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LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 14th May 2012

No. 3786–IR(1D)-112/2010(Pt.)-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 2nd December, 2011 in Industrial Dispute Case No. 71 of 2010 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the Industrial Dispute between the Management of M/s Kalinga Hospital Ltd., Chandrasekharapur, Bhubaneswar and their workmen represented through Kalinga Hospital Employees' Union, Chandrasekharapur, Bhubaneswar was referred to for adjudication is hereby published in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 71 OF 2010

Dated the 2nd December 2011

Present :

Shri Raghubir Dash, O.S.J.S. (Sr. Branch),
Presiding Officer, Industrial Tribunal,
Bhubaneswar.

Between :

The Management of M/s Kalinga Hospital Ltd., . . . First Party—Management
Chandrasekharapur, Bhubaneswar.

And

Its workmen represented through . . . Second Party—Workmen
Kalinga Hospital Employees' Union,
Chandrasekharapur, Bhubaneswar

Appearances :

Shri J. K. Mohapatra, Company Secretary . . . For the First Party—Management
Shri Subhasis Swain, General Secretary . . . For the Second Party—Workmen
of the Union.

AWARD

This is a reference under Section 10 of the Industrial Disputes Act, 1947 (for short, 'the Act') made by the Government of Odisha in the Labour & Employment Department vide their Order No. 8480—ID-112/2010/LE., Dt. 4-10-2010. The Schedule of reference runs as follows :—

“Whether the demand of the Union regarding 100 % free medical facilities for the employees and their dependants is legal or justified ? If not, what should be the details ?”

2. Kalinga Hospital Employees' Union (Second Party) has raised the dispute making a demand against the Management of Kalinga Hospital (First Party) for 100% free medical facilities for the employees and their dependants. According to the Second Party, the Management used to provide medical benefit to its employees to the extent of 50% of the expenditure on the treatment of the employees and 25% thereof for their dependants. But ever since the First Party has been covered under the Employees State Insurance Act, 1948 (for short, 'the E.S.I. Act'), the employees who are eligible to get the benefit under the E.S.I. Act are not getting the medical benefit from the First Party. Before the introduction of the E.S.I. Scheme for the employees of the First Party the employees used to get high quality treatment in Kalinga Hospital but after introduction of the Scheme they do not get proper treatment for the reason that the Hospitals to which they are referred to for treatment are ill-equipped. So, the employees and their dependants should be provided with 100% free medical service from the Kalinga Hospital.

3. The case of the First Party is that the Kalinga Hospital has been brought under the coverage of the E.S.I. Act with effect from June, 2010. As per the provisions of the E.S.I. Act the Employee's contribution towards E.S.I. is being recovered from their wages and deposited with the E.S.I. Authority along with the Management's contribution. The Scheme under the E.S.I. Act makes provision for free medical treatment to the employees and their family members, besides maternity benefit, sickness and insurance benefit and the like. The Employees State Insurance Corporation being a Statutory Organisation its notification to cover an establishment under the E.S.I. Act cannot be avoided by the First Party. It is bound to fulfil its statutory obligations failing which penal consequences are likely to arise. Since the statutory provisions of the E.S.I. Act have been made applicable to the employees of Kalinga Hospital there is no need to give them free medical benefit by the employer. Therefore, the employees are not entitled to such benefits.

4. In the rejoinder to the written statement the Second Party has asserted that the First Party may move the Government for its exemption from the E.S.I. Act. It is also asserted that the employees working in the Apollo Hospital, Bhubaneswar are getting better medical facilities from their employer despite of the fact that the said establishment is subjected to the provisions of the E.S.I. Act.

5. Basing on the pleadings of the parties, the following issues have been settled :—

ISSUES

- (i) Whether the demand of the Union regarding 100% free medical facilities for the employees and their dependants is legal or justified ?
- (ii) What reliefs the employees are entitled to ?

6. On behalf of the Second Party, the Secretary of the Union is examined as W. W. No. 1 and two documents are marked exhibits. On behalf of the Management its Company Secretary is examined as M. W. No. 1 and three documents are marked as exhibits.

FINDINGS

7. *Issue No. (i)*—There is no dispute that prior to the implementation of the E.S.I. Act in respect of the employees of Kalinga Hospital they used to get the following medical benefits :—

- (1) 50% on bed charges subject to eligibility;
- (2) 40% on Investigation;
- (3) 50% on O.T. Charges, Surgeon Fee & Cath Lab Procedures;

- (4) 10% on Medicine; and
 (5) 100% on Consultation fee (vide Ext. 2).

It is also not in dispute that consequent upon the *Odisha Gazette* Notification (Extraordinary No. 850, Dt. 3-6-2010, vide Ext. (B) the provisions of the E.S.I. Act have been extended to the Medical Institutions including Corporate, Joint Sector, Trust, Charitable and Private Ownership Hospitals wherein 20 or more persons are employed for wages. As a result, Kalinga Hospital has also been brought under the coverage of the E.S.I. Act from June, 2010. It is not disputed that the employees covered under the E.S.I. Scheme are no more getting any medical benefit from the First Party Management which they used to get.

8. It is rightly submitted on behalf of the Management that the employees covered under the Scheme and their family members/dependants are entitled to get different benefits including specialised medical treatment free of cost as and when required. The employees of Kalinga Hospital covered under the E.S.I. Scheme and their dependants can avail all such benefits. The demand of their Union claiming 100% free medical facilities for the employees and their dependants does not appear to be based on any reasonable grounds. Even prior to their coverage under the E.S.I. Scheme they were not enjoying 100% free medical facilities. Now, they being entitled to all the benefits available under the E.S.I. Act, their demand for 100% free medical facilities from their employer, merely on the ground that the Hospitals in which they are to get treatment under the E.S.I. Scheme are not as well-equipped with Machines and Specialist as Kalinga Hospital, is neither legal nor justified.

9. However, it is to be borne in mind that being employees of a Hospital like Kalinga Hospital, wherefrom they used to get several medical benefits in the past, their expectation that they should continue to get some medical benefits from their employer—Hospital is quite understandable. Since they are deprived of the medical facilities they used to get from their employer a kind of dissatisfaction seems to be brewing up which is likely to have adverse effect on industrial peace and harmony between the Management and the workmen. In order to ensure industrial peace and harmony this Tribunal considers it to be just and appropriate to allow the employees covered under the E.S.I. Scheme to avail medical benefits such as (i) 100% concession on Consultation fees and (ii) 50 % concession on Investigation which should not be extended to their dependants.

10. *Issue No. (ii)*—In view of the discussions made above, this Tribunal holds that the employees and their dependants are not entitled to 100% free medical facilities from the Management. But, the employees themselves are held entitled to get Consultation free of cost and 50% concession on cost of investigations.

The reference is answered accordingly.

Dictated and corrected by me.

SHRI RAGHUBIR DASH
 2-12-2011
 Presiding Officer
 Industrial Tribunal
 Bhubaneswar

SHRI RAGHUBIR DASH
 2-12-2011
 Presiding Officer
 Industrial Tribunal
 Bhubaneswar

By order of the Governor
 M. R. CHOUDHURY
 Under-Secretary to Government
