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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 22nd January 2009

No. 627—li/1(BH)-89/1996 (Pt.)-L.E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 15th December 2008 in I. D. Case No. 128 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of M/s. Angul United Central Co-op. Bank Ltd., At/Post /Dist. Angul and their workman Shri Bishnu Charan Dhir was referred for adjudication is hereby published as in the Schedule below :

#### SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER  
INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No.128 OF 2008

Dated the 15th December 2008

*Present :*

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

*Between :*

The Member-Secretary, .. First Party—Management  
Cadre Committee of M/s. Angul United  
Central Co-operative Bank Ltd.,  
At/Post/Dist. Angul.

And

Shri Bishnu Charan Dhir, .. Second Party—Workman  
At/Post Nuahat, Via Banarpal,  
Dist. Angul.

*Appearances :*

|                         |                                         |
|-------------------------|-----------------------------------------|
| None                    | .. For the First Party—<br>Management   |
| <hr/>                   |                                         |
| Shri Bishnu Charan Dhir | .. The Second Party—<br>Workman himself |

## 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. 10678—li/1 (BH)-89/1996-L.E., dated the 21st August 1996 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 action of the management of Cadre Committee, Angul United Central Co-operative Bank Ltd. in terminating the services of Shri Bishnu Charan Dhir, Ex-Cadre Secretary of Nuahat Service Co-operative Society Ltd. with effect from the 26th February 1988 is legal and/or justified ? If not, to what relief Shri Dhir is entitled to ? ”

2. The case of the workman in brief is that although he was working with the management from 1955, in the year 1972 he was appointed as a Cadre Secretary and posted in the Nuahata Service Co-op. Society and accordingly he discharged his duties to the best satisfaction of the management till 1984. It is pleased that in the year 1984 the management charge-sheeted him for certain misconduct and put him under suspension. The workman admitted about holding of an enquiry into the aforesaid misconduct but alleged that in the said enquiry he was not afforded with sufficient opportunities to defend himself, inasmuch as, no subsistence allowance was paid to him and further the documents basing on which the charges framed were not supplied to him even though the workman requested for supply of the same. According to the workman, the principles of natural justice having been violated by the management while conducting the enquiry into the charges, the punishment of termination of service imposed on him basing on such enquiry cannot be sustained in the eye of law. He has therefore, prayed to answer the reference in his favour by directing the management to treat him to be continuing in its employment till he attained the age of superannuation i.e., the 1st November 1998 and pay all his arrear wages accordingly.

3. The management filed its written statement asserting therein *inter alia* that on receiving report regarding certain misconduct of the workman, he was placed under suspension and disciplinary proceeding was initiated vide proceeding No. 3305, dated the 29th October 1984. But in spite of repeated attempts by the enquiry officer, neither the workman filed his written statement of defence nor participated in the enquiry. Finding no other way therefore, the enquiry officer conducted the enquiry *ex parte* and submitted his report. It is stated that basing on the report of the enquiry officer a second show-cause notice was issued to the workman and he was called for a personal hearing on the 30th January 1988 and considering the materials on record, the disciplinary authority terminated the services of the workman vide order dated the 27th February 1988. According to the management, there having no infraction of the principles of natural justice while conducting the enquiry, the action taken on the workman is legal as well as justified one and hence it has prayed to answer the reference in the negative as against the workman.

4. On the aforesaid pleadings of the parties, the issue which arises for consideration is—

- (1) “whether the action of the management of Cadre Committee, Angul United Co-operative Bank Ltd. in terminating the services of Shri Bishnu Charan Dhir, Ex-Cadre Secretary of Nuahata Service Co-operative Society Ltd. with effect from the 26th February 1988 is legal and/or justified ? If not, what relief Shri Dhir is entitled to ?”

5. In the hearing of the dispute the management did not participate nor took any step for which it was set *ex parte* vide order No. 24, dated the 12th November 2002. In the *ex parte* hearing, the workman filed his own affidavit and got marked Ext.1 which is the copy of his termination order, dated the 27th February 1988.

6. In his uncontroverted evidence, the workman has stated that by virtue of a Scheme introduced by the Government in the year 1982 he was appointed as a Cadre Secretary and posted at Nuahat Service Co-operative Society and while continuing so, on the 29th October 1984 the management charge-sheeted him for misconduct and placed him under suspension. He stated that during the period of his suspension, he was not paid the subsistence allowance and without affording him proper opportunity the management basing on an unfair and improper enquiry report terminated his services with effect from the 26th February 1988. He stated further that such termination of his service is illegal and unjustified because of non-compliance of the mandatory provisions of the Industrial Disputes Act and as such, he is entitled to full back wages and other service benefits till the date of his superannuation, i.e. the 1st November 1998. Referring to Ext. 1, the workman has stated that prior to termination of his services neither the management served on him a second show-cause notice nor supplied a copy of the enquiry report.

7. In absence of any rebuttal evidence on record, the testimony of the workman cannot be brushed aside merely basing on the averments made in the written statement. It is thus held that reasonable opportunities were not afforded to the workman while doing away with his services and further due to non-compliance of the provisions of the Act, the action of the management cannot be held to be legal and justified. In the result, the workman is held entitled to get a compensation amount of Rs.50, 000 (Rupees fifty thousand only) in lieu of back wages only as he has admitted that he has already attained the age of superannuation with effect from the 1st November 1998. The management is directed to pay the aforesaid amount to the workman within a period of two months from the date of publication of this Award in the Official Gazette.

The reference is answered accordingly.

Dictated and corrected by me.

P. C. MISHRA  
15-12-2008  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

P. C. MISHRA  
15-12-2008  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

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