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## LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

### NOTIFICATION

The 17th January 2013

No. 463—li-I(SS)-38/2007-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 9th November 2012 in I. D. Case No. 16 of 2011 of the Presiding Officer, Labour Court, Sambalpur to whom the industrial dispute between the Management of DISHA, Ashiyana Colony, Bisra, Dist. Sundargarh and its Workman Shri Rabindra Nath Puhan, ex Community Organiser was referred to for adjudication is hereby published as in the Schedule below :

### SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER, LABOUR COURT  
SAMBALPUR

INDUSTRIAL DISPUTE CASE NO. 16 OF 2011

Dated the 9th November 2012

#### *Present :*

Shri Srikanta Mishra, LL.M.,  
Presiding Officer, Labour Court,  
Sambalpur.

#### *Between :*

The management of DISHA  
represented by the Secretary, DISHA,  
B-12, Ashiyana Colony, Bisra-770036,  
Dist. Sundargarh.

.. First Party—Management

And

It's workman  
Shri Rabindra Nath Puhan,  
ex Community Organiser,  
Plot No. 000-4, Civil Township,  
Rourkela-769004, Dist. Sundargarh.

.. Second Party—Workman

*Appearances :*

Sakhawat Khan, Secretary.	.. For the First Party—Management
Self	.. For the Second Party—Workman

## AWARD

This award arises out of a reference under Section 10 (1) (c) of the I. D. Act, made by the Government of Odisha, Labour & Employment Department vide their Notification No. 11088—li-I(SS)-38/2007-LE., dated the 8th December 2011 for adjudication. The schedule of reference is as follows :

“Whether the nature of the duties of a Community Organiser as entrusted to Shri Rabindra Nath Puhan can be deemed as workman under Section 2 (s) of the I. D. Act, 1947. If yes, whether the termination of services of Shri Rabindra Nath Puhan, ex Community Organiser by the management of DISHA, Ashiyana Colony, Bisra , Dist. Sundargarh by way of refusal of employment with effect from the 1st May 2006 is legal and/or justified ? If not, what relief he is entitled to ?”

2. The case of the second party workman in brief is that the first party appointed as Community Organiser in December, 1998 assigning him several functions like visiting the villages and contacting villagers for project work, identifying the beneficiaries, developing the skills of the children and villagers, making correspondences with the project officials, Government Authorities, liasoning with all parties, involved in the project work and also arranging podium, chairs and providing eatables in several functions. His job was clerical and technical. The workman alleges that when he demanded for the wages, the first party got annoyed and terminated him from service with effect from the 1st May 2006 without following the procedures. No charge sheet was framed against him, no domestic enquiry was conducted and therefore he claims for reinstatement with full back wages.

3. The first party submitted his written statement denying the claim of the second party. According to him, the second party was engaged as Community Organiser with effect from the 1st May 2006 with an honorarium of Rs. 1925 per month with other allowances. The first party alleges that, since the second party was not sincere in his job, he exhibited indecent behaviour under the influence of alcohol and narcotic drugs and besides voluntarily left the service on 30-6-2005. According to the first party, it is not an “industry” and the second party is not a “workman” and therefore, the reference has to be rejected.

4. The second party did not file any rejoinder to the written statement filed by the first party. Both parties jointly filed a petition to dispose of the case in terms of memorandum of settlement arrived at between them on 20-3-2012. Before consideration of the application the workman failed to participate in the proceeding. However, on being informed by a Regd. Post notice the workman submitted a Memo. mentioning therein that all his disputes with the first party had been settled and

he has no claim whatsoever from him. The first party insisted the Court for disposal of the case in terms of settlement and the Memo. submitted by the workman.

5. On perusal of the record I find there was an amicable settlement between the first party and second party after registration of this case. On 20-3-2012 both parties agreed that they should file a joint petition before this Court to accept the memorandum of settlement. Though the memorandum of settlement has not been accepted for absence of the workman in Court, I find he has agreed that he has already received a sum of Rs. 10,000 towards final settlement of the claim in shape of a cheque bearing No. 281987, Dt. 28-1-2008. Since the workman has intimated to this Court that all his disputes with the first party has been settled and he has no claim from it, I have no hesitation to hold that there is no industrial dispute between the parties by the time of registration of this case. Under such circumstances a "No dispute" award needs be passed. Hence the following award.

#### AWARD

The question regarding the status of Shri Rabindra Nath Puhan as workman and the question regarding legality of his termination from service by the first party under the reference cannot be answered. However, in view of the admission and agreement of the workman, he is not entitled to any relief.

Dictated and corrected by me.

SRIKANTA MISHRA  
9-11-2012  
Presiding Officer  
Labour Court  
Sambalpur

SRIKANTA MISHRA  
9-11-2012  
Presiding Officer  
Labour Court  
Sambalpur

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