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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 11th December 2007

No. 13284-li/1(J)-27/2005-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 2nd August 2007 in Industrial Dispute Case No. 9 of 2005 of the Presiding Officer, Labour Court, Jeypore to whom the industrial dispute between the Management of M/s Mangalam Timber Products Limited, Nawarangpur and K. M. Chaque, Contractor of M/s Mangalam Timber Products Limited, Nawarangpur and its workman Shri Bijay Kumar Takiri 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. 9 OF 2005

Dated Jeypore the 2nd August 2007

*Present :*

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

*Between :*

Shri K. M. Chaque, Contractor . . . First Party—Management No. I  
S/o Late K. C. Mathew  
At Kalai House, Vichipio  
Dist. Trichur, Kerala  
C/o M/s. Mangalam Timber Products Ltd.  
At/P.O./Dist. Nawarangpur.

The Vice-President . . . First Party—Management No. II  
M/s Mangalam Timber Products Ltd.  
At Kusumi, P.O./Dist. Nawarangpur.

*Versus*

Its Workman . . . Second Party—Workman  
 Shri Bijay Kumar Takiri  
 S/o Laxman Takiri  
 At Kusumi, P.O./Dist. Nawarangpur.

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

*Appearances :*

For the Management No. I	..	Self
For the Management No. II	..	Self
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For the Workman	..	Self
Date of Argument	..	27-7-2007
Date of Award	..	2-8-2007

1. The Government of Orissa in the Labour & Employment Department in exercise of the powers conferred upon them under 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 following disputes vide their Order No. 9096(6), dated the 27th October 2005 for adjudication of the following dispute :

## SCHEDULE

“Whether the termination of services of Shri Bijay Kumar Takiri, Helper with effect from the 18th November 2004 by the Management of M/s Mangalam Timber Products Limited, Nawarangpur, Dist. Nawarangpur and its Contractor Shri K. M. Chaque of M/s Mangalam Timber Products Limited, Nawarangpur is legal and/or justified ? If not, to what relief is the workman Shri Bijay Kumar Takiri entitled ?”

## AWARD

2. This is a case originated under reference mooted by the Government for determination of the illegality of the termination effected by the first party management coupled with any relief to be granted in favour of the second party workman.

3. On the contrary the management opposite party has denied to have terminated the workman from the service but termination was out of misconception which has got no relevance with the engagement of the workman.

4. The determination of the genuineness of the termination can be taken effect to by going through the details of the evidence presented by the parties. The initial engagement of the workman has not been disputed by the parties. The act of termination emerged during the absence of the contractor. On the other hand the contractor had not acknowledged about the termination done in respect of the workman. Due to the absence of the workman was not allowed by the supervisor to any work in the work place. The non-engagement was explained by the management on the point that due to the involvement of the workman in the act of sabotage for which the workman was sent to the Police Station. The workman has also admitted that he has never been terminated by the contractor or by the management. But the supervisor did not allow him to auster into the premises for which a grievance was mooted by the workman in presenting before the conciliation officer. The contractor after arrival from the out of State in

the work place could know about the situation. The contractor has admitted the act of illegality committed by the supervisor not allowing him into premises. It is contended by him that though no post was there lying, he will arrange for his engagement as the relationship between employer and employee has not been extinguished yet. The management also has acquiesced into think of the matter with best fusible effort to engage the workman in his factory. The conspectus of the analysis becomes crystal clear that the refusal by the supervisor being under the control of the contractor not allow of the workman without any sufficient cause tenta mounts to termination which has been accepted by the management as well as the Contractor. The workman is admitted to have worked for a continuous period sincerely without causing anything to the detriments of the business of the Contractor. The person who had disallowed to the workman from entering to the work place is considered as a agent of the Contractor and for any act of the agent the responsibility as well as liability shall be shouldered on the Contractor. Even if the act is committed by the Supervisor the Contractor is not complying with the provisions of the law will be said to have been acted in confirmity with the direct indication of the Contractor. The provision have not been complied with properly before terminating the service of the workman. The termination so alleged by the workman is considered to be illegal and inoperative to law. Consequent upon the illegality termination the workman is entitled to reinstatement and full back wages from the period of termination till the reinstatement. The second party workman having not intended to take back wages except reinstatement of service which has been accepted by the contractor, no back wages shall be allowed to be received by the workman except the reinstatement of his service. The issues are answered accordingly.

#### ORDER

5. The Industrial Dispute Case is disposed on contest and the award is passed accordingly with direction to the Contractor to re-engage the workman within one month. So also the management is also directed to take immediate steps to grant permission to the Contractor to engage extra hand of any workman as deemed proper depicting the interest of the workman. If any, violation is committed then the workman is at liberty to take shelter of the court for executing order and claim for full back wages with compensation for loss of job before the appropriate authority.

Dictated and corrected by me.

G. K. MISHRA  
2-8-2007  
Presiding Officer  
Labour Court, Jeypore

G. K. MISHRA  
2-8-2007  
Presiding Officer  
Labour Court, Jeypore

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By order of the Governor  
P. MALLICK  
Under-Secretary to Government

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