

# The Orissa Gazette

EXTRAORDINARY  
PUBLISHED BY AUTHORITY

---

No. 2595 CUTTACK, WEDNESDAY, NOVEMBER 30, 2011/MARGASIRA 9, 1933

---

## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 23rd November 2011

No. 10460—1i/1(B)-33/2007(Pt.)-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 15th September 2011 in Industrial Disputes Case No. 52 of 2007 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial disputes between the Management of M/s Swaraj Chemicals & Pharmaceutical Works, Cuttack and its Workman Shri Maharaga Sahoo was referred to for adjudication is hereby published as in the Schedule below :

### SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 52 OF 2007

Dated the 15th September 2011

#### *Present :*

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

#### *Between :*

The Management of .. First Party—Management  
M/s Swaraj Chemicals &  
Pharmaceuticals Works,  
Cuttack.

And

Its Workman .. Second Party—Workman  
Shri Maharaga Sahoo.

#### *Appearances :*

NONE .. For the First Party—Management

---

Shri S. N. Biswal, General Secretary

Shri T. Lenka, Vice-President

Shri Bipin Satapathy, President

.. For the Second Party—Workman

## AWARD

The Government of Odisha 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. 12521—li/1 (B)—33/2007-LE., Dt. 17-11-2007 of the Labour & Employment Department for adjudication.

2. The terms of reference is as follows :

“Whether the action of the management of M/s Swaraj Chemicals & Pharmaceuticals Works, New Industrial Estate, Jagatpur, Cuttack in terminating the services of Shri Maharaga Sahoo, Tablet Machine Operator with effect from the 27th August 2006 by way of refusal of employment is legal and/or justified ? If not, to what relief the Workman Shri Sahoo is entitled ?”

3. The workman’s case, in brief, as set out in his statement of claim is that he was working as a Tablet Machine Operator from August, 1982. He was an employee of Provident Fund subscriber and also a member of E.S.I. Corporation and also availing the benefits from those organisations. The management on 26-8-2006 had filed a false F.I.R. for theft before the Jagatpur Police Station against the workman. But the police had not taken any action against him and from 27-8-2006 the management did not allow him to enter inside the factory premises and terminated his service by way of refusal of employment. On 30-8-2006 when the conciliation was going on the management had produced some papers regarding domestic enquiry on 22-9-2006. But as there was no allegation against the workman and the F.I.R. was false, so the documents of the domestic enquiry was manufactured for the purpose of this case by the management. So in this background, the workman 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 document such as, xerox copy of E.S.I. Card, xerox copies of E.P.F. Slips for the period from 1987-1988 to 2000-2001 and the xerox copy of letter Dt. 13-9-2006 regarding charges under the cover of Exts. 1 to 3 respectively.

6. The workman in his affidavit evidence has corroborated the facts as stated in his statement of claim. Since the management has been set *ex parte* and the evidence both oral and documentary given by the workman have remained unchallenged, I have no option but to answer in favour of the workman.

7. It is stated by the workman that no notice was served on him before he was terminated. No notice pay and retrenchment compensation was also 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, 1947 which is a mandatory and precondition one. Therefore, in my opinion, the workman is entitled to be reinstated in service. But when the workman had not worked for the management during the period in question and he had not proved by cogent evidence that he was not gainfully employed elsewhere, payment of full back wages is not justified. However, on the facts and circumstances of this case, instead of granting full back wages, 50% back wages will meet the ends of justice.

## 8. Hence Ordered :

That the action of the management of M/s Swaraj Chemicals & Pharmaceuticals Works, New Industrial Estate, Jagatpur, Cuttack in terminating the service of Shri Maharaga Sahoo, Tablet Machine Operator with effect from the 27th August 2006 by way of refusal of employment is illegal and unjustified. The workman Shri Sahoo 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  
15-9-2011  
Presiding Officer, Labour Court  
Bhubaneswar

S. A. K. Z. AHAMED  
15-9-2011  
Presiding Officer, Labour Court  
Bhubaneswar

---

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