

# The Odisha Gazette

EXTRAORDINARY  
PUBLISHED BY AUTHORITY

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No. 60 CUTTACK, MONDAY, JANUARY 9, 2012/PAUSA 19, 1933

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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 3rd January 2012

No. 23—IR-ID-41/2010—LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 15th December 2011 in Industrial Dispute Case No. 28/2010 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the management of Executive Officer, N.A.C., Nilagiri and their workman Smt. Hemalata Sahu was referred to for adjudication is hereby published as in the Schedule below :

### SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 28 OF 2010

Dated the 15th December 2011

Present :

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

Between :

The Management of  
Executive Officer,  
N.A.C., Nilagiri.

.. First Party—Management

And

Its Workman Hemalata Sahu,  
W/o Late Uday Narayan Sahu,  
At Kadamsahi,  
P.O. Nilagiri,  
Dist. Balasore.

.. Second Party—Workman

## Appearances :

None	. . For the First Party—Management
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Hemalata Sahu	. . The Second Party—Workman herself

## 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.3936–ID-41/2010-LE., dated 13-5-2010. The Schedule of reference runs as follows—

“Whether the termination of services of Smt. Hemalata Sahu, Peon of Nilagiri N.A.C., Nilagiri, Dist. Balasore with effect from 17-6-2009 by the Executive Officer, Nilagiri N.A.C. by way of refusal of employment is legal and/or justified ? If not, what relief Smt. Sahu is entitled to ?”

2. In her claim statement the second party has asserted that consequent upon death of her husband in an accident in course of his employment under the first party, she was given employment under Rehabilitation Assistance Scheme. On 1-8-2000 she joined to work as a peon in the establishment of the first party. She had filed one claim case for payment of compensation under the Workmen's Compensation Act. In that case the Commissioner under the Workmen's Compensation Act passed an *ex parte* Award for payment of a sum of Rs. 1,81,370 towards compensation to the family of the deceased. When the first party did not implement the Award the compensation authority attached the property of the first party. Being aggrieved with the said action the first party denied employment to the second party with effect from the 17-6-2009 without complying with the statutory provisions contained in the Act.

3. The first party has not filed written statement despite of notice duly served on it. Therefore, it has been set *ex parte*.

4. In her affidavit evidence the second party has stated that she had been working as a Peon in the establishment of the first party with a consolidated pay of Rs. 2100 per month. She has further stated that on 17-9-2009 when she came to attend to her duties the first party did not allow her to come inside the office to sign the Attendance Register. In order to show that she was working in the establishment of the first party, the second party has exhibited one office order which is marked Ext.1. Ext.1 is a copy of the office order, dated 19-10-2004 from which it can be ascertained that the second party was working as a D.L.R. and under the order she was transferred and posted to work in the office of the first party N.A.C. attached to the Executive Officer of the N.A.C.

5. The averments made in the claim statement are not refuted by the first party who opted not to contest the claim by filing written statement. The sworn testimony of the second party can not be discarded on any ground. It is to be accepted that the second party had been working continuously under the first party from 1-8-2000 till denial of employment to her with effect from the 17-6-2009. Such denial amounts to retrenchment. The management of the first party does not appear to have

complied with the provisions contained in Section 25-F of the Act. Therefore, the retrenchment is illegal. It is also to be accepted that the retrenchment was effected by the management being aggrieved that the second party had taken steps to get compensation under the Workmen's Compensation Act. Therefore, the denial of employment to her is not justified.

6. In the result, it is held that the retrenchment of the second party is neither legal nor justified. The second party got employment under the Rehabilitation Assistance Scheme. She had rendered continuous service for about eight years. The management seems to have taken a vindictive action against her. Therefore, this Tribunal is of the considered view that the second party should be reinstated in service with full back wages.

The reference is answered accordingly in favour of the second party workman. The management to reinstate the second party in service with full back wages within a period of two months of the date of publication of the Award in the Official Gazette.

Dictated & corrected by me.

RAGHUBIR DASH  
15-12-2011  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

RAGHUBIR DASH  
15-12-2011  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

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