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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 25th February 2009

No. 1890—li/1(B)-76/2001(Pt.)-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 12th February 2009 in Industrial Dispute Case No. 273 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the Industrial Dispute between the Management of M/s Swain Associates, Plot No. 77, Satyanagar, Bhubaneswar and their workman Shri Bishnu Charan Parida was referred to for adjudication is hereby published as in the Schedule below :

#### SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 273 OF 2008

Dated the 12th February 2009

*Present :*

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

*Between :*

Shri Krutibas Parida, .. First Party—Management  
M/s Swain Associates,  
Plot No. 77, Satyanagar,  
Bhubaneswar.

And

Shri Bishnu Charan Parida .. Second Party—Workman  
S/o Jadumani Parida  
At Budhana, P.O. Dimirisena,  
P.S. Brahmagiri, Dist. Puri.

*Appearances :*

For the First Party—Management .. None

For the Second Party—Workman himself .. Shri Bishnu Charan Parida

## 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. 1482—li/1(B)-76/2001-L.E., dated the 5th February 2002, 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 M/s Swain Associates, Plot No. 77, Satyanagar, Bhubaneswar, Dist. Khurda in refusing employment to Shri Bishnu Charan Parida with effect from the 1st December 1999 is legal and/or justified ? If not, to what relief the workman is entitled ?”

2. The case of the workman in short is that he was appointed as a Supervisor on a monthly salary of Rs. 800 and accordingly he joined as such on the 10th April 1991. In the month of June, 1994 his monthly salary was increased to Rs. 1,500 and during his continuance he was covered under the E.S.I. and E.P.F. Act. It is alleged that on the 30th November 1999 the Managing Director told the workman that his services were no more required and thereby refused him employment with effect from the 1st December 1999 without giving him any notice or notice pay and compensation. It is pleaded in the claim statement that during continuance under the management the workman had discharged his duties most efficiently and there is no stigma of any kind against him. According to him, the action of the management in refusing him employment amounts to ‘retrenchment’ and for non-compliance of the provisions of Section 25-F of the Industrial Disputes Act, the same is illegal as well as unjustified. The workman in the premises has prayed for his reinstatement in service with full back wages.

3. The management despite notice neither appeared nor filed the written statement as a result of which it was set *ex parte* vide Order No. 3, dated the 30th July 2007. In the *ex parte* hearing, the workman submitted his evidence on affidavit and proved two documents which have been marked Exts. 1 and 2.

4. The claim of the workman is found to have been fully corroborated in his evidence submitted on affidavit. In view of his unchallenged evidence that being employed as a Supervisor under the management with effect from the 10th April 1991 he had rendered continuous and uninterrupted service for more than 240 days within 12 calendar months preceding the date of his termination, it was incumbent on the part of the management to comply with the provisions of Section 25-F of the Industrial Disputes Act while denying him employment any further. Exts. 1 and 2 filed by the workman disclose that he was under the employment of the management. There having no rebuttal evidence available on record with regard to the claim of the workman, it is held that the action of the management in refusing employment to the workman with effect from the 1st December 1999 is neither legal nor

justified. Accordingly, the workman is held entitled to reinstatement in service forthwith. The workman is however not entitled to any back wages in absence of any evidence that during the period of his termination he was not gainfully employed elsewhere.

The reference is answered accordingly.

Dictated and corrected by me.

P. C. MISHRA  
12-2-2009  
Presiding Officer  
Industrial Tribunal, Bhubaneswar

P. C. MISHRA  
12-2-2009  
Presiding Officer  
Industrial Tribunal, Bhubaneswar

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