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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 6th June 2009

No. 5051—li/1(B)-254/1994(Pt.)-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 27th April 2009 in I. D. Case No. 90 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the Industrial Dispute between the Management of the Managing Director, IPINIT Vanaspati Ltd., New Industrial Estate, Jagatpur, Cuttack and Jhili Martha, C/o Late Gobardhan Martha, At/P.O. Raipur, Via Jankia, Dist. Khurda was referred for adjudication is hereby published as in the Schedule below :

### SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 90 OF 2008

Dated the 27th April 2009

*Present :*

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

*Between :*

The Managing Director, . . . First Party—Management  
IPINIT Vanaspati Ltd.,  
New Industrial Estate,  
Jagatpur, Cuttack.

And

Jhili Martha, . . . Second Party—Workman  
C/o Late Gobardhan Martha,  
At/P.O. Raipur,  
Via Jankia,  
Dist Khurda.

*Appearances :*

None	. . For First Party—Management
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Shri T. Lenka, Authorised Representative.	. . For Second Party—Workman

## 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. 14282—li/1(B)-254/1994-LE., dated the 16th October 1995, 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 termination of services of Shri Gobardhan Martha, Cell-room Operator, w.e.f. the 18th April 1994 by the management of IPINIT Vanaspati Ltd., New Industrial Estate, Jagatpur, Cuttack-9 is legal and/or justified? If not, what relief Shri Martha is entitled to?”

2. The case of the workman in brief is that he was appointed as Cell-room Operator vide Order No. 105/88, dated the 1st July 1988 and continued to work as such till 1994. It is stated in the claim statement that being annoyed with his Union activities the management bore a grudge upon him and on the 23rd February 1994 called the workman and asked him to put his signature on a blank paper and being afraid of his life he put his signature on the blank paper but on the next day, i.e. on the 24th February 1994 he filed an F.I.R. in the Jagatpur Police Station narrating the affair. It is stated that the 24th February 1994 being an off day for the workman he remained on leave from the 25th February 1994 to the 27th February 1994 and on the 28th February 1994 when he went to join his duties in the factory he was not allowed to work and after intervention of the Police he was allowed to join duty after seven days without any payment of wages for the intervening period. It is stated that on his joining the management directed him to work in the Soap Section and while working so on the 18th April 1994 all of a sudden his Attendance Card was taken away by the Time Keeper and he was not allowed to work on the pretext that he had tendered resignation. It is alleged that while terminating his service, the management had not given anything in writing, no charge-sheet was framed nor any enquiry was conducted. In the circumstances, therefore, the workman has prayed for his reinstatement in service with full back wages.

3. Since the management neither appeared nor filed its written statement, it was set *ex parte* vide Order No. 15, dated the 7th November 2000.

4. During continuance of the proceeding, the workman having expired, his wife Jhili Martha was substituted as the legal heir of the deceased workman as per Order, dated the 12th February 2009. Depositing on behalf of her husband, she stated in her affidavit that her husband was working under the management from the 1st July 1988 to the 18th April 1994 and for no fault of his he was ousted from the employment on the 18th April 1994 and while taking such action no notice/notice pay and compensation was paid to her deceased husband. She has proved documents Exts. 1, 2, 3, 4 and 5 which are appointment order of her husband, dated the 1st July 1988; the copy of the Identity Card, copy of the Attendance Card and leave applications, dated the 24th February 1994 and the 21st March 1994, respectively.

5. On perusal of the unchallenged evidence of the legal heir of the deceased workman coupled with the documentary evidence produced by her, it is clear that the workman was a regular employee of the management and while doing away with his job, no opportunity was afforded to him to have his say in connection with his removal from service. Even no notice/notice pay and retrenchment compensation was paid to him in spite of the fact that he had rendered continuous employment under the management for more than 240 days preceding the date of his removal from service. For the aforementioned shortcomings therefore, the action of the Management cannot be said to be either legal or justified. The workman being no more alive to avail the benefit of reinstatement in service, a compensation to the tune of Rs. 50,000 (Rupees fifty thousand) only is ordered to be paid to the legal heir of the deceased workman within a period of two months from the date of publication of the Award in the official Gazette.

The reference is answered accordingly.

Dictated and corrected by me.

P. C. MISHRA  
27-4-2009  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

P. C. MISHRA  
27-4-2009  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

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