

# The Orissa



# G a z e t t e

EXTRAORDINARY  
PUBLISHED BY AUTHORITY

---

No. 670 CUTTACK, TUESDAY, MAY 26, 2009 / JAISTHA 5, 1931

---

## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 1st May 2009

No. 3968—li/1(SS)-46/2002-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 30th January 2009 in I. D. Case No. 5 of 2003 of the Presiding Officer, Labour Court, Sambalpur to whom the industrial dispute between the Management of Rourkela Steel Plant through the General Manager (P & A) SAIL, Rourkela Steel Plant and their workman Smt. Minati Biswal, C/o Deputy General Secretary Rourkela Mazdoor Sabha, Bisra Road, Rourkela-11 was referred to for adjudication is hereby published as in the Schedule below :

### SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER, LABOUR COURT, SAMBALPUR

INDUSTRIAL DISPUTE CASE No. 5 OF 2003

Dated the 30th January 2009

*Present :*

Smt. Suchismita Misra, LL.M.,  
Presiding Officer, Labour Court,  
Sambalpur.

*Between :*

The Management of the Rourkela Steel Plant, . . . First Party—Management  
Rourkela through the General Manager, (P. & A.),  
SAIL, Rourkela Steel Plant,  
Rourkela.

And

Their Workmen . . . Second Party—Workmen  
Smt. Minati Biswal,  
C/o Deputy General Secretary,  
Rourkela Mazdoor Sabha,  
Bisra Road, Rourkela II.

*Appearances :*

Shri A. Bhuyan, Senior Manager(Law) . . . For First Party—Management  
 R.S.P., Rourkela.

---

Shri B. B. Sahu, Deputy General Secretary, . . . For Second Party—Workman  
 Rourkela Mazdoor Sabha, Rourkela.

## AWARD

The Government of Orissa in the Labour & Employment Department, have in exercise of power conferred upon them under sub-section(5) of Section 12 read with Clause (c) of sub-section(1) of Section 10 of the Industrial Disputes Act, 1947 (for short, "The Act"), referred the following dispute for adjudication by this court.

"Whether action of the management of Rourkela Steel Plant, Rourakela is not giving promotion to Smt. Minati Biswal to the post of "Assistant" in S-3 Grade/is legal and/ or justified ? If not what relief Smt. Biswal is entitled to ? "

2. The facts leading to the present dispute between the First-Party Management Rourkela Steel Plant, Rourkela on the one hand and the workman Smt. Minati Biswal on the other are stated below :

The case of the Second-Party workman as would reveal from her claim statement runs as below :

The Second-Party workman was employed in the Rourkela Steel Plant by the First-Party management on compassionate ground after the death of her husband on the 26th August 1992 since her deceased husband late Beda Ballav Biswal was an employee under the First-Party Management. At that time the Second-Party workman had the necessary qualification to be employed as an "Assistant" in Cluster-B, N-3 grade but she was accomodated in the post of "Office Attendant" in L—1 grade which is the lower most post and grade under the First-Party Management. The Second-Party workman accepted the employment considering her family condition and since she had no other alternative or option at that time with her. Thus she joined her duty on the 20th October 1992 in the post of "Office Attendant". Thereafter she performed her job quite efficiently and was also made to do the job of an Assistant which is of a higher grade from the post she was holding then i.e. "Office Attendant". It is alleged by her that the First-Party Management had thus extracted the job of a higher grade from her by paying her less money. Subsequently the Second-Party workman made a representation to the First-Party Management to consider her promotion to the post of Executive Assistant as other persons having minimum qualification of H.S.C.(Pass) were appointed in S-3 grade in other departments under the First-Party Management. However, the First-Party Management did not respond to her such representation and in the meantime as the Second-Party workman was involved in th union activities and became a representative of the Union namely Rourkela Mazdoor Sabha, she was deliberately victimised by the First-Party Management. As a result of her union activities sha was denied promotion to S-3 grade despite

her having eligibility to hold the post of Assistant/Executive Assistant in Cluster 'B', S-3 grade. Her further allegation is that though she was successful in the written test held by the First-Party Management for giving promotion, she was again called upon to appear in a *via voce* test wherein she was deliberately disqualified for her promotion by the First-Party Management. Thereafter the Second-Party workman raised an industrial dispute through the union, Rourkela Mazdoor Sabha of which she is a member seeking appropriate relief in the aforesaid circumstances.

3. The First-Party Management in their written statement contested the pleas advanced by the Second-Party workmen on the following grounds :

(a) That promotion being a managerial function, a workman as a matter of right cannot claim promotion and further in the instant case if the reference would be answered in favour of the Second-Party workman then the same would cause prejudice to others who are similarly placed but not made parties in the proceeding.

(b) The Second-Party workman was provided with the employment by the First-Party Management on compassionate ground after the death of her husband which she accepted alongwith the terms and conditions of such employment on the 20th October 1992. Thereafter she was promoted to the post of Attendant in L—2 grade in the year 1996 as per the policy. She was further promoted to the grade of L—3/S-3 Attendant in the year 2000 as per promotion policy of the First-Party Management applicable to the employees of her category from time to time. Since in the year 1996/the workman who was in L-1 grade then made a representation to the First-Party Management to consider her case for the post of Executive Assistant in S-3 grade on the ground that she was doing the work of Diarist, her such demand being contrary to the policy and rule on the matter and devoid of merit was rejected by the Management.

(c) In the year 1999 it was decided by the First-Party Management to provide growth opportunity to their qualified allied category employees. Therefore a written test as well as *viva voce* test for appointment of the eligible employees to the post of Assistant in Cluster-'B' was held with the condition that candidates must qualify in the written test as well as in the interview for their elevation to the aforesaid post. The Second-Party workman though appeared in the written test as well as the interview held by the First-Party Management for the purpose could not qualify herself in the interview and as such she was held ineligible for the post. Ultimately the persons who became qualified in the written as well as *viva voce* tests were placed in the grade of 'Assistant' as per the criteria laid down for selection to the above said posts. The First-Party Management categorically denied that there was any sort of *malafied* on their part to prevent the Second-Party workman from getting her promotion as aforesaid.

(d) Some other workmen, more qualified and senior to the Second-Party workman also not found suitable for appointment to the post of Assistant in S-3 grade. Therefore, promotion to the Second-Party workman was justifiably denied.

The Second-Party workman filed her rejoinder to the written statement filed by the First-Party Management denying all the pleas advanced by the First-Party Management.

4. On the above pleadings of the parties, the following issues were framed :

- (i) Whether action of the management of Rourkela Steel Plant, Rourkela in not giving promotion to Smt. Minati Biswal to the post of "Assistant" in S-3 Grade is legal and justified ?
- (ii) To what relief Smt. Biswal is entitled ?

5. In this proceeding the Second-Party workman examined herself as W.W. 1 and stated that she had raised as Industrial Dispute through the Union, Rourkela Mazdoor Sabha in the year 2002 as she did not get her promotion to the post of "Assistant" in the grade of S-3. However, in the meantime she was promoted to S-3 grade with effect from 31st December 2007. At present she does not seek any other promotional benefits which she might have got had the reference been decided in her favour and in fact she wanted that the reference raised at her instance should and with a no dispute award. She has also filed a petition to that effect before the Court with such evidence on record coming from the side of the Second-Party workman, it is felt that no useful purpose will be served even if the reference would be adjudicated on merit. The evidence of the Second-Party workman leaves this Court with no other option but to deliver a no dispute award.

Accordingly the reference is answered.

Dictated and corrected by me.

Smt. SUCHISMITA MISRA, LL.M.

30-1-2009

Presiding Officer

Labour Court

Sambalpur

Smt. SUCHISMITA MISRA, LL.M.

30-1-2009

Presiding Officer

Labour Court

Sambalpur

By order of the Governor

K. C. BASKE

Under-Secretary to Government