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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 17th November 2012

No. 9414—IR-(ID)-100/2010-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 28th September 2012 in Industrial Dispute Case No. 78/2010 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of Express House keeper (P) Ltd., New Delhi & its Workman Shri Maheswar Nayak was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 78 OF 2010

Dated the 28th September 2012

*Present :*

Shri Raghubir Dash, OSJS. (Sr. Branch)  
Presiding Officer, Industrial Tribunal,  
Bhubaneswar.

*Between :*

M/s Express House Keeper (P) Ltd.,

C-7, 2nd Floor,

Navashakti Apartment,

Ghitomi, New Delhi-110030

And

Shri Maheswar Nayak,

At Aradhana Apartment

Plot No. 428, Nayapalli,

Bhubaneswar.

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.. First Party—Management

.. Second Party—Workman

*Appearances :*

NONE

. . . For the First Party—Management

Shri Maheswar Nayak

. . . For the Second Party—Workman himself

## AWARD

The Government of Odisha in their Labour & E. S. I. Department, exercising power conferred upon them by Section 12(5), read with Section 10(1) (d) of the Industrial Disputes Act, 1947 (for short, the Act), have referred the following dispute to this Tribunal for adjudication vide their Order No. 8527—ID-100/10/LE., dated the 5th October, 2010:—

“Whether the action of the management of M/s Express House Keeper (P) Ltd., New Delhi in terminating the services of Shri Maheswar Nayak, ex-Sweeper with effect from the 11th June 2009 is legal and/or justified ? If not, what relief Shri Nayak is entitled to ?”

2. The case of the second party, in short, is that he was engaged as a Sweeper by the first party with Rs. 3,000 per month as his monthly wages. He had worked continuously from the 12th March 2008 to the 10th June 2009. Thus, he had completed one year of continuous service. Yet, the Management without following the procedure laid down u/s 25-F of the Act or without conducting any disciplinary proceeding terminated the services of the Second party by way of refusing employment to him w.e.f. the 11th June 2009. It is further claimed that the Management terminated his services while allowing his juniors to continue, besides giving new appointments after the impugned retrenchment.

3. The Management has not turned-up to take part in the proceeding before this Tribunal. Therefore, the proceeding has been taken-up in its absence.

4. The workman has examined himself as W. W. No. 1 and has exhibited documents marked Exts.1 to 6.

5. It is to be decided as to whether the second party was employed by the first party and whether the alleged retrenchment with effect from 11th June 2009 is legal and/or justified and if not, what relief he is entitled to.

6. In his affidavit evidence the Workman has reiterated the stand he has taken in his claim statement. He has stated on oath that he had been working in the establishment of the First party as a Sweeper from 12th March 2008 and worked continuously till his service was terminated on the 11th June 2009. To support his claim, he has exhibited certain documents. Ext. 1 is a copy of the

Identity Card issued by the first party in the name of the second party. Ext. 2 is a copy of the Identity Card issued by the E. S. I. Corporation in favour of the Second party wherein the first party's name as the employer of the second party is mentioned along with the Employer's Code number. Ext. 5 is a copy of the Attendance Sheets showing that the Second party had marked his attendance from the 12th March 2008 till the date of the alleged retrenchment.

7. There is nothing to disbelieve the sworn testimony of W. W. 1 and the documents he has exhibited. Basing on his oral as well as documentary evidence, it is held that he had completed one year of continuous service under the first party by the time he is said to have been denied employment.

8. W. W. No. 1 has stated that on the 11th June 2009 the Management refused employment to him without prior notice. He claims that the mandatory provision contained in Section 25-F of the Act has not been complied with. He has also alleged that persons junior to him are still under the employment of the first party. Since there is nothing to disbelieve the materials he has placed before this Tribunal, it is to be held that the termination of service under challenge is neither legal nor justified. For the self same reason he is found entitled to be reinstated in service with full back wages.

The reference is answered accordingly.

Dictated and corrected by me.

RAGHUBIR DASH  
28-09-2012  
Presiding Officer  
Industrial Tribunal,  
Bhubaneswar.

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28-09-2012  
Presiding Officer  
Industrial Tribunal,  
Bhubaneswar.

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By order of the Governor  
J. DALANAYAK  
Under-Secretary to Government