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No. 996 CUTTACK, THURSDAY, JULY 1, 2010/ASADHA 10, 1932

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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 18th June 2010

No. 5017-li/1-(B)-244/2003-L.E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 8th March 2010 in Industrial Dispute Case No. 74 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of M/s Kapoor Motors Engineering Pvt., Ranihat, Cuttack and their workman Shri Bansidhar Sahu was referred to for adjudication is hereby published as in the Schedule below :—

### SCHEDULE

INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 74 OF 2008

The 8th March 2010

Present :

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

Between :

The Director,  
M/s Kapoor Motors Engineering (P) Ltd.,  
Ranihat,  
Dist. Cuttack,  
Odisha.

.. First-party Management

And

Shri Bansidhar Sahu,  
At Lochapada,  
P.O. Berhampur,  
Dist. Ganjam.

.. Second-party Workman

## Appearances :

Shri U.K. Tripathy, Advocate.	. . For Firsty-party Management
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Shri S.D. Mishra, Advocate.	. . For Second-party Workman

## AWARD

Originally, the Government of Odisha in the Labour & Employment Department had referred the following dispute for adjudication by the Presiding officer, Labour Court, Bhubaneswar vide its Order No. 8668–li/1-(B)-244/1993-L.E., dated 18-7-1995 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 4-4-2008.

“Whether the termination of sevices of Shri Bansidhar Sahu, Welder, by the management of M/s. Kapoor Motor Engineering (P) Ltd., Ranihat, Cuttack with effect from 15-6-1992 is legal and/or justified ? If not, what relief Shri Sahu is entitled to ?”

2. This case of the workman in brief is that he was initially working as a Welder in the year 1984 under Rabindra Auto Engineering, Berhampur which was a unit of M/s Kapoor Motor Engineering (P) Ltd., Cutack. He asserts that in the year 1990 he was transferred to work under M/s Kapoor Motor Engineering (P) Ltd., and while working as such he suffered from dysentery with effect from 9-6-1992 for which he remained on leave till 13-6-1992 and being declared fit by the Insurance Medical Officer, E.S.I. Dispensary, Cuttack when he went to resume his duty on 15-6-1992 (14-6-1992 being a Sunday) he was not allowed to join in his duty and he was verbally refused employment. He alleges that while terminating his service by way of refusal of employment, neither any written notice nor pay in lieu thereof and compensation was given to him. Further he states that he was never chargesheeted by the management for any misconduct. He has prayed in the circumstance to grant him the relief of reinstatement in service and back wages owing to the fact that from the date of his termination from service he is facing much financial difficulties for maintaining himself and his family.

3. The management on the other hand filed its written statement stating that in the year 1984 the workman joined as an Apprentice in M/s. Rabindra Auto Engineering, Berhampur and continued as such till 1990 and finding that the performance of the workman was not satisfactory he was transferred to Cuttack. It is averred in the written statement that the workan suddenly remained absent from work with effect from 9-6-1992 till 14-6-1992 and by the time he reported to duty on 15-6-1992 neither he had with him any explanation nor Medical Certificate/Prescription. It is admitted that on 15-6-1992 new persons had already been engaged to carryout the work which was being performed by the workman. The management further admitted that the workman was not charge-sheeted for any misconduct. It is alleged in the written statement that the workman was not at all sincere to his duty and being a man of Berhampur he did not like to continue to work at Cuttack and in the meantime he having been re-employed elsewhere, he is not entitled to the reliefs claimed.

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

### I S S U E S

1. Whether the termination of services of Shri Bansidhar Sahu, Welder by the management of M/s. Kapoor Motor Engineering (P) Ltd., Ranihat, Cuttack with effect from 15-6-1992 is legal and/or justified ?
2. If not, what relief Shri Sahu is entitled to ?

5. The record reveals that although the workman filed affidavit evidence of self and that of Shri Surendranath Biswal, but by instructing his counsel to move petitions for adjournment did not show any interest to appear in this Tribunal nor took any step for production of the other witness for the purpose of cross-examination. In such view of the matter, the evidence adduced on behalf of the workman is of no help to his claim advanced in the claim statement. The management also by filing a memo declined to adduce any evidence in the case.

6. Without any evidence on record substantiating the claim of the workman it cannot be construed solely basing on the averments made in the claim statement that the termination of service of the workman is either illegal or unjustified. The workman being the claimant he should have fortified his claim by adducing sufficient evidence, but unfortunately he could not. Therefore, in absence of any evidence on record the action of the management is held to be legal as well as justified and consequently he is held not entitled to any relief.

The reference is answered accordingly.

Dictated and corrected by me.

P. C. MISHRA  
8-3-2010  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

P. C. MISHRA  
8-3-2010  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

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By order of the Governor

K. C. BASKE

Under-Secretary to Government