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**LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT**

NOTIFICATION

The 17th January 2013

No. 468—li-1(B)-47/2007-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 14th November 2012 in Industrial Dispute Case No. 49 of 2007 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of the M/s Classic Bakery, Bidanasi, Cuttack and its Workman Shri Nandakishore Barik was referred to for adjudication is hereby published as in the Schedule below :—

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 49 OF 2007

Dated the 14th November 2012

*Present :*

S. A. K. Z. Ahamed,  
Presiding Officer,  
Labour Court, Bhubaneswar.

*Between :*

The Management of  
M/s Classic Bakery,  
Bidanasi, Cuttack. . . First Party—Management

And

Its Workman  
Shri Nandakishore Barik . . Second Party—Workman

*Appearances :*

None . . For the First Party—Management

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Shri N. K. Barik . . For the Second Party—Workman  
himself.

## AWARD

The Government of Odisha in the Labour & Employment Department in exercise of powers conferred upon them by sub-section (5) of Section 12, read with Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Court for adjudication vide Order No. 11696—li-1(B)-47/2007-LE., dated the 22nd October 2007.

"Whether the termination of services of Shri Nandakishore Barik, Bread Maker with effect from the 22nd December 2005 by the management of M/s Classic Bakery, Bidanasi, Cuttack is legal and/or justified ? If not, to what relief Shri Barik is entitled ?"

2. The case of the workman, in brief, as set out in his statement of claim is that he was working as a Bread Maker under the management with effect from the 1st February 1991 on a monthly salary of Rs. 1,600 till the date of his illegal termination continuously without any break. According to the workman, when he demanded his legal dues, the management has illegally terminated his service with effect from the 22nd December 2005 without complying the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947. So the action of the management was illegal, improper and unjustified and also amounts to unfair labour practice. On these averments, the workman has prayed for his reinstatement in service with full back wages.

3. On the other hand, the management neither appeared and filed written statement nor contested the present proceeding and ultimately he was set *ex parte* vide order, dated the 11th June 2009.

4. During *ex parte* hearing, the workman remained absent and neither adduced any evidence nor proved any document in support of his case. Law is well settled that :—

"If a workman remains absent, it becomes the duty of the Tribunal to consider the claim statement filed by the workman as well as the written statement filed by the management and any other record which is made available to the Labour Court and it should answer the point of dispute referred to it on merit."

In the case at hand, although the workman appeared and filed his claim statement but the management remained absent and has not filed any written statement. However, in view of the above settled position of law, now this Court has to decide the dispute basing upon the claim statement filed by the workman.

5. The workman in his statement of claim has stated that he was working as Bread Maker under the management with effect from the 1st February 1991 till 21st December 2005 continuously when the management has illegally terminated his service by way of refusal of employment due to demand of his arrear legal dues. The workman has also stated that no appointment letter has been issued in his favour when he entered into service. Even if assuming that the management is remained absent and not contested the present proceeding, but at the same time, it is the duty of the workman to substantiate his claim. In the instant case, the workman has miserably failed to establish that he was working as Bread Maker under the management from 1-2-1991 to 21-12-2005 by not filing a single piece of paper. Further on perusal of the failure report, it is seen that the management in its written views has stated that the workman was not working in its establishment till 31-12-2005 and also enclosed some xerox copies of wage register and attendance register. So in absence of any documentary evidence, it cannot be presumed that the workman was working under the management

as Bread Maker from 1-2-1991 to 21-12-2005. Therefore, the plea taken by the workman in his statement of claim cannot be accepted.

6. Hence ordered :

That the termination of services of Shri Nandakishore Barik, Bread Maker with effect from the 22nd December 2005 by the management of M/s Classic Bakery, Bidanasi, Cuttack is legal and justified. The workman Shri Barik is not entitled to get any relief as prayed for.

The reference is answered accordingly.

Dictated and corrected by me.

S. A. K. Z. AHAMED  
14-11-2012  
Presiding Officer  
Labour Court, Bhubaneswar

S. A. K. Z. AHAMED  
14-11-2012  
Presiding Officer  
Labour Court, Bhubaneswar

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