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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 28th March 2006

No. 2767-li/1(J)-30/2002-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 25th February 2006 in Industrial Dispute Case No. 6/2003 of the Presiding Officer, Labour Court, Jeypore to whom the industrial disputes between the Managements of Shri K. Venkat Rao, Contractor, BILT (Unit Sewa), At Gaganpur, Jeypore, (2) The Ballarpur Industries Ltd. Unit Sewa, Gaganpur, Jeypore, Dist. Koraput and its Workman Shri Rabindra Kumar Sahu, S/o Late Krushna Chandra Sahu, At/P.O. Kusumi, Via Abaguda, Dist. Koraput was referred for adjudication is hereby published as in the Schedule below :

### SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER  
LABOUR COURT, JEYPORE, KORAPUT

INDUSTRIAL DISPUTE CASE NO. 6 OF 2003

Dated the 25th February 2006

*Present :*

Shri R. K. Saran  
Presiding Officer, Labour Court  
Jeypore, Dist. Koraput.

*Between :*

1. The Management of  
Shri K. Venkat Rao, Contractor, BILT  
(Unit Sewa), At Gaganpur, Jeypore  
At/P.O. Jeypore  
Dist. Koraput. . . First Party—Managements

2. The Ballarpur Industries Ltd.  
Unit Sewa, Gaganpur  
At/P.O. Jeypore, Dist. Koraput.

*Versus*

Its Workman .. Second Party–Workman  
Shri Rabindra Kumar Sahu  
S/o Late Krushna Chandra Sahu  
At/P.O. Kusumi, Via Abaguda  
Dist. Koraput.

Under Sections 10 and 12 of the Industrial Disputes Act, 1947

*Appearances :*

For the Managements	.. Shri Kedar Nath Samantaray, Advocate Jeypore and Associates
For the Workman	.. Shri B.V. Ramana, Moharanipeta, Jeypore A/R of the workman.
Date of Argument	.. 16-2-2006
Date of Award	.. 25-2-2006

#### AWARD

This is a reference under Section 10(1), read with Section 12(5) of the Industrial Disputes Act, 1947 made by the State Government of Orissa in their Labour & Employment Department Memo No. 4960(5)-L.E., dated the 19th May 2003 for adjudication of the dispute mentioned below :

#### SCHEDULE

“Whether the refusal of employment to Shri R.K. Sahu, a Semi-skilled Labour, working in Ballarpur Industries, Koraput with effect from the 26th May 2002 by Shri K. Venkat Rao, Contractor is legal and/or justified ? If not, what relief is Shri Sahu entitled to ?”

2. The case has been referred to this Court to decide whether refusal of employment of Shri R.K.Sahu, a Semi-skilled Labour working in BILT, Gaganpur, Jeypore with effect from the 26th May 2002 by Shri K. Venkat Rao, Contractor is legal or justified and to what relief Shri Sahu is entitled. After receipt of the reference both parties are noticed. They filed claim statement. The parties filed documents which are marked as Exhibits. Both the managements and the second party workman files two separate memos on the 2nd August 2004 that they would not file any oral evidence in this case. The case has been heard at length. The appointment of the second party workman in the BILT was not disputed. But the representative of the workman submitted that the workman be treated as permanent employee of the principal employer i.e. the BILT not of the Contractor as the Contractor failed to produce valid labour licence of the period which covers the termination or refusal of the employment of the workman.

The representative of the first party management submits that the workman was a daily labourer and he was not denied employment and he submitted that he has no objection to take the second party workman in service. Whereas the workman representative submitted that the workman be given appointment in BILT as permanent employee with full back wages. The fact remains that the workman is not able to produce any appointment letter either of the contractor or of the BILT. In the absence of that the only presumption is that the workman was appointed as a daily labourer. Since he was worked as a daily labourer when he was not worked under the management he is not entitled to any back wages. Moreover the workman has not adduced any evidence that during his disengagement period he was not gainfully employed. In the absence of that evidence the only conclusion drawn is that the workman is be appointed in the same post in BILT through the contractor in the same position as he was. But he is not entitled to any back wages. The appointment is to be made within seven days from the date of publication of this award and the second party workman to report before the contractor for duty, failing which the second party workman will claim wages from that day.

3. In the result, the reference is answered in part of the second party workman as per observation made above.

Dictated and corrected by me.

R. K. SARAN  
25-2-2006  
Presiding Officer  
Labour Court, Jeypore

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25-2-2006  
Presiding Officer  
Labour Court, Jeypore

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