

The Odisha Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 2655 CUTTACK, FRIDAY, DECEMBER 9, 2011/MARGASIRA 18, 1933

LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 28th November 2011

No. 10699—li/1 (B)-71/1998 (Pt.)-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 21st September 2011 in Industrial Dispute Case No.191 /2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of Dhenkanal Regional Co-operative Marketing Society Ltd., Dhenkanal and their workman Shri Sanatan Biswal and three others was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 191 OF 2008

Dated the 21st September 2011

Present :

Shri Raghubir Dash, o.s.j.s. (Sr. Branch),
Presiding Officer,
Industrial Tribunal,
Bhubaneswar.

Between :

The Management of
Dhenkanal Regional
Co-operative Marketing
Society Ltd.,
At. Ratan Bazar,
P.O. Dhenkanal,
Dist. Dhenkanal.

.. First Party—Management

And

Their workmen—

. . . Second Party—Workmen

1. Shri Sanatan Biswal, Helper,
 2. Shri Shyama Sundar Jena, Peon,
 3. Shri Suresh Rout, Helper,
 4. Shri Sridhar Pradhan, Helper
- C/o Shri Sanatan Biswal,
At Dolamandap Sahi,
P.O./Dist. Dhenkanal.

Appearances :

Shri D. Tripathy, . . . For the First Party—Management
Secretary.

Shri S. Biswal, . . . The Second Party—Workmen themselves
and 3 others.

A W A R D

This is a reference under Section 10 of the Industrial Disputes Act, 1947 (for short, 'the Act') made by the Government in the Labour & Employment Department vide their Order No. 6534—li/1-BH-71/1998-L.E., dated the 17th May 1999 which was originally referred to the Presiding Officer, Labour Court, Bhubaneswar for adjudication but subsequently transferred to this Tribunal for adjudication vide Labour & Employment Department's Order No. 4138—li/21-32/2007-L.E., dated the 4th April 2008. The Schedule of reference runs as follows :

“Whether the retrenchment of Shri Sanatan Biswal, Helper, Shri Shyama Sundar Jena, Peon, Shri Suresh Rout, Helper and Shri Sridhar Pradhan, Helper by the Secretary, Dhenkanal Regional Co-operative Marketing Society Ltd., Dhenkanal with effect from 1st August 1998 is legal and/or justified ? If not, to what relief they are entitled ?”

2. Today when the case is called on for hearing, all the concerned workmen as well as the Secretary of the first party being present in the Court filed a Memorandum of Settlement, drawn up in Form-K, and submitted that the dispute referred to by the Government in the present industrial dispute case has already been amicably settled between them out of the Court. Accordingly, all of them prayed to pass an award in terms of the settlement.

3. The terms embodied in the settlement are read over and explained to the parties and they admitted the same to be true and correct. As a token of receipt of Demand Draft for Rs. 30,000

(Rupees thirty thousand only) each of the second party has furnished a receipt and the same are enclosed to the Memorandum of Settlement. The workmen have also admitted to have entered with the above settlement on their own volition. The settlement arrived at between the parties being fair, an Award is passed in terms thereof which do forms part of the Award.

Dictated & corrected by me.

RAGHUBIR DASH
21-9-2011
Presiding Officer
Industrial Tribunal
Bhubaneswar

RAGHUBIR DASH
21-9-2011
Presiding Officer
Industrial Tribunal
Bhubaneswar

By order of the Governor

T. K. PANDA

Under-Secretary to Government

FORM-K
(See Rule 64)

MEMORANDUM OF SETTLEMENT DATED 14-9-2011 BETWEEN THE MANAGEMENT OF DHENKANAL REGIONAL CO-OPERATIVE MARKETING SOCIETY LTD. AND THEIR WORKMEN NAMELY, SARBASHRI SANATAN BISWAL, SHYAMA SUNDAR JENA, SURESH CHANDRA ROUT AND SRIDHAR PRADHAN.

Representing the Management

1. Debabrata Tripathy
Secretary,
Dhenkanal RCMS Ltd.

Representing the Workmen

1. Sanatan Biswal
2. Shyama Sundar Jena
3. Suresh Chandra Rout
4. Sridhar Pradhan

SHORT RECITAL OF THE CASE

Whereas, Sarbashri Sanatan Biswal, Shyama Sundar Jena, Suresh Chandra Rout and Sridhar Pradhan, in short, the disputants raised an Industrial Dispute before the Conciliation Officer-*cum*-District Labour Officer, Dhenkanal, alleging therein that though all of them were working continuously under the management of RCMS for years together in the posts of Helper, all of them were refused employment on 31-7-1998 without any prior notice or compensation for their long past period of service and also giving a go-bye to the principles of first come last go and retaining the juniors so also giving fresh employment to others, other than the disputants workmen.

Whereas, basing on such complaint the D.L.O.-*cum*-Conciliation Officer, Dhenkanal admitted the said dispute into conciliation and the parties to the said issue were invited to have a discussion on the said issue to resolve the same amicably.

Whereas, during conciliation the disputant workmen demanded for their reinstatement in service with full back wages and compensation.

Whereas, the management, being represented by its Secretary attended the conciliation proceeding and furnished its written views contending therein that the said action in terminating/ retrenching the disputants is legal and justified as they were retrenched as surpluses having no work for a defunct Co-operative Society running with huge loss and financial crises, even having no fund to run its day-to-day activities. Their retrenchment was as per circular of Administrative Authorities of Government of Odisha to save the defunct society from surplus staffs. The Hon'ble High Court of Odisha also issued necessary directives in connection with over burden of surpluses and the services of the disputants were terminated as per the decision of the Sub-Committee of the Society held on 1-8-1998.

Whereas, as the conciliatory effort proved unproductive, the Conciliation Officer-*cum*-D.L.O., Dhenkanal, submitted the failure report to appropriate Government as contemplated under Section 12 (4) of the Industrial Dispute Act, 1947, shortly, I.D. Act.

Whereas, pursuant to the said failure report, the appropriate Government had been pleased to refer the said Industrial Dispute vide its Order No. 6534-L.E., Dt. 17-5-1999 for adjudication to the learned Labour Court, Bhubaneswar in the following terms :—

“Whether the retrenchment of Shri Sanatan Biswal, Helper, Shri Shyam Sundar Jena, Peon, Shri Suresh Rout, Helper and Sridhar Pradhan, Helper, by the Secretary, Dhenkanal Regional Co-operative Marketing Society Ltd., Dhenkanal with effect from 1-8-1998 is legal and/or justified ? If not, what relief they are entitled to ?”

Whereas, the said reference was/has been registered as I.D. Case No. 48/1999 in the file of the learned Labour Court, Odisha, Bhubaneswar and subsequently being transferred to the Presiding Officer, Industrial Tribunal, Bhubaneswar. The said case was renumbered as I.D. Case No. 191 of 2008.

Whereas, during pendency of the said Industrial Dispute, on being approached by the disputants, the parties to the said dispute/reference agreed to settle the same amicably on the following terms :—

Whereas, without prejudice to the stand of the management that its action in terminating the services of the disputants pursuant to Circular of the Administrative Authority of Government of Odisha so also decision of the Sub-Committee of Society held on 1-8-1998, was legal and justified and without creating a precedence, in the interest of industrial peace and harmony, since the said Industrial Dispute is pending before the learned Court since 1999, the management is entering into the present settlement in Form-K as prescribed under Rule 64 of the Odisha Industrial Disputes Rules, 1959.

TERMS OF THE SETTLEMENT

1. That it has been agreed by and between the parties to the present settlement that the management will pay an amount of Rs. 50,000 (Fifty thousand only) to each of the disputants/workmen towards full and final settlement of all their claims pertaining to I.D. Case No. 191 of 2008 (Old I.D. Case No.48 of 1999) and also with regard to their employment, non-employment and conditions of employment.
2. That out of said agreed lump sum amount of Rs. 50,000, it is agreed between the parties that a sum of Rs. 20,000 will be paid in cash to each of the workmen and remaining amount of Rs. 30,000 will be paid to all of them in form of Demand Draft drawn on any Nationalized Bank, payable at Dhenkanal and would be handed over to the disputants/workmen before the learned Presiding Officer, Industrial Tribunal on obtaining due receipt from the workmen in proof of payment of the said agreed amount.
3. That the disputant workmen have accepted the above terms on their own volition without any coercion, pressure or undue influence.
4. The disputant workmen agree that they shall have no subsisting or any future claim against the management of Dhenkanal RCMS in connection with their service and I.D. Case No. 191 of 2008 after receipt of the agreed amount in terms of the present settlement.
5. That with this settlement, all disputes and differences between the parties are hereby resolved and no dispute remains either in present or in future between the parties hereto.
6. That both the parties further agree that they will approach and file a joint petition along with required number of copies of this settlement before the learned Presiding Officer, Industrial Tribunal, Bhubaneswar, in I.D. Case No. 191 of 2008, praying therein to pass an Award in the said case in terms of the present settlement.
7. That it is further agreed between the parties hereto that after receiving the agreed amount in terms of the present settlement, if for some reason or other, the disputants/workmen do not turn up to move the joint petition of compromise, in the said case, the management will be at liberty to move the said application alone praying there in the Learned Presiding Officer, Industrial Tribunal, Bhubaneswar, to accept the terms of the said settlement to be fair and pass an Award accordingly.

Managemet

1. Debabrata Tripathy
Dt. 14-9-2011
Secretary,
R.C.M.S. Ltd., Dhenkanal

Workmen

1. Sanatan Biswal
2. Shyama Sundar Jena
3. Suresh Rout
4. Sridhar Pradhan

WITNESSES

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. Rasmi Ranjan Mishra, Advocate S/o Late Rabi Narayan Mishra, At- In front of Head Post Office, Dist. Puri. | <ol style="list-style-type: none"> 2. Trilochan Lenka, Advocate S/o Jagannath Lenka, Mahimanagar, Nuabazar, Cuttack-4 |
|--|--|

RECEIPT

Dated the 21st Septemebr 2011

Received a sum of Rs. 30,000 (Thirty thousand) only in shape of A/c Payee D.D. vide D.D. No. 644226455, Dt. 20-9-2011 of I.O.B., Dhenkanal Branch payable at Dhenkanal and a sum of Rs. 20,000 (Twenty thousand) only in shape of cash from the Management of Dhenkanal RCMS Ltd., through its Secretary towards the full and final settlement amount of the I.D. case No. 191/2008 of I.T., Bhubaneswar before the Presiding Officer, Industrial Tribunal, Bhubaneswar on 21-9-2011.

WITNESSES

Sanatan Biswal

1. Rasmi Ranjan Mishra, Advocate
2. Trilochan Lenka, Advocate

RECEIPT

Dated the 21st Septemebr 2011

Received a sum of Rs. 30,000 (Thirty thousand) only in shape of A/c Payee D.D. vide D.D. No. 644226423, Dt. 20-9-2011 of I.O.B., Dhenkanal Branch Payable at Dhenkanal, and a sum of Rs. 20,000 (Twenty thousand) only in shape of cash from the Management of Dhenkanal RCMS Ltd., through its Secretary towards the full and final settlement amount of the I.D. case No. 191/2008 of I.T., Bhubaneswar before the Presiding Officer, Industrial Tribunal, Bhubaneswar on 21-9-2011.

WITNESSES

Shyama Sundar Jena

1. Rasmi Ranjan Mishra, Advocate
2. Trilochan Lenka, Advocate

RECEIPT

Dated the 21st Septemebr 2011

Received a sum of Rs. 30,000 (Thirty thousand) only in shape of A/c Payee D.D. vide D.D. No. 644226448, Dt. 20-9-2011 of I.O.B., Dhenkanal Branch Payable at Dhenkanal and a sum of Rs. 20,000 (Twenty thousand) only in shape of cash from the Management of Dhenkanal RCMS Ltd., through its Secretary towards the full and final settlement amount of the I.D. Case No. 191/2008 of I.T., Bhubaneswar before the Presiding Officer, Industrial Tribunal, Bhubaneswar on 21-9-2011.

WITNESSES

Suresh Rout

1. Rasmi Ranjan Mishra, Advocate
2. Trilochan Lenka, Advocate

RECEIPT

Dated the 21st Septemebr 2011

Received a sum of Rs. 30,000 (Thirty thousand) only in shape of A/c Payee D.D. vide D.D. No. 644226430, Dt. 20-9-2011 of I.O.B., Dhenkanal Branch Payable at Dhenkanal and a sum of Rs. 20,000 (Twenty thousand) only in shape of cash from the Management of Dhenkanal RCMS Ltd., through its Secretary towards the full and final settlement amount of the I.D. Case No. 191/2008 of I.T., Bhubaneswar before the Presiding Officer, Industrial Tribunal, Bhubaneswar on 21-9-2011.

WITNESSES

Sridhar Pradhan

1. Rasmi Ranjan Mishra, Advocate
2. Trilochan Lenka, Advocate
