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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 14th November 2011

No. 10176-li/1(B)-117/2008-LE.,—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 14th September 2011 in I. D. Case No. 11 of 2009 of the Presiding Officer, Labour Court, Bhubaneswar to whom the Industrial dispute between the Management of M/s Cuttack Gram Udyog Co-operative Marketing Society Ltd., B-16, Industrial Works, Khapuria, Cuttack and their Workman Shri Khitish Chandra Pratihari was referred to for adjudication is hereby published as in the Schedule below :

### SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 11 OF 2009

Dated the 14th September 2011

*Present :*

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

*Between :*

The Management of M/s Cuttack Gram Udyog  
Co-operative Marketing Society Ltd.,  
B-16, Industrial Works, Khapuria, Cuttack ... First Party—Management

And

Their Workman,  
Shri Khitish Chandra Pratihari, .. Second Party—Workman

*Appearances :*

N O N E	For First Party—Management
Shri K.C, Pratihari	Second Party—Workman hiimself

## 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, 1947 have referred the matter in dispute to this Court vide Order No. 5687-li-1(B)-117/08-LE, dated 29th June 2009 of the Labour & Employment Department, Bhubaneswar for adjudication.

## 2. The terms of references is as follows:

“ Whether the termination of services of Shri Khitish Chandra Pratihari by way of refusal of employment with effect from 15-5-2006 by the management of M/s Cuttack Gram Udyog Co-operative Marketing Society Ltd., B-16, Industrial Works, Khapuria, Cuttack-10 is legal and/or justified ? If not, what benefits the workman is entitled to ?”.

3. The workman’s case, in brief, as set out in his statement of claim is that after due selection procedure conducted by the management, he was appointed as Sales Assistance on 31-10-1991. He was appointed in a permanent vacancy post on 89 days basis with a consolidated pay of Rs. 450 per month. He was working continuously without any break from the date of his joining i.e. from 31-10-1991 till the date of his termination i.e. on 15-5-2006. At the time of termination of service, the workman has completed 240 days of continuous service in each completed years. According to the workman, while he was discharging his duty, all of a sudden, a letter was served vide No. 195, Dt. 15-5-2006 by registered post with A. D. indicating therein that the service of the workman is no more required with effect from 15-5-2006. The workman has stated that he has not committed any misconduct or disobedience of orders of the higher authorities during the tenure of his service period. Therefore, according to him, the order of termination of service of the workman with effect from 15-5-2006 is illegal and improper. At the time of termination of his service, the management has not completed the mandatory provisions of Section 25-F of the Industrial Disputes Act. He approached the management several times for his reinstatement but the management did not pay any heed to it. So finding no other alternative, the workman raised the present dispute wherein he has prayed for his reinstatement in service with full back wages.

4. The management was set *ex parte*

5. In order to substantiate his plea, the workman has examined himself as W. W. 1 and proved documents such as, xerox copy of appointment order, xerox copy of works allotment order, xerox copy of office order Dt. 21-6-2005, xerox copy of letter Dt. 21-10-2005, xerox copy of Order No.195, Dt. 15-5-2006 regarding termination of service, xerox copy of representation and xerox copy of letter of the management to the Assistant Labour Officer, Cuttack under the cover of. Exts. 1 to 7 respectively.

6. The workman in his affidavit evidence has corroborated the facts as stated in his statement of claim. On perusal of the documents, as available in the case record, it shows that the workman was appointed by the management as Sales Assistant with effect from 31-1-1991 on a consolidated pay of Rs. 450 per month. Thereafter he was allotted work under the cover of Exts. 3 and 4. The workman has been terminated from service with effect from 15-5-2006 by the management under the cover of Ext. 5.

7. So from the oral and documentary evidence, it is clear that the workman was working under the management as Sales Assistance continuously but the management without any rhyme or reason has terminated his service. So the workman has worked for more than 240 days in 12 calendar months preceding to the date of his termination and at the time of termination, the management has not followed the provisions of Section 25-F of the Industrial Disputes Act which is a mandatory and precondition one.

8. So on careful consideration of all the materials available in the case record as discussed above and in view of unchallenged testimony of the workman, I came to the finding that the termination of services of the workman by way of refusal of employment with effect from 15-5-2006 by the management is neither legal nor justified. So the workman is entitled to be reinstated in service. But admittedly the management has not availed the service of the workman with effect from the date of his termination. So on careful consideration of the facts and circumstances of this case, I am of the opinion that 50% back wages will meet the ends of justice.

9. Hence Orderd:

That the termination of services of Shri Kshitish Chandra Pratihari by way of refusal of employment with effect from 15-5-2006 by the management of M/s Cuttack Gram Udyog Co-operative Marketing Society Ltd., B-16, Industrial Works Khapurua, Cuttack-10 is illegal and unjustified. The workman Shri Pratihari is entitled to be reinstated in service with 50% back wages. The management is directed to implement this Award within a period of one month from the date of its publication failing which, the amount shall carry interest at the rate of 10% per annum till its realisation.

The reference is answered accordingly *ex parte*

Dictated and corrected by me.

S. A. K. Z. AHAMED  
14-9-2011  
Presiding Officer  
Labour Court  
Bhubaneswar

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14-9-2011  
Presiding Officer  
Labour Court  
Bhubaneswar

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