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LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

NOTIFICATION

The 2nd December 2013

No. 13607—IR (ID)-21/2011-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 19th October 2013 in I. D. Case No. 39 of 2011 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of Executive Engineer, W.R.C.P. Division (Now Irrigation Division), Kendrapara and its workman Shri Sarat Chandra Das was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 39 OF 2011

Dated the 19th October 2013

*Present :*

Shri P. K. Ray, o.s.j.s. (Sr. Branch),  
Presiding Officer, Industrial Tribunal,  
Bhubaneswar.

*Between :*

The Management of .. First Party—Management  
Executive Engineer, W.R.C.P. Division  
(Now Irrigation Division), Kendrapara.

And

Its workman .. Second Party—Workman  
Shri Sarat Chandra Das,  
S/o Sankar Das, At Baniamal,  
P.O./P.S./Dist. Kendrapara.

*Appearances :*

Shri Pitambar Panda, Executive Engr.	..	For the First Party—Management
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Shri Susanta 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 & Employment Department of the Government of Odisha under Section 12(5) of the Act vide its Letter No. 4151—ID-21/2011-LE., dated the 29th April 2011 with the following Schedule :—

“Whether the retrenchment of Shri Sarat Chandra Das, vide Order No. 232 (68), dated the 3rd March 2003 by the Executive Engineer, erstwhile Water Resources Consolidation Project Division, Kendrapara (now Executive Engineer, Irrigation Division, Kendrapara) is legal and/or justified? If not, to what relief the workman is entitled?”

2. The case of the second party workman is that he had been working as a semi-skilled worker under the first party management since 1-1-1997 and on and from the said date he had been discharging his duties which were entrusted to him from time to time till 3-3-2003 and he had worked more than 240 days during the preceding calendar year as per the provisions of Section 25-B of the Industrial Disputes Act. During the tenure of his engagement when the Government of Odisha in the Water Resources Department issued a letter to the effect that the W.R.C.P. Division, Marshaghai would be closed with effect from the 31st October 2002, the first party management issued notice terminating the services of the workman with effect from the 3rd March 2003. It is stated that despite availability of vacancy the first party management terminated the services of the second party workman in violation of the provisions of Sections 25-F, 25-G, 25-H and 25-N of the Industrial Disputes Act. Hence, he has filed this case for his reinstatement with all back wages.

3. The first party management in its written statement has stated that as the Government of Odisha in the Water Resources Department created a time bound project namely Marshaghai Division to renovate and repair the canals which is purely temporary and casual nature. The first party management employed the local people in informal way without following the proper procedure in the year 1996. After the project came to an end in the year 2003 the first party management in due compliance of the notification made by the Water Resources Department vide letter No. 2387, dated the 27th February 2003 retrenched the services of the D.L.Rs., who were engaged after the 12-4-1993, with effect from the 3rd March 2003 after payment of one month notice pay and compensation through registered post with A.D. in compliance of Section 25-F of the Industrial Disputes Act but the same was returned with the postal remark that “addresses were absent”. However, subsequently they received the said compensation through Bankers Cheque. After closure of the project the second party workman approached the Hon’ble High Court in W.P. (C) No. 6964 of 2002. Though the Hon’ble High Court did not intervene in the matter but directed to consider the individual representation of the workman taking into account the period of service, qualification, experience. Subsequently, the Engineer-in-Chief, Water Resources Department rejected the said individual representation being devoid of any merit. Again some of the workmen along with others approached the Hon’ble High Court in W.P. (C) No. 16269 of 2009 in which the Hon’ble Court vide

its order, dated the 1st February 2009 disposed of the same giving liberty to the second party workmen to pursue their remedy before the State Administrative Tribunal. It has specifically stated that the provisions of Chapter V-B of the Industrial Disputes Act is not applicable to the present case for which there was no necessity of compliance of Section 25-N of the Industrial Disputes Act. Moreover, the provisions of Section 25-F of the Industrial Disputes Act having been complied the claim of the second party workman is devoid of any merit and they are not entitled to any relief prayed for.

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

#### ISSUES

- (i) “Whether the retrenchment of Shri Sarat Chandra Das vide Order No. 232 (68), dated the 3rd March 2003 by the Executive Engineer, erstwhile Water Resources Consolidation Project Division, Kendrapara (now Executive Engineer, Irrigation Division, Kendrapara) is legal and/or justified ?
- (ii) If not, what relief the workman is entitled to ?”

5. To substantiate their respective case, while the second party workman has examined himself and filed and proved documents marked Exts. 1 to 4, the first party management examined one witness on its behalf and filed documents marked Exts. A and B.

6. In this case there is no dispute over the appointment and retrenchment of the second party workman. After conclusion of hearing both the parties have filed a joint petition praying to pass an Award in terms of the document marked Ext. 4. The contents of the letter, Ext. 4 reveals that the Water Resources Department through the Engineer-in-Chief asked the first party management to furnish the list of NMR employees of the defunct Kendrapara W.R.C.P. Division, Marshaghai for preparation of their *inter se* seniority and the list furnished by the first party reflects the name of the second party workman involved in the present reference. Obviously Ext. 4, the letter of the first party management is meant for re-engagement of the second party workman. In the aforesaid circumstances, in view of the understanding between the parties, I do not find any reason to deviate from the same. Hence, the reference is disposed of in terms of the letter Ext. 4 and the joint petition filed by the parties on 3-10-2013.

Dictated and corrected by me.

P. K. RAY  
19-10-2013  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

P. K. RAY  
19-10-2013  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

By order of the Governor

B. PRADHAN  
Addl. Secretary to Government