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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 1st November 2011

No. 9795-li/1(B)-111/2008-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 25th August 2011 in I. D. Case No. 31 of 2008 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the management of M/s Singhanian Associates, Jhola Sahi, Cuttack and their workman Shri Prasanta Kumar Parida was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 31 OF 2008

Dated the 25th August 2011

*Present :*

S. A. K. Z. Ahamed,  
Presiding Officer, Labour Court,  
Bhubaneswar.

*Between :*

The Management of  
M/s Singhanian  
Associates, Jhola Sahi, Cuttack. . . . . First Party—Management

And

Their Workman,  
Shri Prasanta Kumar Parida . . . . . Second Party—Workman

*Appearances :*

Shri N. K. Agrawal . . . . . For the First Party—Management

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Shri P. K. Parid . . . . . Second Party—Workman himself

## A W A R D

The Government of Orissa in exercise of powers conferred by sub-section (5) of Section 12 read with clause (c) of sub-section(1) of Section 10 of the Industrial Disputes Act have referred the matter in dispute to this Court vide Order No. 12081–/li/1(B)-111/2008 LE., Dt. 25-11-2008 of the Labour & Employment Department, Bhubaneswar for adjudication.

2. The terms of reference is as follows:

“ Whether the action of the management of M/s.Singhania Associates, At Jhola Sahi, P.O. Buxibazar, Cuttack is a case of illegal termination of service of Shri Prasanta Kumar Parida with effect from 9/2007 by way of refusal of employment ? If so, what should be the benefits Shri Prasanta Kumar Parida Ex-Packer (Workman) is entitled to ? ”

3. The workman’s case, in brief, as set out in his statement of claim is that, he was working as a Packer from 1-4-1992 and continued as such till 30-9-2007 on which date, his service was illegally terminated by the management. At the time of his termination of service, the workman was getting Rs. 2,800 per month as his wages. Though he has completed for more than 240 days of service in twelve calendar months, the management has not followed the provisions of Section 25-F of the Industrial Dispute Act. The principles of natural justice has also not been followed by the management at the time of termination of his service. So the termination of service of the workman is bad in law. The plea of the workman that when he requested to pay his legal pending monthly wages, the management become annoyed and terminated his service by way of refusal of employment. So he approached the concerned Labour Officer. A conciliation proceeding stated which ended in failure. Hence the reference was made for adjudication. The workman has prayed for his reinstatement in service with full back wages.

4. The management appeared and filed written statement denying the plea of the workman. According to the management, the workman had taken an advance of Rs. 25,000 from the management and out of which he had only paid Rs. 1,000 and when the management demanded to pay the balance amount of Rs. 24,000, the workman did not turn-up to his duty and voluntarily left his service. The management had never terminated the service of the workman by way of refusal of employment. In the above circumstances, the management has prayed for dismissal of the present case.

5. In view of the above pleadings of the parties, the following issues are settled.–

## I S S U E S

- (i) “ Whether the action of the management of M/s. Singhania Associates, At. Jhola Sahi, P.O..Buxibazar, Cuttack is a case of illegal termination of services of Shri Prasanta Kumar Parida with effect from 9/07 by way of refusal of employment ?
- (ii) If so, what should be the benefits Shri Prasanta Kumar Parida, Ex-Packer (Workman) is entitled to ? ”

6. In order to substantiate his plea, the workman has examined himself as W. W.1. and proved documents such as, xerox copy of registration certificate issued by the Inspector, Shops and Commercial Establishment, Cuttack and the xerox copies of daily hours of employees for the years 2002 to 2008 under the cover of Exts. 1 and 2 respectively.

It is pertinent to mention here that the management has appeared and filed written statement. But subsequently remained absent and did not took part in the hearing though sufficient opportunities were given to her.

### FINDINGS

7. *Issue Nos. (i) and (ii)*:- Both the issues are taken up together for discussion for convenience.

In his affidavit evidence, the workman has stated that he was appointed as a Packer by the management on dt.1-4-1992 with a consolidated salary of Rs. 1800/- per month and for his satisfactory performance and sincerity, his consolidated salary was enhanced to Rs. 2800 per month. During tenure of his employment under the management, he has neither charge-sheeted nor any enquiry was initiated against him for any misconduct. On dt. 1-10-2007 when he reported for duty and requested for his unpaid arrear wages and overtime wages, the management verbally terminated his service by way of refusal of unemployment. Since the management has not been cross-examined the workman and also did not adduce any evidence, the evidence of workman both oral and documentary have remained un-controverted.

8. It is stated by the workman that no notice has served on him before he was terminated . Also notice pay and any compensation was not paid to him before refusal of employment by the management. Thus the management has contravened the provisions of Section 25-F of the Industrial Disputes Act which is mandatory and precondition one.

9. So, on careful consideration of all the materials available in he case record and in view of unchallenged testimony of the workman, I came to the finding that the action of the management is a case of illegal termination of service of the workman with effect from 9/07 by way of refusal of employment. So the workman is entitled to be reinstated in service with full back wages. Both the issues are answered accordingly in favour of the workman and against the management.

10. Hence it is ordered:

That the action of the management of Ms. Singhania Associates, At/Jhola Sahi, P.O. Buxibazar, Cuttack is a case of illegal termination of service of Shri Prasanta Kumar Parida with effect from 9/07 by way of refusal of employment. The workman Shri Parida is entitled to be reinstated in service with full back wages. The management is directed to implement this Award within a period of two months from the date of its publication failing which the amount shall carry interest at the rate of 10% (10 per cent) per annum till its realisation.

The reference is answered accordingly.

Dictated and corrected by me.

S. A. K. Z. AHAMED  
25-8-2011  
Presiding Officer  
Labour Court  
Bhubaneswar

S. A. K. Z. AHAMED  
25-8-2011  
Presiding Officer  
Labour Court  
Bhubaneswar

By order of the Governor  
T. K. PANDA  
Under-Secretary to Government