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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 26th August 2009

No.7924—li/1(B)-112/1998-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 8th June 2009 in I. D. Case No. 175 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the management of M/s Social Forestry Division, Cuttack and Shri Narendra Das was referred to for adjudication is hereby published as in the schedule below:—

#### SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 175 OF 2008

Dated the 8th June 2009

#### *Present :*

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

#### *Between :*

The Deputy Director .. First Party—Management  
Social Forestry Division  
Professor Para, Cuttack.

#### *And*

Shri Narendra Das .. Second Party—Workman  
C/o Shri Gajendra Dash  
Vill. Banta Patra , P. O. Chandan Naar  
Via Alabha, Dist Kendrapara.

#### *Appearances*

For first party—Management .. None  

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Second Party —Workman himself. .. Shri Narendra Das

## 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. 12650—li/1(B)-112/1998-LE., dated the 10th October 1998 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-LE., dated the 4th April 2008.

“Whether the termination of Services of Shri Narendra Das, Watcher by the Deputy Director, Social Forestry Division, Professor Para, Cuttack with effect from the dt. 29th June 1997 is legal and/or justified? If not, to what relief Shri Das is entitled?”

2. The case of the workman in short is that he was working as a Watcher under the first party- management being engaged in its Central Nursery, Nuapada, Cuttack for the period from March, 1987 till June, 1997 on a monthly wage of Rs. 900/- . It is alleged that on 28-6-1997 the Deputy Director directed the workman to clean the cattleshed, to bathe, feed and milch the cows and further directed him to supply milk in his residence at Mahanadi Vihar, Cuttack and on his expressing inability to perform the said work due to want of experience in those types of work, the Deputy Director became annoyed and directed the Range Officer and the Forester to remove him from employment and accordingly on 29-6-1997 when he went to perform his duty as usual he was refused employment and was not allowed to enter into the place of work. It is pleaded in the claim statement that while refusing him employment the management had neither given him any notice nor notice pay and compensation as provided under the I. D. Act. It is further pleaded that neither any charge sheet was drawn up against him nor any enquiry was ever conducted for any misconduct during his service career. According to him, termination of his service being contrary to the provision of the I. D. Act, he is entitled to reinstatement in service with all his back wages.

3. The management filed its written statement stating therein *inter alia* that the workman was working in its Central Nursery at Nuapada on daily labour basis and his engagement was not continuous one. It is stated that the workman was engaged up to 31-3-1997. Further, it is mentioned in the written statement that neither there is any post of Watcher under the establishment of the management nor any appointment order was given to the workman to work against any such post. With the aforesaid averments the management has prayed to answer the reference in the negative as against the workman.

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 Shri Narendra Das, Watcher by the Deputy Director, Social Forestry Division, Professor Para, Cuttack with effect from the 29-6-1997 is legal and/or justified?
- (2) If not, to what relief Shri Das is entitled?

5. On the date of hearing the management remained absent and did not take any step for which it was declared *ex parte* vide Order No. 24, dated the 15th December 2004. In course of *ex parte* hearing the workman submitted his evidence on affidavit and filed and proved documents which have been marked Exts. 1 to 5.

6. On a conspectus of the evidence submitted on affidavit by the workman, which remained unassailed, and the admitted fact of engagement of the workman upto 31st March 1997 in the written statement of the management, it becomes crystal clear that the workman being engaged under the management had rendered continuous service for more than 240 days and thereby he was entitled to the protection of Section 25-F of the Industrial Disputes Act at the time of his disengagement from service. The aforesaid finding of the Tribunal regarding engagement of the workman for a continuous period under the management also receives corroboration from the documentary evidence produced by the workman, which are the experience certificates marked Exts. 2, 3, 4 and 5. The workman in his evidence on affidavit fully corroborated the stand taken in his claim statement. On the face of the aforesaid evidence on record it is held that the refusal of employment made to the workman with effect from the 29-6-1997 amounts to termination of service and due to non-compliance of the provisions of the Industrial Disputes Act by the management while effecting such termination, the workman is entitled to be reinstated in service. Hence, while holding the action of the management to be illegal as well as unjustified, the Management is directed to reinstate the workman forthwith and in lieu of back wages to pay him a compensation of Rs. 5,000/- (Rupees five thousand only) within a period of two months from the date of publication of the Award in the Official Gazette.

This reference is answered accordingly.

Dictated and corrected by me.

P. C. MISHRA  
8-6-2009  
Presiding Officer,  
Industrial Tribunal, Bhubaneswar

P. C. MISHRA  
8-6-2009  
Presiding Officer,  
Industrial Tribunal, Bhubaneswar

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