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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 14th November 2006

No. 10014—li/1(SS)-57/2002(Pt.)-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 6th September 2006 in Industrial Dispute Case No. 23 of 2003 of the Presiding Officer, Labour Court, Sambalpur to whom the industrial disputes between the Management of SAIL, Rourkela Steel Plant, Rourkela, Dist. Sundargarh and their workman Shri D. K. Parida, C/o The General Secretary, Rourkela Shramik Sangha, Qr. No. D/81, Sector 18, Rourkela-3, Dist. Sundargarh was referred for adjudication is hereby published as in the Schedule below :

#### SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER  
LABOUR COURT, SAMBALPUR

INDUSTRIAL DISPUTE CASE No. 23 OF 2003

Dated the 6th September 2006

*Present :*

Shri P. K. Mohapatra, LL. B.  
Presiding Officer, Labour Court,  
Sambalpur.

*Between :*

The Management of SAIL, .. First Party—Management  
Rourkela Steel Plant,  
Rourkela, Dist. Sundargarh.

And

Their workman .. Second Party—Workman  
Shri D. K. Parida  
C/o The General Secretary,  
Rourkela Shramik Sangha,  
Qr. No. D/81, Sector-18,  
Rourkela-3, Dist. Sundargarh.

*Appearances :*

For the First Party—Management	. . Shri G. Pujari, Advocate
For the Second Party—Workman	. . Shri K. C. Rath, Advocate

## AWARD

1. This case arises out of the reference made by the Government of Orissa, Labour & Employment Department under Sections 10 & 12 of the Industrial Disputes Act, 1947 vide Memo. No. 4930(5)-LE., dated the 19th May 2003 for adjudication of the case scheduled below :

“Whether the action of the management of SAIL, Rourkela Steel Plant, Rourkela in imposing punishment on Shri Parida, Pl. No. 86243 by reducing one increment vide order, dated the 25th February 2000 as a disciplinary measure is legal and/or justified ? If not, to what relief Shri Parida is entitled ?”

2. The case of the workman is that on the 6th October 1998 at about 3-00 P.M. Shri B. K. Sahu, Senior Manager, Fabrication Shop issued two numbers of written requisition slips and directed him to collect Electrode Cromotherme 3.15 and 4 mm. from Central Store, but he being a Senior Store Keeper pointed out the mistakes available in the requisition and Shri Sahu took exception to it and deputed another employee namely Shri H. D. Panigrahi to collect materials, but the same could not be handed over to him by the Central Store as the requisitions were in his name and then the matter was referred to Shri A. Gupta, the Senior Manager of Stores, who corrected the mistakes and then Shri H. D. Panigrahi presented the requisitions at the Central Store, but it could not be handed over to Shri Panigrahi as he was not the authorised person and on the next day i.e. on the 7th October 1998 it was handed over to another workman namely Shri P. C. Parida and in view of the above development Shri B. K. Sahu became annoyed on him and hatched a plan to rope him in a proceeding and accordingly, a charge sheet was submitted against him and the Enquiry Officer after conducting a perfunctory enquiry recommended for imposing punishment on him for wilful disobedience to any reasonable order of a superior and the disciplinary authority by virtue of his order reduced his basic pay from Rs. 3,366 to Rs. 3,301 in the scale of pay of Rs. 2,245—38—2,651—65—3,106 with immediate effect. It is also the case of the workman that the officer who had punished him is not competent to do so and furthermore, he was victimised of double punishment as his pay on the 7th October 1998 was out from his pay. To sum up, the workman has prayed for answering the award in his favour.

3. The management has contested the above claim by stating that the workman refused to collect the materials in spite of the direction of Shri B. K. Sahu, Senior Manager and his plea that he pointed out mistakes available in it are manufactured by him to suffice his case. According to them, the Senior Manager Shri Sahu was alive to the mistakes available in one requisition as because the computerised data printed in the requisition slip is not coinciding with the Stores Bin Card data and then Shri Sahu had lined up with the Senior Manager of Stores and the said development was duly intimated to the workman, but he refused to collect the materials from the Central Store and then Shri Sahu deputed another employee namely

Shri H. D. Panigrahi to collect it, but due to dearth of time on the same day, he could not collect it and on the next day it was collected from the Store by another employee Shri P. C. Parida who is the Store Keeper of the department. It is the specific case of the management that the workman refused to obey the reasonable order of his superior officer which is a misconduct as per Certified Standing Orders of the Company and then a charge sheet was issued against him and after thorough enquiry, punishment was also imposed on him. To sum up, the management side has prayed for answering the reference against the workman.

4. The workman has filed a rejoinder wherein he has taken the plea that the management has manufactured a good story to rope him in a proceeding and in this connection, he has pointed his finger to the explanation furnished by the management as to how the materials could not be collected on the 6th October 1998 and the reasons assigned in this connection that it occurred due to paucity of time. He has further averred in his rejoinder that there was no urgency in the issuance of requisitions and to implicate him in a proceeding, some officers of the plant have made a conspiracy. In the rejoinder, he has further averred that the Enquiry Officer had conducted the enquiry in a slipshod manner and the punishment imposed on him (workman) was disproportionate.

5. By taking note of the pleadings of the parties, the following issues are framed for adjudication in this case :—

#### ISSUES

- (i) “Whether the domestic enquiry conducted by the Management of SAIL, Rourkela Steel Plant, Rourkela is fair and proper ?
- (ii) Whether the action of the management of SAIL, Rourkela Steel Plant, Rourkela in imposing punishment on Shri Parida, Pl. No. 86243 by reducing one increment vide order, dated the 25th February 2000 as a disciplinary measure is legal and justified ?
- (iii) What relief if any, the workman is entitled to ?”

#### FINDINGS

6. Before going to deal with the issues settled in this case it would be better to mention here that with the consent of the parties, issue No. (i) was taken up preliminarily and after thorough hearing it was answered against the workman and in support of the management. The order, dated the 3rd July 2006 whereby it is held that the domestic enquiry was fair and proper be read as part and parcel of this award. As such there is no reason of discussing the pros and cons of issue No. (i) as the same will be a sheer repetition. As such issue No. (i) is not dealt in detail in this award.

7. *Issue Nos. (ii) and (iii)*—It is a well settled law that if the domestic enquiry is held to be fair and proper then the Labour Court has got limited jurisdiction to interfere with regard to the punishment imposed by the management. The Apex Court in a catena of decisions have held

that the Labour Court is not empowered to interfere with the punishment imposed on the workman in absence of any allegation of victimisation or unfair labour practice. In this connection the recent decision of the Apex Court reported in IV(2006) SLT 53—General Secretary, South Indian Cashew Factories Workers' Union Vrs. Managing Director, Kerala State Cashew Development Corporation Limited and Others be referred. This being the position of law, at this stage this Court revolves in a narrow campus as to whether the punishment imposed on the workman is not justified and it was done with a view to sabotage the workman.

In his statement of claim, the workman has not whispered of word of victimisation or unfair labour practice against the management. His allegation relates to a single officer namely Shri B. K. Sahu, the Senior Manager of Fabrication Shop. Even if it is accepted for the sake of argument, it is hard to fathom that an officer of his rank can influence the management who in turn imposed the punishment as referred above. There is absolutely no evidence from the side of the workman to co-relate Shri Sahu and the role played by him in connection with the punishment imposed on him. It is very difficult to arrive into a conclusion basing on surmises and conjectures. If by the action of Shri Sahu, the workman was prejudiced and harbours an impression that Shri Sahu has created a plot against him, then he could have averred it in his pleading and accordingly could have led evidence to substantiate that plea. In absence of any evidence in that regard the claim of the workman that he was victimised by the management cannot be easily swallowed. Rather he has taken a technical plea that the person who imposed the punishment is not a correct authority and accordingly the entire proceedings be vitiated. But to counter the above claim, the management side has examined Panalal Bose, Assistant Manager, Personnel of the Steel Plant as witness No. 1 from the side of the management and this officer has proved the delegation of the disciplinary powers in respect of the employees covered under the Standing Orders (Ext. 13). On perusal of the Ext. 13 a clear cut picture is forthcoming and the submission of the learned counsel for the workman that the disciplinary powers cannot be redelegated cannot be accepted. In the body of Ext. 13 the officers competent to exercise the disciplinary powers in respect of non-execute employees is clearly mentioned and accordingly the A.G.M., Shri G. P. Banerjee who has imposed the punishment on the workman is competent to impose it. So there is no reason to interfere in respect of the order passed by the A.G.M. vide Ext. 10.

8. The learned counsel for the workman has submitted that the workman was a victim of double punishments and accordingly a warning would have suffice the alleged lapses committed by him. Admittedly the workman did not get the pay on that day as a token of punishment. According to the learned counsel for the management the same was done in consonance with the theory of "no work no pay". To buttress his claim, he has relied on a decision reported in 2000-LLR P.392 J. Ganapathy Subramaniam Vrs. Deputy General Manager, Canara Bank, Staff Section (W), Circle Office, Madras and other. Admittedly the workman did not perform his duty which was entrusted to him on that day. So it can be safely said that he has not performed any work on that day and as per the normal rule, he is not entitled to get his pay in relation to that day. Non-payment of salary of that day cannot be equated as a punishment. So, only the punishment imposed on him was vide Ext. 10 and there is no reason to interfere with it. As such, the above issue is also to be answered against

the workman. On totality of the facts and circumstances as narrated above, I am of opinion that the punishment imposed by the management is legal and justified and the workman is not entitled to get any relief claimed by him. Hence the following award :—

#### AWARD

The reference is answered on contest. The action of the management of SAIL, Rourkela Steel Plant, Rourkela in imposing punishment on Shri Parida, Pl. No. 86243 by reducing one increment vide order, dated the 25th February 2000 as a disciplinary measures is held to be legal and justified and the workman is not entitled to get any relief claimed by him.

Dictated and corrected by me.

P. K. MOHAPATRA  
6-9-2006  
Presiding Officer  
Labour Court, Sambalpur

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6-9-2006  
Presiding Officer  
Labour Court, Sambalpur

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By order of the Governor  
N. C. RAY  
Under-Secretary to Government