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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 24th January 2006

No. 749—li/1(J)-47/2000-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 2nd December 2005 in Industrial Dispute Case No. 5 of 2001 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial disputes between the Management of the President/Secretary, Borda Service Co-op. Society Ltd., At/P. O. Borda, District Kalahandi and its Workman Shri Trinath Sahu, S/o Shri Gaya Sahu, At Nuapada, P. O. Baragaon, District Kalahandi 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. 5 OF 2001

Dated the 2nd December 2005

*Present :*

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

*Between :*

The President/Secretary .. First Party—Management  
Borda Service Co-op. Society Ltd.  
At/P. O. Borda, District Kalahandi

*Versus*

Its Workman .. Second Party—Workman  
Shri Trinath Sahu, S/o Shri Gaya Sahu  
At Nuapada, P. O. Baragaon  
District Kalahandi.

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

*Appearances :*

For the Management	..	Self
For the Workman	..	Self
Date of Argument	..	2-12-2005
Date of Award	..	2-12-2005

#### 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. 5131 (5), dated the 6th April 2001 for adjudication of the dispute mentioned below :—

“Whether the termination of services of Shri Trinath Sahu, Salesman by the management of Borda Service Co-op. Society Ltd., Borda with effect from the 28th October 1999 is legal and/or justified ? If not, what relief Shri Sahu is entitled to ?”

2. The case of the second party workman is that he was appointed as Salesman as per Order No. 2552, dated the 12th July 1993 of the A. R. C. S. in Borda Service Co-op. Society. It is further alleged that his salary for the period from the 1st August 1998 to the 31st March 1999 was not paid for which he reported the matter to A. R. C. S. who conducted an enquiry on the 20th July 1999. The allegation was found to be correct that the employees of S. C. S., Borda have not been paid their salary for the above period. Because of such allegation, the Secretary and the President of the Service Co-op. Society bore grudge on him and issued notice on the 27th September 1999 to show cause why he will not be removed from service. Though the second party workman submitted show cause in time, no action was taken on it and he was removed from service on the 28th October 1999. Alleging gross violation of the principles of natural justice, the workman has prayed for reinstatement in service with all back wages.

3. The first party management files counter stating that, the Co-operative Society run in loss the amount has not recovered for which order was passed by Registrar, Co-operative Society to terminate the workman. On behalf of the workman the workman himself has been examined as a witness and on behalf of the management the Co-operative Society, Secretary has been examined as a witness. The workman has stated that, he has not received salary from the 1st August 1998 till the 31st March 1999 and the workman has been illegally retrenched on the 27th October 1999. It has been stated by the workman that his termination is illegal and proper procedure has not been followed. On the other hand the Secretary of Co-operative Society has been examined in the case and he has admitted the public distribution system has already been abolished. The society is running in loss and many amount is remaining outstanding with the persons for which they are taking steps to recovery of amount by engaging

casual workman and he has further stated that against the present workman there is outstanding dues of the society.

4. After hearing both sides, it is felt proper that as the management in engaging casual workman they will have no problem to engage the present workman in duty and entrust him to recover loans outstanding against the defaulters. So also, the management can also deduct salary of the present workman after engaging him in duty. As the workman has not worked from the date of termination till the passing of this order he is not entitled to any back wages. But it is appropriate to engage the workman in the society forthwith without back wages as the termination is illegal because no compensation and the service benefits either was offered to or paid to the workman.

Hence ordered.

5. The reference is allowed in part in favour of the workman. He is entitled to reinstatement in this job without back wages.

Dictated and corrected by me.

R. K. SARAN  
2-12-2005  
Presiding Officer  
Labour Court, Jeypore

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2-12-2005  
Presiding Officer  
Labour Court, Jeypore

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By order of the Governor  
D. MISHRA  
Under-Secretary to Government