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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 26th August 2009

No.7875—li/1(B)-18/2001-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 18th June 2009 in I. D. Case No. 256 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the management of the Mahanadi Barrage Division, Cuttack and its Workman Smt. Mamata Manjari Mohanty was referred to for adjudication is hereby published as in the Schedule below:—

#### SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 256 OF 2008

Dated the 18th June 2009

*Present :*

Shri P. C. Mishra , o.s.J.s.(Sr. Branch)  
Presiding Officer, Industrial Tribunal  
Bhubaneswar .

*Between :*

The Executive Engineer .. First Party—Management  
Mahanadi Barrage Division  
Gardanpur, Cuttack.

*And*

Smt. Mamata Manjari Mohanty .. Second Party—Workman  
C/o Shri B. K. Mohanty  
Unit No. 240/20-Sarsree, Aerodrom Area  
Bhubaneswar, Pin-751 020.

*Appearances:*

For the first Party—Management .. None

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For the second Party—Workman herself .. Smt. Mamata Manjari Mohanty

## AWARD

Originally , the Government of Orissa in the Labour & Employment Department had referred the following dispute for adjudication by the Presiding Officer, Labour Court, Bhubaneswar vide its Order No. 14725—li/1(B) 18/2001-L.E., dated the 15th October 2001 but subsequently it transferred the dispute to be adjudicated by the Presiding Officer, Industrial Tribunal, Bhubaneswar vide its Order No. 4138—li/21-32/2007-L.E., dated the 4th April 2008:—

“Whether the termination of services of Smt. Mamata Manjari Mohanty, N. M. R. Mate/Typist by the Executive Engineer, Mahanadi Barrage Division, Cuttack is legal and/or justified ? If not, what relief Smt. Mohanty is entitled to ?”

2. The case of the second party workman in brief is that she was working under the first party management as an N. M. R. Typist from the . 1st February 1985 to the .28th February 1989 continuously on a wage of Rs. 325/- per month and suddenly on the 1st March 1989 without any reason or rhyme the management refused her employment. It is alleged in the claim statement that employees junior to her have been retained in the employment and all her approaches to the authorities when yielded no result, she made a complaint to the labour authorities which ultimately culminated in the present reference. The specific case of the workman is that she having rendered more than 240 days of continuous service under the management prior to her disengagement, the management ought to have complied the provisions of the Industrial Disputes Act and for non-compliance of the same, she is entitled to the reliefs claimed. It is lastly pleaded that since the date of her disengagement the workman is not gainfully employed elsewhere, she may be reinstated in service with all service benefits and back wages.

3. The Management filed written statement stating therein *inter alia* that the workman was engaged as an N.M.R. Mate during the year 1985 in different spells i. e., from the 21th March 1985 to the 31st May 1985, the 11th June 1985 to the 20th June 1985 and the 1st July 1985 to dated the 10th November 1985 and thereafter she left the job wilfully. It is stated that again from dated the . 1st May 1986 to the 31st May 1986 she was engaged in another Division of the management and in none of her spells of engagement, she had completed more than 240 days of continuous service. It is stated that since the work for which she was engaged is no more existing, she is not

4. On the basis of the pleadings of the parties, the following two issues have been framed:—

## ISSUES

- (1) Whether the termination of services of Smt. Mamata Manjari Mohanty, N.M.r. Mate/ Typist by the Executive Engineer, Mahanadi Barrage Division, Cuttack is legal and/or justified ?.
- (2) If not, what relief Smt. Mohanty is entitled to ?

5. The Management after filing its written statement remained content and did not take part in the hearing for which it was set *ex parte* vide Order No. 35, dated the 8th May 2009. The workman thereafter filed her evidence on affidavit and proved three documents which have been marked Exts. 1, 2 and 3.

5. In her unchallenged affidavit evidence, the workman has deposed that on joining with the first party-management as an N.M.R. Mate/ Typst w. e. f. dt. 1-2-1985, she discharged her duty sincerely and continued up to dt. 28-2-1989 and during her period of employment she had rendered more than 240 days of continuous service. She deposed that on 1-3-1989, the management refused her employment without assigning any reason and while doing so it had neither given her any prior notice nor notice pay and compensation. She further deposed that during her continuance under the management neither any charge sheet for any misconduct has been made nor any enquiry has been conducted against her. Ext. 1, the experience certificate dated the 2-1-1989 filed and proved by the workman discloses that she was working as an N.M.R. Typist under the management since last two years i. e., prior to grant of the certificate on the 2-1-1989. Exts. 2 and 3 are the two representations made by the workman to the management praying to restore her employment.

6. From the evidence as aforesaid, it becomes clear that the workman was employed under the management from Dt. 1-2-1985 to Dt. 28-2-1989 and the management without complying with the provisions of the Industrial Disputes Act has refused her employment. Since termination of service of the workman amounts to retrenchment, it was incumbent upon the management to comply with the provisions of Section 25-F of the Industrial Disputes Act and non-compliance of the same renders the action of the management to be illegal as well as unjustified. Hence, the workman is entitled to be reinstated in service. As it is pleaded in the claim statement as well as deposed to by the workman in her affidavit evidence that since the date of her disengagement, she was not gainfully employed elsewhere and presently unemployed, she is also held entitled to a lump sum amount of Rs. 10,000 (Rupees ten thousand only) towards back wages. The management to implement the award within a period of two months from the date of publication of the award in the Official Gazette.

The reference is answered accordingly.

Dictated and corrected by me.

P. C. MISHRA  
18-6-2009  
Presiding Officer  
Industrial Tribunal, Bhubaneswar

P. C. MISHRA  
18-6-2009  
Presiding Officer  
Industrial Tribunal, Bhubaneswar

By order of the Governor  
K. C. BASKE  
Under-Secretary to Government