

# The Orissa Gazette

EXTRAORDINARY  
PUBLISHED BY AUTHORITY

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No. 535 CUTTACK, SATURDAY, APRIL 17, 2010/CHAITRA 27, 1932

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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 29th March 2010

No. 2553–li/l-(B)-11/2007(Pt.)-L.E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 26th June 2009 in Industrial Dispute Case No. 67 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of Sree Sarala Weavers Co-operative Spinning Mills Ltd., At Nausira, P.O. Tirtol, Dist. Jagatsinghpur and their Workman Shri Ramesh Chandra Das was referred to for adjudication is hereby published as in the Schedule below :

### SCHEDULE

INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 67 OF 2008

Dated the 26th June 2009

Present :

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

Between :

The General Manager,  
Sree Sarala Weavers Co-operative  
Spinning Mills Ltd.,  
At Nausira,  
P.O. Tirtol,  
Dist. Jagatsinghpur.

.. First-party management

And

Shri Ramesh Chandra Das,  
At Karada, P.O. Redhua,  
Via Nalibar,  
Dist. Jagatsinghpur.

.. Second-party Management

Appearances :

None

.. For both the parties

### 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. 6357–li/1(B)-11/1993-L.E., dated the 30th May 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-L.E., dated 4th April 2008 :—

“Whether the action of the management of Sree Sarala Weavers Co-operative Spinning Mills Ltd., Nausira, Tirtol in terminating the services of Shri Ramesh Chandra Das (B), Ring Frame Duffer with effect from 22-1-1990 is legal and/or justified ? If not, to what relief he is entitled ?”

2. The case of the workman, in brief that initially he was appointed as a Ring Frame Duffer (Budli) under the management of M/s Sree Sarala Weavers' Co-operative Spinning Mills Ltd., Nausira, Tirtol, Jagatsinghpur on daily wage basis, w.e.f. 12-8-1985 and subsequently he was confirmed in the said post and was issued with an Identity Card. He stated in his claim statement that while continuing so he remained on leave from 19-1-1990 to 21-1-1990 but on account of his illness he could not resume his duty in time for which he intimated the said fact to the management vide his letter sent through Registered post. It is stated that on recovery from illness when the workman reported to duty on 25-3-1990 alongwith a certificate of fitness, he was refused employment. Thereafter on his complaint, a conciliation was taken up by the labour machinery and on failure thereof he present reference was made to this Tribunal for adjudication of the dispute. The workman stated that since the action of the management in refusing him employment amount to retrenchment of his service, he is entitled to reinstatement in service with full back wages. It is averred in the claim statement that since the date of his disengagement, he is unemployed.

3. In its written statement the management has asserted that workman was a habitual absentee from August 1989 and he remained on leave unauthorisedly from 23-1-1990 to 31-1-1990. It stated that on 1-2-1990 the workman sent one medical certificate by post where he was advised to take rest for four weeks from 23-1-1990 and instead of joining on 24-2-1990 he remained absent from duty up-to 1-4-1990. The specific stand of the management is that on 16-5-1990 the workman expressed his unwillingness to work in the Reeling Department and remained absent from duty unauthorisedly. It stated that for his unauthorised absence from duty the workman was charge-sheeted followed by a domestic enquiry wherein he participated and on conclusion thereof though it was proposed to impose upon him the punishment of dismissal but considering the undertaking given by the workman, the management allowed him to work in the Simplex/Drawing Department and thereafter from 27-11-1994 to 16-7-1995 the workman worked regularly. It is

stated that on 17-7-1995 lockout of the factory was declared and on reopening of the Mill, the workman neither reported to duty nor intimated anything regarding his absence from duty. In the aforesaid background of the case the management 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 :

#### I S S U E S

- (i) Whether the action of the management of Sree Sarala Weavers Co-operative Spinning Mills Ltd., Nausira, Tirtol in terminating the services of Shri Ramesh Chandra Das (B), Ring Frame Duffer with effect from 22-1-1990 is legal and/or justified ?
- (ii) If not, to what relief he is entitled ?

5. The record reveals that earlier in the present dispute the management was set *ex parte* on 27-1-2007. Although the management had filed a petition to recall the said *ex parte* order, yet on subsequent dates it neither appeared nor moved the said petition resulting its rejection on 11-2-2009 by this Tribunal. Similarly, the workman did not show his interest in the proceeding and filed petition for adjourning the case on the ground that he has already submitted an application for taking voluntary retirement before the management and the same is pending consideration. Since last two dates neither the management nor the workman have appeared in the proceeding nor took any steps. The conduct of the parties in the aforesaid background leads this Tribunal to presume that either the dispute is no more subsisting between the parties or the same has been settled out of the Court in the meantime. In the circumstance, therefore, a 'No Dispute Award' is passed in so far as the present reference is concerned.

The reference is disposed of accordingly.

Dictated and corrected by me.

P. C. MISHRA  
26-6-2010  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

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26-6-2010  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

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By order of the Governor

K. C. BASKE

Under-Secretary to Government