

# The Orissa Gazette

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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 7th June 2008

No.6466-1i/15-1/2008/L.E.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award dated the 9th April, 2008 in Industrial Disputes (complaint) Case No.3/2007 of the Presiding Officer, Labour Court, Jeypore to whom the industrial dispute between the Management of Executive Engineer, G.S.E.D (Electrical) SOUTHCO, Digapahandi/Superintending Engineer, Electrical Circle, SOUTHCO, Berhampur and their workman Shri Santosh Kumar Nayak was referred for adjudication is hereby published as in the scheduled below:—

### SCHEDULE

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

INDUSTRIAL DISPUTE (COMPLAINT) CASE NO.3/2007

The 9th April, 2008

*Present :* Shri G.K. Mishra, O.S.J.S. (Jr. Branch),  
Presiding Officer,  
Labour Court,  
Jeypore, Dist- Koraput.

*Between:* Shri Santosh Kumar Nayak,  
S/o. Late Nityananda Nayak,  
Niladri Bihar-2, Digapahandi,  
At/P.O.- Digapahandi,  
Dist- Ganjam.

.. Complainant

*Versus*

The Executive Engineer,  
G.S.E.D (Electrical) SOUTHCO,  
Digapahandi,  
At/P.O.- Digapahandi,  
Dist- Ganjam. .. O.P. No. I

The Superintending Engineer,  
Electrical Circle,  
SOUTHCO, Berhampur,  
At/P.O.-Berhampur,  
Dist.-Ganjam .. O.P. No. II

Under Section : 33-A of the Industrial Disputes Act, 1947.

*Appearances* : For the Petitioner .. Shri K.Ch. Mishra, Advocate,  
Berhampur.

For the O.P. No. I & II .. Shri M. Kuruma Rao, Advocate,  
Jeypore and Shri B.C. Bastia and  
Associates, Advocate,  
Bhubaneswar.

Date of Argument .. 03-04-2008.

Date of Order .. 09-04-2008.

**ORDER**

1. This is a case seems to have been originated out of the claim entertained by the workman seeking relief of the adjudication of dispute going on between the workman and the Management, being treated as a reference due to the non-resorting of conciliation of the same by the Labour Officer. The petition seems to have been disputed by the Management on the point of the fact that there being no existence of any provisions for adjudication of any private dispute under Section 10 of the Industrial Disputes Act, the workman has got no *locus standie* to file this case for settlement of dispute.

2. As a matter of fact there is no provision in the Industrial Disputes Act, U/s. 10 for adjudication of any dispute referred by any individual person without recommending any settlement through the Labour Officer and the Management. Section 10 Clause-1 provide adjudication of the dispute referred by the Government on proper satisfaction of the existing disputes between the parties. The Court is obligated only to receive the dispute under reference submitted by the Government. The claim submitted by the workman

arising out of the individual grievance not entertained by the Labour Officer who was obligated to submit the dispute before the Government. The individual reference by the workman seems to have been approved by the Karnataka Industrial Disputes Amended Act of 1947, incorporating clause 4(a) in section 10 of the said Act. Under the said provision the workman has ordained the right to file a complaint before the Labour Court for adjudication of the Industrial Disputes that has not been entertained or taken up by the Labour Office or the Government as case may be and the Court is duty bound to take up the matter for adjudication of disputes considering it to have been referred by the Government or as a deemed reference. Such type of provision has not yet been recognized by our State nor the Central Government has taken any initiative to make applicable of the provision by amendment in respect of every workman. This provision is only limited to the workers working under the territorial jurisdiction of the State of Karnataka and this does not make any application in respect of the workman employed in any establishment operating in State of Orissa. There being absence of any provision explicitly or impliedly; the workman has not accrued any independent right directly filing any complaint before the adjudicatory authority. The workman having claimed such dispute not referred by the Government at the instance of the Labour Court can be considered to have been misconceived. Hence, the claim cannot be entertained by this Court and is rejected being devoid of merit. The workman is at liberty to agitate the matter of any dispute existing before the Labour Officer for settlement and consequently to refer to the Government for his satisfaction of claim shown as to be adjudicated by the Labour Court, under Section 10, clause-1 of the Industrial Disputes Act.

ORDER

3. The case us disposed of being not maintainable.

Dictated and corrected by me

G.K. Mishra

dt. 09-04-2008

Presiding Officer,

Labour Court,

Jeypore.

G.K. Mishra

dt. 09-04-2008

Presiding Officer,

Labour Court,

Jeypore.

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By order of the Governor

G. JENA

Deputy Secretary to Government

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