

# The Odisha Gazette

**EXTRAORDINARY  
PUBLISHED BY AUTHORITY**

---

**No. 2320 CUTTACK, WEDNESDAY, NOVEMBER 27, 2013/MARGASIRA 6, 1935**

---

**LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT**

**NOTIFICATION**

The 7th November 2013

No. 12816—IR(ID)-3/2012-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 10th October 2013 in Industrial Dispute Case No. 09 of 2012 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of M/s BPTCL & Dream Team Sahara, Bhubaneswar and their Workman Shri Shibananda Mallick was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 9 OF 2012

Dated the 10th October 2013

*Present :*

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

*Between :*

The Management of  
The Chief Executive Officer,  
M/s BPTCL & Dream Team Sahara,  
2nd and 3rd Floor, Plot No. N-5/538,  
I.R.C. Village (S.B.I. Building),  
Nayapalli, Bhubaneswar.

.. First Party—Management

And

Its Workman . . . Second Party—Workman  
 Shri Shibananda Mallick,  
 Atg. Ars. No. VR-5/1,  
 Kharavela Nagar, Unit-3,  
 Bhubaneswar.

*Appearances :*

Shri N. C. Pal, Executive . . . For the First Party—Management  
 Shri S. Behera, Authorised Representative . . . 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. 1388—IR(ID)-3/2012-LE., dated the 23rd February 2012 with the following Schedule :—

## SCHEDULE

"Whether the action of the management of M/s BPTCL & Dream Team Sahara, Bhubaneswar in terminating the services of Shri Shibananda Mallick, Squad Workman with effect from the 17th February 2011 by way of dismissal without following the principles of natural justice is legal and/or justified ? If not, what relief Shri Mallick is entitled to ?"

2. The case of the second party workman is that he being selected by the first party management joined as a Squad Workman with effect from the 8th October 2010 with a monthly remuneration of Rs. 4,500. As the first party management violating the terms and service conditions engaged the workers for 14 to 16 hours without overtime wages and adopted various unfair labour practices unrest developed amongst the workmen and they submitting a 13 point charter of demands went on strike on Dt. 10-2-2011. As the workmen formed a Trade Union and the present second party workman took active part in the said Union, the first party management refused him employment with effect from the 10th February 2011 without any reason and issued termination letter, dated the 17th February 2011 which was received by him on Dt. 23-2-2011 in gross violation of the principles of natural justice. Since the aforesaid termination is contrary to the provisions of Sections 25-F, 25-G and 33 (2) (a) of the Industrial Disputes Act, 1947, he raised the dispute.

3. The first party management in its written statement refuting the allegation that the service of the second party workman has been terminated in violation of the provisions of the Industrial Disputes Act and the principles of natural justice has stated that since the date of his appointment on the 8th October 2010 as a Ticket Checking Squad he was involved in anti-organisational activity and connived with the Conductor for pilferage of revenue. Even he left the organisation without any intimation and did not join in spite of repeated telephonic instructions. Since he was appointed on probation and his performance was unsatisfactory his service has been terminated. Hence, it has prayed for dismissal of the claim of the second party workman.

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

#### ISSUES

- (i) "Whether the action of the management of M/s BPTCL & Dream Team Sahara, Bhubaneswar in terminating the services of Shri Shibananda Mallick, Squad Workman with effect from the 17th February 2011 is legal and/or justified ?
- (ii) If not, what relief Shri Mallick is entitled to ?"

5. In order to substantiate their respective case while the second party workman examined himself and filed documents marked Exts. 1 to 5, the first party management examined one witness and filed documents marked Exts. A, B and C.

#### FINDINGS

6. *Issue No. (i)*—The appointment letter, Ext. 2 filed by the second party workman shows that he was appointed on probation and joined with effect from the 8th October 2010. Ext. 3, the termination letter, dated the 17th February 2011 reveals that his service has been terminated with immediate effect. The second party workman has therefore, worked for a period of 127 days. In the case of Om Prakash Mann Vrs. Director of Education (BASIC) and others, reported in AIR 2006(SC) 3096, the Hon'ble Supreme Court has clearly held that if a probationer is dismissed or terminated during the period of probation no opportunity is required to be given. Therefore, the question of violation of the principle of natural justice does not arise. In view of the principle decided by the Hon'ble Supreme Court the second party workman has got no claim for his reinstatement in service or any compensation. In view of the clear legal position and the undisputed factual aspects there is no necessity to discuss any other points as raised by the second party workman.

7. *Issue No. (ii)*—In view of the findings arrived at on Issue No. (i) the second party workman is not entitled to any relief.

Dictated and corrected by me.

P. K. RAY  
10-10-2013  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

P. K. RAY  
10-10-2013  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

---

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