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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 25th November 2011

No. 10596—li-1(B)-20/2004(Pt.)-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 14th September 2011 in Industrial Dispute Case No. 66 of 2004 of the Presiding Officer, Labour Court, Bhubaneswar to whom the Industrial Dispute between the Management of M/s Patidar Alloy Wires (P) Ltd., Cuttack / M/s Sailashree Enterprises (P) Ltd., Cuttack and their workmen Shri Sahadev Mallik & 7 others was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 66 OF 2004

Dated the 14th September 2011

*Present :*

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

*Between :*

The Management of .. First Party—Management  
M/s Patidar Alloy Wires (P) Ltd., Cuttack/  
M/s Sailashree Enterprises (P) Ltd., Cuttack.

*And*

Their workmen .. Second Party—Workmen  
Shri Sahadev Mallik & 7 others

*Appearances :*

For the First Party—Management .. None

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For the Second Party—Workmen .. Shri S. Mohanty, Advocate  
Shri S. Das, Advocate  
Shri S. S. Mohapatra, Advocate

## 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. 9054—li-1(B)-20/2004-LE., dated the 11th October 2004 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 Patidar Alloy Wires (P) Ltd., Behind B-33, Industrial Estate, Cuttack in terminating the services with effect from the 22nd August 2003 of Shri Sahadev Mallik, Shri Karunakar Pati, Shri Pravat Acharya, Shri Sridhar Muduli, Manoj Ku. Pati, Shri Alekh Bhoi, Shri Ranjan Ku. Mallik and Shri Bijay Ku. Samal who were engaged by the management of M/s Sailashree Enterprises (P) Ltd., B/33, Industrial Estate, Cuttack is legal and/or justified ? If not, to what relief they are entitled ?”

3. The case of the workmen in brief as set out in their statement of claim is that M/s Patidar Alloy Wires (P) Ltd., Cuttack and M/s Sailashree Enterprises (P) Ltd., Cuttack belong to one management which are functioning in one place i. e. at B/33, Industrial Estate, Cuttack. The establishment of both the management are also maintaining one record so far as the attendance of the workmen are concerned. The workmen were working under M/s Sailashree Enterprises since long. When they were working in the establishment, all of a sudden on the 22nd July 2003 a notice was issued by M/s Patidar Alloy Wires (P) Ltd., that it will be closed with effect from the 22nd August 2003 and the services of the workmen will be terminated due to the closure of the establishment. Thereafter on the intervention of the labour authorities, the workmen were allowed to work in the establishment till the 22nd August 2003 and thereafter the services of the workmen were terminated by way of refusal of employment on the 22nd August 2003. Both the management are functioning as usual by taking new persons ignoring the case of the workmen. The workmen have claimed that the management has terminated their services by way of refusal of employment without following the due procedure of law. So they have prayed for their reinstatement in service with full back wages.

4. The management was set *ex parte*.

5. In order to substantiate their pleas out of eight workmen, two workmen namely, Shri Karunakar Pati and Shri Ranjan Kumar Mallik have been examined as W. Ws. 1 and 2 respectively and proved certain documents under the cover of Exts. 1 to 8.

6. The workmen witnesses have filed their affidavit evidence corroborating the facts as stated in their statement of claim. Since the management has been set *ex parte* and the evidence both oral and documentary tendered by the workmen witnesses have remained unchallenged, I have no option but to answer in affirmative in favour of the workmen.

7. It is stated by the workmen that no notice or notice pay and retrenchment compensation was paid to them on or before the date of their termination of service by way of refusal of employment by the management. Thus the management has contravened the provisions of Section 25-F of the Industrial Disputes Act which is a mandatory and precondition one. In the result therefore, in my

opinion the workmen are entitled to be reinstated in service. But when the workmen had not worked for the management during the period in question and they had not proved by cogent evidence that they have not gainfully employed elsewhere, payment of full back wages is not justified. However, 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.

6. Hence ordered :

That the action of the management of M/s Patidar Alloy Wires (P) Ltd., behind B/33, Industrial Estate, Cuttack in terminating the services with effect from the 22nd August 2003 of Shri Sahadev Mallik, Shri Karunakar Pati, Shri Pravat Acharya, Shri Sridhar Muduli, Shri Manoj Kumar Pati, Shri Alekh Bhoi, Shri Ranjan Ku. Mallik and Shri Bijay Ku. Samal who were engaged by the management of M/s Sailashree Enterprises (P) Ltd., B/33, Industrial Estate, Cuttack is illegal and unjustified. The above named workmen are 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  
14-09-2011  
Presiding Officer  
Labour Court, Bhubaneswar

S. A. K.Z. AHAMED  
14-09-2011  
Presiding Officer  
Labour Court, Bhubaneswar

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