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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 9th February 2009

No. 1248—li/1(B)-135/1996(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. 143 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the Industrial Dispute between the Management of M/s Orissa Water Supply and Sewerage Board and their workman Shri Manik Chandra Pattnaik was referred to for adjudication is hereby published as in the Schedule below :

### SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 143 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 Project Engineer, . . . First Party—Management  
Project Management Unit,  
M/s Orissa Water Supply and Sewerage Board,  
Plot No. 39, Budha Nagar,  
Bhubaneswar.

And

Shri Manik Chandra Pattnaik . . . Second Party—Workman  
S/o Bibhuti Bhusan Pattnaik,  
Water Works Road,  
Near Ram Mandir,  
Dist. Khurda-752 002.

*Appearances :*

None	. . For the First Party—Management
Shri Manik Chandra Pattnaik	. . For the Second Party—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. 7841—li/l(B)-135/1996-LE., dated the 4th July 1997, 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 service of Shri Manik Chandra Pattanaik, DLR Watchman engaged in Waste Water Treatment Plant, Puri of M/s Orissa Water Supply and Sewerage Board by the Project Engineer, Project Management Unit, M/s Orissa Water Supply and Sewerage Board, Budha Nagar, Bhubaneswar w.e.f., 9th May 1995 is legal and/or justified ? If not , to what relief Shri Pattanaik is entitled to ? ”

2. The case of the workman in brief is that he was working as a D.L.R. Watchman under the management for the period from the 12th March 1994 to 8th May 1995 on a monthly wage of Rs. 650 and during the period he had rendered continuous service. It is alleged that on the 9th May 1995 the management refused him employment without any notice, notice pay and retrenchment compensation and thereby violated the provisions of Section 25-F of the I.D. Act. Further it is alleged that his juniors, namely, Nakula Ch. Padhy, Sadasiv Ojha, Bhikari Behera, Purna Chandra Dixit and others are continuing in employment but the management on the 9th May 1995 refused him employment. In the premises, the workman has prayed for his reinstatement in service with back wages.

The management in its written statement has pleaded *inter alia* that the engagement of the workman was casual in nature and that too against a Scheme and on completion of the project work undertaken as per the Scheme, there was automatic cessation of engagement of the workman. Disputing the averment of the workman that he had worked continuously under the management from dated the 12th March 1994 to 8th May 1995, it is asserted by the management in its written statement that he was engaged as a daily wager and was being paid for the days he worked. Further the management has denied that junior employees to the workman, as named in the claim statement, are continuing in its employment. According to the management, there having no termination of service of the workman, his prayer need not be taken into consideration and the reference may be answered in the negative as against the workman.

3. On the basis of the aforesaid pleadings of the parties, the following issues have been framed :—

#### ISSUES

I. Whether the termination of services of Shri Manik Chandra Pattnaik, D.L.R. Watchman engaged in Waste Water Treatment Plant, Puri of M/s Orissa Water Supply and Sewerage Board by the Project Engineer, Project Management Unit, M/s Orissa Water Supply and Sewerage Board, Budha Nagar, Bhubaneswar w.e.f. 9th May 1995 is legal and/or justified ?

2. If not, what relief Shri Pattanaik is entitled to ?

4. The record reveals that since the management did not appear nor filed its written statement it was set *ex parte* vide order dated the 3rd August 2001 and accordingly on hearing the workman an *ex parte* award was passed by the Presiding Officer, Labour Court, Bhubaneswar on the 18th December 2001. But subsequently on a petition being filed by the management, the said *ex parte* Award was set aside vide order dated the 16th August 2003 and the case was restored to file. Thereafter the management filed written statement in the dispute but did not turn up on the dates of hearing for which it was again set *ex parte* vide order No. 66, dated the 17th November 2008. The workman declined to adduce any more witness in the case and relied on his evidence adduced earlier on the 9th October 2001.

5. In his evidence W.W. No. 1 has stated that he was working continuously under the management from the 12th March 1994 to 8th May 1995 on a monthly wage of Rs. 650 and by the time he was refused employment on the 9th May 1995 he had completed 240 days of work preceding the date of such refusal of employment. His evidence further reveals that at the time of such refusal of employment the management had neither served on him any notice nor paid notice pay and retrenchment compensation. He stated that after refusing employment to him the management allowed his juniors, namely, Bhikari Behera, Sadasiv Ojha and Purna Chandra Dixit to continue in employment. W.W. No. 1 relied on a document marked Ext. 1, a letter dated the 3rd October 1994 addressed to the Member-Secretary, O.W.S.S.B., Bhubaneswar, which shows that the workman was engaged as a D.L.R. under the management from March, 1994 and the months of engagement of other 17 workmen.

6. Since the evidence adduced by the workman remained uncontroverted due to non-participation of the management in hearing of the dispute, there is nothing to disbelieve the same. Hence, basing on the evidence of the workman it is held that the management has contravened the provisions of Section 25-F and 25-G of the I.D. Act while terminating his service w.e.f. dated the 9th May 1995 and accordingly the workman is held entitled to reinstatement in service forthwith but without any back wages as he has not brought in evidence that during his period of unemployment he was not gainfully employed elsewhere.

The reference is answered accordingly.

Dictated and corrected by me.

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

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15-12-2008  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

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