

# The Odisha Gazette

EXTRAORDINARY  
PUBLISHED BY AUTHORITY

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No.2276 CUTTACK, THURSDAY, NOVEMBER 21, 2013/KARTIKA 30, 1935

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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 5th November 2013

No. 12698—IR(ID)-120/2011-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 13th September 2013 in Industrial Dispute Case No. 1 of 2012 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of M/s Utkal Ayurvedic Co-operative Pharmacy Ltd., Aska and their Workmen represented through Utkal Ayurvedic Co-operative Pharmacy Workers' Union, Aska was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 1 OF 2012

Dated the 13th September 2013

*Present :*

Shri P. K. Ray, O.S.J.S. (Sr. Branch),  
Presiding Officer, Industrial Tribunal,  
Bhubaneswar.

*Between :*

The Management of . . . First Party—Management  
M/s Utkal Ayurvedic Co-operative  
Pharmacy Ltd., Aska,  
Dist. Ganjam.

And

Its Workmen, . . . Second Party—Workmen  
Represented through Utkal  
Ayurvedic Co-operative  
Pharmacy Workers' Union, Aska,  
Dist. Ganjam.

*Appearances :*

For the First Party—Management	. . . Shri C. K.Pattanaik, Auth. Rept.
For the Second Party—Workmen	. . . Shri J.Parida, Auth. Rept.

## A W A R D

This case has been instituted under Section 10(1) (d) of the Industrial Disputes Act, 1947 (for short, the 'Act') on a reference made by the Labour & E.S.I. Department of the Government of Odisha under Section 12(5) of the Act vide its Letter No. 45—IR(ID)-120/2011-L.E., dated the 3rd January 2012 with the following Schedule:—

“Whether the demand of the General Secretary, Utkal Ayurvedic Co-operative Pharmacy Workers' Union for payment of wages at the enhanced rate as per Resolution, dated the 21st November 2009 of the Managing Committee of Utkal Ayurvedic Co-operative Pharmacy Ltd., Aska, Ganjam is legal and /or justified ? If not, what should be the quantum of relief” ?

2. The claim of the second party workmen is that the first party management Utkal Ayurvedic Co-operative Pharmacy Ltd. is an entity under the Odisha Co-operative Societies Act. It manufactures ayurvedic medicines to cater human needs and transacts its business in Odisha and other States. The second party workmen are employed under the first party management to manufacture the medicines and some of them are skilled and highly skilled employees. Due to revision of minimum wages from 30-7-2009 the first party management vide its Resolution on 21-11-2009 decided to enhance the wages by 35% but released only 29% and referred the rest 6% to Director of Indian Medicine and Homeopathy, Bhubaneswar for approval on the ground that the said industry comes within its jurisdiction. It is stated that due to sincerity and skillness of the employees the first party management had made a profit and paying income tax to the extent of Rs. 40,500 in the said financial year. When the management could enhance the wages to the extent of 29%, referring the rest 6% to the Director of Indian Medicine and Homeopathy, Bhubaneswar for concurrence is a reflection of evil intention and intended to harass the employees by depriving them the minimum living wages. Hence, they raised the dispute.

3. The first party management in its written statement has stated that it is primarily a co-operative society registered under the Co-operative Societies Act. Accordingly, the Odisha Co-operative Societies Act and Rules are applicable to it. Though the committee of the first party management has taken a decision to enhance the wages by 35%, it is subject to approval of the Director, Indian Medicine and Homeopathy who is declared as the Registrar of Co-operative Societies under Section 33-A of the Co-operative Societies Act. Since the Government has revised the minimum wages and the society is under obligation to pay the same to its employees it has enhanced wages by 29% to meet the same and referred the differential 6% increase of wages to the Director, Indian Medicine and Homeopathy, Bhubaneswar for necessary approval. But, all of a sudden in November 2011 the second party union comprising of 20 workers out of the employees consisting of 45 served a notice of strike, though it has clarified time and again that they will be paid of their claim after receipt of approval from the competent authority. In spite of their said persuasion the second

party workmen were on strike causing huge loss to the institution which is illegal and then they have raised the present dispute. Therefore, it is stated that though the employees have no right to minimum wages they do not have any such right for any enhancement of wages and resort to strike for destruction of the assets of the institution for which the institution sustained huge loss.

4. In the aforesaid premises the issues framed are as follows :

#### ISSUES

- (i) "Whether the demand of the General Secretary, Utkal Ayurvedic Co-operative Pharmacy Workers' Union for payment of wages at the enhanced rate as per Resolution, dated the 21st November 2009 of the Managing Committee of Utkal Ayurvedic Co-operative Pharmacy Ltd., Aska, Ganjam is legal and /or justified ?
- (ii) If not, what should be the quantum of relief ?"

5. In order to substantiate their respective stand, while the second party union examined one witness on its behalf and filed and proved Exts. 1, 2 and 3, the first party management examined its Secretary and proved Exts. A to G.

#### FINDINGS

6. *Issue No. (i)*—In this case there is no dispute that the management on its Resolution Dt. 21-11-2009 resolved to enhance the wages to the extent of 35% which is to be paid from its own profit but they have only released 29% to meet the minimum wages as per the wage revision by the State Government and referred the rest 6% to the Director of Indian Medicine and Homeopathy who has been decided as the Registrar of the Co-operative Societies for approval. Fact remains due to want of approval of such 6% enhancement of wages, which was pending before the Director, Indian Medicine and Homeopathy, who has been authorized under law to approve the same, the second party workmen went on strike causing loss to the first party management. As per law the workmen have got a right to the minimum wages prescribed by the Government. But one shall not ignore the rise of market price and the minimum requirement to meet the living standard of a workmen. In the case in hand when due to the sincerity and efficiency of the workmen there is increase in the income of the society and considering the profit made by it, the management resolved to enhance the wages by 35%, and after payment of 29% to meet the minimum wages prescribed by the State Government, sent the rest 6% to the Director, Indian Medicine and Homeopathy for approval he ought not to have slept over the matter leading to loss to the institution. Virtually it is the callous attitude of the authorities which led to a strike and consequential adverse effects on the institution. Therefore, considering the then market price an enhancement of wages by the first party management to the tune 6% of from its own income on and above the 29%, i.e., to satisfy the minimum wages prescribed by the State Government is quite reasonable and justified.

7. *Issue No. (ii)*—In view of the finding on issue No.i, the second party workmen are entitled to enhancement of differential 6% of wages as per the first party management's Resolution Dt. 21-11-2009 on and above 29% which was released to meet the revised minimum wages of the State Government. Hence, the first party management is to release the same within a period of three months hence as per the Resolution, Dt. 21-11-2009. It is open to the first party management

to meet all the paraphernalia under Section 33-A of the Odisha Co-operative Societies Act in the meantime, failing which the concerned authority responsible for any default is liable to pay compound interest @10% per annum from his own pocket to the workmen.

The reference is answered accordingly.

Dictated and corrected by me.

P. K. RAY  
13-9-2013  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

P. K. RAY  
13-9-2013  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

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