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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 10th February 2009

No. 1286—li/1(B)-118/2000(Pt.)-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 16th January 2009 in I. D. Case No. 239 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the Industrial Dispute between the Management of M/s. Hotel Golden Palace, Puri and their workman Shri Charan Sahoo was referred to for adjudication is hereby published as in the Schedule below :

### SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 239 OF 2008

Dated the 16th January 2009

*Present :*

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

*Between :*

The Employer, . . . First Party—Management  
M/s. Hotel Golden Palace, C.T. Road, Puri  
At/P.O./Dist. Puri.

And

Shri Charan Sahoo . . . Second Party—Workman  
S/o Bhikari Sahoo  
At Ambajhara  
P.O. Garhbanikilo  
Via Rajranpur  
Dist. Nayagarh.

*Appearances :*

None	. . For the First Party—Management
Shri Charan Sahoo	. . 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. 12355—li/1(B)-118/2000-LE., dated the 21st September 2000, 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 action of the management of M/s. Hotel Golden Palace, Puri by terminating the services of Shri Charan Sahoo, Watchman with effect from dated the 26th August 1999 is legal and/or justified ? If not , to what relief Shri Sahoo is entitled to ? ”

2. The case of the workman in brief is that he was serving as a Watchman under the management of M/s. Hotel Golden Palace, Puri for the period from 9th November 1986 to 25th August 1999 on a monthly salary of Rs. 1,050. It is pleaded that during his employment he was subscribing to the E.S.I. and so also he was a member of the Provident Fund. He specifically alleged that without any reason and rhyme the management terminated his service w.e.f. the 26th August 1999 without compliance of the provisions of Industrial Disputes Act. According to the workman, he having rendered continuous service under the management for nearly 13 years, it was obligatory on the part of the management to comply the provisions of the Industrial Disputes Act and non-compliance of the same renders his termination as illegal and unjustified. He has therefore, prayed for his reinstatement in service with full back wages.

3. In spite of notice, the management did not appear nor filed its written statement and as per Order No. 4, dated the 28th April 2001 it was set *ex parte*. In the *ex parte* hearing the workman examined himself and proved as many as seven documents which have been marked as Exts. 1, 2, 2/1, 2/2, 2/3, 2/4 and 3.

4. In his affidavit evidence the workman has deposed that he was working continuously under the management for the period from the 9th November 1986 to 25th August 1999 and during the period he had discharged his duties to the best of his ability and to the satisfaction of the management. It is in his evidence that during the period of his employment he was getting Rs. 1,050 per month as his net wages after deductions of his E.S.I. and E.P.F. contributions. He has proved the xerox copy of his E.S.I. Card marked Ext. 1 and xerox copies of the E.P.F. receipts marked Exts. 2 to 2/4. Ext. 3 proved by him is a letter of complaint addressed to the Asst. Labour Officer, Puri. He deposed that despite his rendering continuous service under the management

from the 9th November 1986 to 25th August 1999 neither any notice/notice pay was given to him nor he was paid with the retrenchment compensation while terminating his employment w.e.f. the 26th August 1990. In his evidence he further deposed that before terminating his service the management neither framed any charge against him nor conducted any enquiry. He has therefore, prayed for his reinstatement in service with all consequential benefits.

5. The unchallenged evidence of the workman coupled with the documentary evidence produced by him discloses that the workman was employed under the management for the period from the 9th November 1986 to the 25th August 1999 and such employment of his was continuous one. Therefore, it was obligatory on the part of the management to comply with the provisions of Section 25-F of the Industrial Disputes Act while doing away with his employment w.e.f. the 26th August 1999. Non-compliance of the aforesaid provision by the management renders the termination of service of the workman as illegal and so also unjustified one. Hence, the workman is held entitled to reinstatement in service with 25% back wages.

The reference is answered accordingly.

Dictated and corrected by me.

P. C. MISHRA  
16-1-2009  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar.

P. C. MISHRA  
16-1-2009  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar.

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