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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 22nd May 2009

No. 4571—li/1(BH)-6/1997-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 1st May 2009 in Industrial Disputes Case No. 139 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial disputes between the Management of the Member-Secretary, Cadre Committee, The Mayurbhanj Central Co-operative Bank Ltd., Baripada, District Mayurbhanj and its workman Shri Kartik Chandra Bhakta was referred for adjudication is hereby published as in the Schedule below :

### SCHEDULE

#### IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 139 OF 2008

Dated the 1st May 2009

*Present :*

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

*Between :*

The Member-Secretary, .. First Party—Management  
Cadre Committee,  
The Mayurbhanj Central Co-operative  
Bank Limited, Baripada,  
Dist. Mayurbhanj.

*And*

Shri Kartik Chandra Bhakta, .. Second Party—Workman  
At/P.O. Pathar Chakuli,  
District Mayurbhanj.

*Appearances :*

For the First Party—Management . . . None

For the Second Party—Workman himself . . . Shri Kartik Chandra Bhakta

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. 6269—li/1(BH)-6/1997-LE., dated the 27th May 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 dismissal of Shri Kartik Chandra Bhakta, Branch Manager of Bankisole LAMPCS Limited from services with effect from the 24th August 1995 by the Member-Secretary, Cadre Committee of M/s Mayurbhanj Central Co-operative Bank Limited, Baripada is legal and/or justified ? If not, what relief he is entitled to ?”

2. The case of the workman in brief is that initially he was serving as Secretary, Bankisole Service Co-operative Society since the 10th February 1964 and after amalgamation of the Service Co-operative Societies to LAMPCS the workman served under the Bankisole LAMPCS with effect from the 26th March 1977 till he was dismissed from service on the 24th August 1995. It is stated that before dismissing him from service, the management put him under suspension vide Order No. 5906, dated the 6th February 1988 on flimsy grounds and during the period of suspension he was not paid with any subsistence allowance. It is alleged that though he was charge-sheeted, but the enquiry conducted into such charges was not at all fair and he was not afforded sufficient opportunity to defend himself in the said enquiry. In view of the above, the workman has prayed for his reinstatement in service with full back wages.

3. The management filed its written statement stating therein *inter alia* that the reference of the dispute is not maintainable and that the workman having committed serious misconduct, a proceeding was drawn-up against him and in the enquiry as he was found guilty of the charges, the punishment of dismissal was inflicted on him vide Order No. 2674, dated the 24th August 1995. It is specifically stated in the written statement that since the workman was allowed sufficient opportunity to defend in the enquiry as well as before the Disciplinary Committee and he also availed the same, the action of the management needs no interference and accordingly it has prayed to answer the reference in the negative as against the workman.

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

ISSUES

- (i) “Whether the dismissal of Shri Kartik Chandra Bhakta, Branch Manager of Bankisole LAMPCS Limited, from services with effect from the 24th August 1995 by the Member-Secretary, Cadre Committee of M/s Mayurbhanj Central Co-operative Bank Ltd., Baripada is legal and/or justified ?
- (ii) If not, what relief he is entitled to ?”

5. The management although filed written statement in the case but did not adduce any oral or documentary evidence in support of its stand. The workman on the other hand, examined himself as W. W. No. 1 and brought on record documents which have been marked Exts. 1, 2 & 3.

6. In his evidence on affidavit the workman has deposed that he was serving under the management since 1964 and as per Order, dated the 6th February 1988, Ext. 1 he was placed under suspension. He deposed that although he was put under suspension but no suspension allowance was paid to him and further the Enquiry Officer without taking into consideration his written statement of defence concluded the enquiry. He also deposed that a copy of the enquiry report was not served on him in order to enable him to prove his innocence before the disciplinary authority. Referring to Ext. 2, he has deposed that for the selfsame charge the management instituted a Dispute Case bearing No. 948 of 1992-1993 before the Arbitrator, S.A.R.C.S., which has been dismissed and in spite of that the management has not yet considered his case. W.W. No. 1 has therefore, prayed for his reinstatement in service with all consequential benefits. The aforesaid evidence of W. W. No. 1 having not been challenged, it is hard to believe that he was afforded all the reasonable opportunities in his defence while conducting the enquiry and imposing punishment on him. In absence of any evidence that the dismissal of the workman from service was preceded by a fair and proper enquiry, the action taken by the management cannot be said to be either legal or justified. Hence, it is held that the workman is entitled to reinstatement in service with a compensation of Rs. 10,000 (Rupees ten thousand) towards back wages.

The reference is answered accordingly.

Dictated and corrected by me.

P. C. MISHRA  
1-5-2009  
Presiding Officer  
Industrial Tribunal, Bhubaneswar

P. C. MISHRA  
1-5-2009  
Presiding Officer  
Industrial Tribunal, Bhubaneswar

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