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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 24th November 2012

No. 9636—IR-(ID)-129/2010-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 18th October 2012 in Industrial Dispute Case No. 98/2010 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of OPTCL, Janapath, Bhubaneswar & their Workmen represented through Nikhila Odisha Bidyut Shramik Mahasangha in the matter of granting promotion to Shri M. J. J. Rao and 3 others was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 98 OF 2010

Dated the 18th October 2012

*Present :*

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

*Between :*

The Management of Odisha Power  
Transmission Corporation Ltd.,

Janpath, Bhubaneswar.

And

Their Workmen namely :

- (1) M. J. Jeevan Rao
- (2) Rabindra Badjena
- (3) Sudam Subudhi &

.. First Party—Management

(4) Binod Bihari Dash, represented  
 through Nikhila Odisha Bidyut Shramik  
 Mahasangha, At Dihasahi, Sankarpur,  
 P.O. Arunoday Market, Cuttack. . . . Second Party—Workmen

*Appearances :* \_\_\_\_\_

Shri Anil Kumar Sahoo, Manager . . . For the First Party—Management  
 (HRD)  
 Shri A. K. Tripathy, Secretary of . . . For the Second Party—Workmen  
 the Union.

AWARD

The Government of Odisha in their Labour & Employment Department (presently the Labour & ESI Deptt.) exercising power conferred upon them by Section 12(5), read with Section 10(1) (c) of the Industrial Disputes Act, 1947 (for short, the 'Act'), have referred the following dispute to this Tribunal for adjudication vide their Order No. 10653—ID-129/10/LE., dated the 20th December 2010.

“Whether the action of Odisha Power Transmission Corporation Ltd., Janpath, Bhubaneswar in not granting promotion to (1) Shri M. J. J. Rao, (2) R. Badjena, (3) B. B. Dash and (4) S. Subudhi from the post of Artisan-C to Lineman-B w.e.f. 25th September 2007 is legal and/or justified ? If not, what relief they are entitled to ?”

2. The case was posted to today for filing written statement by the Management.

Both the parties file a joint petition today with a prayer to accept the settlement arrived at between them. They have filed the Memorandum of settlement drawn up in Form K. The terms embodied in the settlement are readover and explained to the representatives of the parties and they admit the same to be true and correct. They submit that the settlement arrived at between them is voluntary one. So, the settlement is accepted and an Award is passed in terms of the settlement which do form part of the Award.

3. The reference is accordingly disposed of in terms of the settlement.

Dictated & corrected by me.

RAGHUBIR DASH

18-10-2012

Presiding Officer

Industrial Tribunal

Bhubaneswar.

RAGHUBIR DASH

18-10-2012

Presiding Officer

Industrial Tribunal

Bhubaneswar.

By order of the Governor

J. DALANAYAK

Under-Secretary to Government

FORM K

(Rule 64 of the Odisha I. D. Rule)

MEMORANDUM OF SETTLEMENT ARRIVED AT BETWEEN THE MANAGEMENT  
OF OPTCL AND THEIR EMPLOYEES REPRESENTED THROUGH  
NIKHILA ODISHA BIDYUT SHRAMIK MAHASANGHA

Representative of Management

1. S. K. Rath, Director (HRD)

2. S. Behera, DGM (HRD)-IR

Representative of the Workmen

1. S. C. Mohanty, General Secretary  
NOBS Mahasangha

2. A. K. Tripathy, Secretary, NOBSM

SHORT RECITAL OF THE CASE

Pursuant to the Odisha Electricity Reforms Act, 1995 & Odisha Electricity Reforms (Transfer of Undertakings, Assets, Liabilities, Personnel & Proceedings) Scheme Rules, 1996, GRIDCO reorganized its manpower requirement by implementation of a Revised Organization Structure. Consequent upon adoption of Revised Organization Structure in GRIDCO, the posts of Artisan-A, Artisan-B & Artisan-C were abolished and thus the Artisans became surplus.

The Power Transmission Business along with all employees hitherto vested in GRIDCO were transferred to and vested in OPTCL with effect from 1st April 2005 by enforcement of Odisha Electricity Reforms (Transfer of Transmission and Related Activities) Scheme 2005. Subsequently, a decision was taken by the management of OPTCL to accommodate the surplus of Artisans A/B/C against the vacant posts of Lineman-A, Lineman-B & Lineman-C respectively by lateral entry through selection, vide office letter No. 8747, dated the 16th November 2005 and office letter No. 17667, dated the 11th October 2007 subject to fulfillment of the following conditions :-

1. The Artisan A/B/C must fulfill the eligibility criteria prescribed for the respective posts of Lineman A/B/C.

2. On such lateral entry of Artisan A/B/C, their respective seniority will be fixed below the existing Lineman-A, Lineman-B & Lineman-C as the case may be.

Consquent to the letter No. 8747, dated the 16th November 2005 and office letter No. 17667, dated the 11th October 2007 of OPTCL to accommodate the surplus Artisans by lateral entry against the post of Lineman-A/B/C, the AGM (El.), EHT (O&M) Divn., Bhubaneswar invited the Artisan-C to attend the Selection Committee on the 25th September 2007 for promotion to the post of Lineman-B. The invitation to Artisan-C for consideration of selection to the post of Lineman-B was contrary to this office letter No. 8747, dated the 16th November 2005 and letter No. 17667, dated the 11th October 2007. The eligible Artisan-C were therefore first redesignated as Lineman-C vide Office Order No. 4034, dated the 16th November 2007 of the AGM (El.), EHT (O&M) Divn., Bhubaneswar which includes the names of Shri R. Badjena, Shri B. B. Dash and Shri S. Subudhi and they were placed below the existing Lineman-C in the seniority list.

In the selection made on the 25th September 2007 by the AGM, EHT(O&M) Divn., Bhubaneswar the case of Shri M. J. Jeevan Rao, Artisan-C who possesses the Wireman-C permit could not considered to be eligible due to non-possession of respective Lineman permit which is a pre-requisite requirement for promotion to the post of Lineman-B. The General Secretary, Nikhila Odisha Bidyut Shramik Mahasangha raised a dispute before the Conciliation Officer-*cum*-DLO, Khurda claiming to accomodate the four Artisan-C in the following manner :-

1. The following four Artisan- C be re-designated as Lineman- C

Shri M. J. Jeevan Rao

Shri Rabindra Badjena

Shri Sudam Subudhi

Shri Binod Bihari Dash

2. Their service in the post of Lineman-C be counted from the date of their joining as Artisan-C.

3. The Artisan-C so designated and redeployed by lateral entry as Lineman-C, be promoted to the post of Lineman-B taking into account the period of service as Artisan-C.

While conciliation were pending before the DLO, Bhubaneswar, this matter was also placed before an internal committee of OPTCL on 13th November 2009 and Committee of the Board (on HRD matter) examined the whole issue letter of lateral entry and re-deployment of Artisan-A/B/ C and decided that the principle of re-deployment by lateral entry as circulated by office letter No. 8747, dated the 16th November 2005 and office letter No. 17667, dated the 11th October 2007

are to be followed. Accordingly, the AGM, EHT (O&M) Divn., Jayanagar was instructed in letter No. 17324, dated 8th October 2010 to follow the principle embodied in the said letter dated the 16th November 2005 and dated the 11th October 2007 and in case of any deviation made, the same may be regularized as per the principle in letter No. 17324, dated the 8th October 2010.

In the mean while after failure of the Concilation, the dispute has been referred to Industrial Tribunal, Bhubaneswar and registered as I. D. Case No. 98 of 2010 before the Presiding Officer, Industrial Tribunal, Bhubaneswar which reads as follows :

“Whether the action of the management of OPTCL., Janpath, Bhubaneswar in not granting promotion to (i) Shri M. J. Jeevan Rao, (ii) Shri Rabindra Badjena, (iii) Shri Sudam Subudhi and (iv) Shri Binod Bihari Dash from the post of Artisan-C to Lineman-B, w.e.f. 25th September 2007 is legal and/or justified ? If not, what relief they are entitled to?”

While the matter is pending before the Industrial Tribunal, the General Secretary, NOBSM requested the Management on the 25th August 2011 to give promotion to the above four employees from Artisan-C to Lineman/Electrician-B/A w.e.f. 2002. In the meanwhile out of the four employees, Shri R. Badjena, Lineman- C and Shri B. B. Dash, Lineman-C have retired from service on attaining the age of superannuation. During bilateral discussion with the representatives of the Mahasangha on the 3rd November 2011, it was decided to explore the possibility to arrive at an amicable settlement in case of other two employees namely Shri M. J. Jeevan Rao, Artisan-C and Shri Sudam Subudhi, Lineman-C as early as possible.

After prolonged discussion, the Management of OPTCL and the representatives of Nikhila Odisha Bidyut Shramik Mahasangha have agreed to the following terms of settlement :

#### TERMS OF SETTLEMENT

##### **1. Scope :**

This settlement shall be applicable in case of Shri M. J. J. Rao, Artisan-C who possess the Wireman permit and Shri S. Subudhi, Lineman-C only.

##### **2. Re-deployment/ Re-designation of Artisans :**

It is agreed by and between the parties to accommodate the above Artisans in Lineman/ Electrician or Operator-C Cadre through a process of selection as detailed hereunder :

I. Shri M. J. J. Rao, Artisan-C who possess a Wireman permit, will be brought over prospectively by way of re-designation to the vacant post of Operator- C/ Electrician-C subject to fulfillment of other eligibility criteria as per procedure laid down for the purpose and subject to passing of Trade Test.

On such absorption, by re-designation Shri M. J. J. Rao will be junior to the existing Electrician-C / Operator-C in the respective cadre. Further his case for promotion to Skilled-B category shall

be considered taking into account his service as Artisan-C and Operator/ Electrician-C subject to fulfillment of other criteria of promotion.

As per the biparite settlement dated the 17th July 2012, DPC meeting was held on the 14th September 2012 and the case of Shri M. J. J. Rao has been considered for promotion to the post of Operator-B vide Office Order No. 2591, dated the 21st September 2012 of the AGM, EHT (O&M) Division, Bhubaneswar.

II. The case of Shri S. Subudhi, Lineman-C for promotion to the post of Lineman-B under skill-B category shall be considered taking into account his service as Artisan-C and Lineman- C subject to fulfillment of other criteria of promotion.

At present due to non-availability of vacant post of Lineman-B, the case of Shri S. Subudhi, Lineman-C cannot be considered. However it is agreed between the parties that the case of Shri Subudhi shall be considered as and when the vacancy in Lineman-B arises.

III. The cases of other to Artisan-C who were re-deployed as Lineman-C, namely Shri Rabindra Badjena, Shri Binod Bihari Dash and retired from service shall not be reopened.

IV. It is further agreed that the parties will file this settlement before the Presiding Officer, Industrial Tribunal, Bhubaneswar into pass an Award in terms of this settlement in I. D. Case No.98 of 2010 which is now pending for adjudication.

This settlement is signed today, the 17th day of October 2012.

Representative of Management

S. K. Rath

Director (HRD)

S. Behera

DGM (HRD)-IR

Representative of the Workmen

S. C. Mohanty

General Secretary, NOBS Mahasangha

A. K. Tripathy

Secretary, NOBSM