

# The Odisha Gazette

**EXTRAORDINARY  
PUBLISHED BY AUTHORITY**

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**No. 2282 CUTTACK, FRIDAY, NOVEMBER 22, 2013/MARGASIRA 1, 1935**

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**LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT**

**NOTIFICATION**

The 5th November 2013

No. 12719—IR(ID)-122/2010-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 23rd September 2013 in Industrial Dispute Case No. 85 of 2010 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of M/s Mideast Integrated Steel Ltd., K.N.I. Complex, Jajpur and their Workman Shri Bijay Kumar Sahoo was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 85 OF 2010

Dated the 23rd 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 Mideast Integrated Steel  
Ltd., K.N.I. Complex,  
Jajpur.

And

Its Workman . . . Second Party—Workman  
Shri Bijay Kumar Sahoo,  
S/o Shri Duryodhan Sahoo,  
At Mangovindapur,  
P.O. Danagadi, Dist. Jajpur.

*Appearances :*

Shri D. P. Nanda, Advocate	. . . For the First Party—Management
Shri S. K. Das, Advocate	. . . For the Second Party—Workman

## AWARD

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. 9764—ID-122/2010-LE., dated the 23rd November 2010 with the following Schedule :—

## SCHEDULE

"Whether the action of the management of M/s Mideast Integrated Steel Ltd. in dismissing the services of Shri Bijay Kumar Sahoo, OCT in punitive manner without complying the principle of natural justice is legal and/or justified ? If not, what relief Shri Sahoo is entitled to ?"

2. The case of the second party workman is that he was initially appointed as a Driver with effect from the 20th April 1997 and got promotion to the post of Operator-*cum*-Technician in the year 2005 and continued as such till the 23rd October 2008. During the tenure of his service he discharged his duties without any adverse remarks. But the first party management dismissed him from service with effect from the 24th October 2008 vide Order No. MISL/Pers/08/JJRD/606, dated the 24th October 2008 vide Annexure-A on the false allegation of theft of iron ore from Mideast Integrated Steel Ltd., Manpur Railway siding by using trucks and loaders on Dt. 12/13-9-2008 in the night around 2 A.M. without adhering to the principles of natural justice which amounts to violation of Constitutional Rights as envisaged under Article 311 of the Constitution. Hence, he raised a dispute before the labour machinery which ultimately referred this dispute for adjudication.

3. The first party management in its written statement admitting the dismissal of the workman without giving any chance of reasonable opportunity has stated that the second party workman was a habitual offender in his service career and remained unauthorised absence from duty, misbehaved with senior officers which amount to misconduct. On Dt. 12/13-9-2008 in the night at about 2 A.M. it was found that he was involved in theft of iron ore from M/s MESCO Steel dump at Manpur Railway side by using trucks and loaders under the patronage of local politicians and anti-social elements. Considering the gravity of the offence he was immediately dismissed from service without resorting to the principles of natural justice as because of his nexus with antisocial elements hardly anyone would come forward to speak against him. Since the law empowers the authority to resort to the views already taken in the aforesaid case, the management constrained to take such action. Hence, prays for dismissal of the case.

4. Both the workman and the first party management filed their rejoinder and additional written statement reiterating their respective stand taken in their claim statement and written statement.

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

## ISSUES

- (i) "Did the second party commit theft of iron ore from M/s MESCO Steel Ltd. dump at Manpur Railway Siding in the night between Dt. 12-9-2008 and Dt. 13-9-2008 ?

- (ii) Is the action of the first party in dismissing the second party from service legal and/or justified ?
- (iii) If not, what relief ?"

6. In order to substantiate their respective case while the workman has examined himself and proved Exts. A to E, the first party management examined two witnesses on its behalf and proved Exts. 1 to 8.

#### FINDINGS

7. *Issue No. (i)*—The first party management alleges theft of iron ore from M/s MESCO Steel Ltd. dump at Manpur Railway siding in the night, Dt. 12/13-9-2008. Admittedly, no FIR was lodged at the concerned Police Station relating to the alleged offence, nor any enquiry has been initiated against the second party workman before his dismissal from service. Though plea of the first party management is that due to involvement of the second party workman with antisocial elements no such formalities could be maintained against him, on scrutiny of the evidence adduced on behalf of both the parties no substantive material is brought to record to draw a presumption in favour of such plea taken by the first party management. During the cross-examination of the first party management witness No. 1, it is found that some Security Guards were deployed at the railway siding where iron ore were dumped but no such Security Guard has been examined nor any substantive evidence is brought to record to draw any presumption in favour of the first party management. In the aforesaid background it would not be proper to hold that the second party workman committed theft of iron ore from the MESCO Railway siding at Manpur.

8. *Issue No. (ii)*—The second party workman has been dismissed from service on the allegation of theft of iron ore with use of trucks and loaders in the night of Dt. 12/13-9-2008 and due to habitual involvement of offence, remaining unauthorised absence from duty and misbehaving the senior officers. Since there is no sufficient evidence the issue No. (i) relating to theft of iron ore from MESCO Steel Dump at Manpur Railway siding on Dt. 12/13-9-2008 was decided against the first party management. There is also no material on record that the second party workman was habitually involved in offences and remained unauthorised absence from duty as well as was misbehaving with senior officials of the first party management. On the otherhand, during the cross-examination of the second party workman it comes out that after he became the President of the Union in March 2008 as the Union submitted a Charter of Demands to the management and ultimately lodged complaint before the labour machinery he was dismissed from service. Admittedly no domestic enquiry has been conducted against the second party workman nor any reasonable opportunity was afforded to him before his dismissal from service. Therefore, such dismissal from service cannot be said as legal or justified.

9. *Issue No. (iii)*—The second party workman prayed for a declaration that the action taken against him by the first party management as illegal and unjustified. The aforesaid matter has been decided under issue Nos. (i) and (ii) in favour of the second party workman. The second party workman has prayed for his reinstatement in service with full back wages. The materials on record show that the management and the second party workman were at daggers drawn. The reinstatement of the second party workman in such hostile atmosphere would lead to further litigation and one uncongenial atmosphere to both. In the aforesaid circumstances, it would be just and proper to

compensate the second party workman in lieu of his reinstatement and back wages. The second party workman served under the first party from April, 1997 till October, 2008. Considering the aforesaid circumstances, the first party management is directed to pay a compensation of rupees two lakh fifty thousand to the second party workman within a period of three months hence.

The reference is answered accordingly.

Dictated and corrected by me.

P. K. RAY  
23-9-2013  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

P. K. RAY  
23-9-2013  
Presiding Officer  
Industrial Tribunals  
Bhubaneswar

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