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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 2nd May 2009

No. 4048—li/1(BH)-8/1997 (Pt.)-L E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 9th March 2009 in Industrial Dispute Case No. 140/2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial disputes between the Management of Deputy Director, Social Forestry, Rairangpur, At/P.O. Rairangpur, Dist. Mayurbhanj and Shri Laxmikanta Mohanta, At/P.O. Shyamakhunta, Dist. Mayurbhanj was referred to for adjudication is hereby published as in the Schedule below :

#### SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 140 OF 2008

Dated the 9th March 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, Rairangpur,  
At/P.O. Rairangpur, Dist. Mayurbhanj.

*And*

Shri Laxmikanta Mohanta, . . . Second Party—Workman  
At/Post Shyamakhunta,  
Dist. Mayurbhanj.

*Appearances :*

None . . . For first party—Management  
Smt. Laxmi Mohanta . . . 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. 7056—li/1 (BH)-8-1997-LE., dated the 12th June 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 action taken by the Deputy Director Social Forestry, Rairangpur in terminating the services of Shri Laxmikanta Mohanta, workman by way of refusal of employment with effect from the 1st December 1993 is legal and/or justified ? If not, what relief Shri Mohanta is entitled to ?”

2. The case of the workman in short is that being employed as per the verbal orders of the Deputy Director, Social Forestry, Rairangpur (the Management) he was working as an N. M. R. since the 14th November 1990 on a monthly wage of Rs. 650 and continued as such till the 30th September 1994. It is pleaded that on the 1st October 1994 the management refused him employment without any reason or rhyme and thereby it has violated the provisions of Section 25-F of the Industrial Disputes Act. In the premises, he has prayed for his reinstatement in service with full back wages.

3. The management filed its written statement stating therein *inter alia* that though the workman was engaged under it as an N.M.R. on daily wages basis up to the 29th November 1993, but his such engagement was on need basis. In Para. 2 of its written statement while furnishing the details of his engagement, the management has pleaded that his claim from the 1st October 1994 to the 31st December 1995 and from the 1st January 1996 to the 30th June 1997 is not justified. It is specifically pleaded by the management that since the workman was engaged on daily wage basis like other *Mulias* (daily labourers) but not as an N.M.R., he is not entitled to the reliefs claimed.

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

## ISSUES

- (1) Whether the action taken by the Deputy Director, Social Forestry, Rairangpur in terminating the services of Shri Laxmikanta Mohanta, workman by way of refusal of employment with effect from the 1st December 1993 is legal and/or justified ?
- (2) If not, what relief Shri Mohanta is entitled to ?

5. During pendency of the dispute since the workman died, Smt. Laxmi Mohanta, the widow of the deceased workman and his minor children were added as parties in place of the deceased workman vide orders dated the 15th March 2007. Thereafter during hearing as the management did not participate, it was set *ex parte* vide order No. 47, dated 17th November 2008 and order was passed for taking *ex parte* evidence in the case. Pursuant to that, Smt. Laxmi Mohanta, the widow of the deceased workman submitted her evidence on affidavit.

6. The unchallenged evidence filed by Smt. Laxmi Mohanta, the widow of the deceased workman reveals that her husband was working under the management from the 14th October 1990 to the 1st December 1993 and without any reason or rhyme the management refused

him employment w.e.f. the 1st December 1993 by grossly violating the provisions of Section 25-F of the I. D. Act. It is in her affidavit that while terminating the services of her husband, neither any notice/notice pay was given nor he was paid any retrenchment compensation. Disputing the testimony, no rebuttal evidence is available on record either oral or documentary. The fact of the workman's continuance under the management till the end of November, 1993 being well substantiated through the deponent Smt. Laxmi Mohanta, it is held that the action of the management in refusing employment to him w.e.f. the 1st December 1993 amounts to retrenchment and for non-compliance of the provisions of Section 25-F of the I. D. Act while terminating his service by the management, the same is illegal and so also unjustified.

7. In the result, therefore, it is held that the heirs of the workman would be entitled to a lump sum amount of Rs. 10,000 (Rupees ten thousand only) in view of the fact that the workman is no more to get the benefit of reinstatement in the present case.

Dictated and corrected by me.

P. C. MISHRA  
9-3-2009  
Presiding Officer  
Industrial Tribunal, Bhubaneswar

P. C. MISHRA  
9-3-2009  
Presiding Officer  
Industrial Tribunal, Bhubaneswar

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