 16-11-1995 to 07-02-2004 with continuity of service. Admittedly the Management has not availed the services of the workman during the said period. Taking all the facts into consideration, the interest of justice would be best served if the workman concerned be given compensation towards back wages a lump sum amount of Rs. 2000 with continuity of service.

7. Hence it ordered:

### ORDER

That the termination of service of Shri Ramesh Chandra Pradhan, DLR-Khalasi with effect from 16-11-1995 by the Executive Engineer, Puri Irrigation Division, Puri by way of refusal of employment is neither legal nor justified. Admittedly the workman has been re-engaged in service with effect from 08-02-2004. He is, therefore, entitled to a lump sum compensation of Rs. 2,000 (Rupees two thousand) only towards back wages with continuity of service.

The reference is thus answered accordingly *ex parte*.  
Dictated and corrected by me.

P.K. SAHOO  
22-07-2005  
Presiding Officer,  
Labour Court,  
Bhubaneswar.

P.K. SAHOO  
22-07-2005  
Presiding Officer,  
Labour Court,  
Bhubaneswar.

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By order of the Governor

D. MISHRA  
Under-Secretary to Government