

The Odisha Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 401 CUTTACK, TUESDAY, MARCH 12, 2013 / FALGUNA 21, 1934

LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

NOTIFICATION

The 21st February 2013

No. 1719—IR-(ID)-75/2011-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 28th December 2012 in I. D. Case No. 15 of 2011 of the Presiding Officer, Labour Court, Sambalpur to whom the industrial dispute between the Management of M/s Charpali Service Co-operative Society Ltd., At/P.O. Chantipali, P.S. Rengali, Dist. Jharsuguda and their Workman Shri Banchhanidhi Biswal, Ex-Assistant Secretary was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER
LABOUR COURT, SAMBALPUR

INDUSTRIAL DISPUTE CASE No. 15 OF 2011

Dated the 28th December 2012

Present :

Shri Srikanta Mishra, LL.M.,
Presiding Officer, Labour Court,
Sambalpur.

Between :

The Management of
M/s Charpali Service Co-operative
Society Ltd., At/P.O. Chantipali,
P.S. Rengali, Dist. Jharsuguda.

.. First Party—Management

And

Their Workman,
Shri Banchhanidhi Biswal,
Ex-Assistant Secretary,
Charpali Service Co-operative Society Ltd.
At/P.O. Chantipali, Dist. Jharsuguda.

.. Second Party—Workman

Appearances :

Shri T. Dehury, Management In-charge.	.. For the First Party—Management
Self	.. For the Second Party—Workman

AWARD

This award arises out of a reference made by the Government of Odisha Labour & Employment Department under Section 10 (1) (c) of the I. D. Act. 1947 vide their Notification No. 9191—IR-(ID)-75/2011-LE., dated the 15th October 2011 for adjudication. The schedule of reference is as follows :—

“Whether the dismissal of service of Shri Banchhanidhi Biswal, Ex-Assistant Secretary by the management of M/s Charpali Service Co-operative Society Ltd., At/P.O. Chantipali, District Jharsuguda with effect from the 17th June 2009 is legal and/or justified ? If not, what benefit Mr. Biswal is entitled to ?”

2. The above-named workman filed his statement of claim stating therein that he was appointed as Assistant Secretary under the Charpali Service Co-operative Society duly approved by the Board of Directors and he joined the said post on 1-10-1981. He was dismissed from service vide Order No. 17, Dt. 18-6-2009 by the President of the Society, pursuant to a resolution on the said date. According to the workman, the order of dismissal was illegal as he was neither called upon to submit any explanation for allegation levelled against him nor any departmental proceeding was initiated. The workman filed a complaint against the dismissal order before the District Labour Officer, Jharsuguda and on being noticed, the management filed a reply on 17-7-2009 justifying the action of dismissal. The DLO after an enquiry, submitted failure report of conciliation and therefore the matter has come up for adjudication by this forum.

3. The management filed written statement in which they challenged the reference as bad and not maintainable. It is the case of the management that the second party misappropriated huge amount of money of the Society especially of poor farmers. He adopted illegal and corrupt practice so also misbehaved the Society personnels and farmers. He acted against the Society by waiving out loan and interest of rich and big farmers. The behaviour, conduct and activities of the second party affected the good will of the Society and the farmers revolted against the second party unanimously for which he was removed and dismissed from service. With such averments, the first party management prayed to answer the reference in its favour.

4. The workman submitted a rejoinder reiterating the same facts as mentioned in his statement of claim.

5. On the basis of the pleadings of the parties, the following issues have been settled for adjudication :—

ISSUES

- (i) “Whether the dismissal of services of Shri Banchhanidhi Biswal, ex-Assistant Secretary by the management of M/s Charpali Service Co-operative Society

Ltd., At/P.O. Chantipali, Dist. Jharsuguda with effect from the 17th June 2009 is legal and/or justified ?

(ii) If not, what benefit Mr. Biswal is entitled to ?”

6. The second party workman examined himself as sole witness and proved several documents marked Ext. 1 to Ext. 6. The management on the contrary neither examined any witness nor filed any documents in support of their stand.

FINDINGS

7. *Issue No. (i)*—There is no dispute that the second party was appointed as Assistant Secretary under the Charpali Service Co-operative Society and joined in his duty on 1-10-1981. It is also not disputed that the workman was dismissed from service with effect from the 18th June 2009. The workman has filed a copy of letter No. 17, Dt. 18-6-2009 issued to him by the President of the Society and the said document has been marked as Ext. 1. The contents of Ext. 1 reveal that as per Resolution No. 6 adopted in the Annual General Body Meeting held on 17-6-2009, the workman is dismissed from service. The workman has also filed the copy of the aforesaid resolution which was marked Ext. 2. It reveals from this document that there was a discussion in the meeting of the Society regarding several misconducts of the workman including misappropriation by waiving loan amount of 20 to 25 farmers. Ultimately, it was suggested that the workman should be removed from service and the President of the Society was authorised to take necessary steps against him. It appears that on the basis of the said authority, the President of the Society on the next day straightway, dismissed the workman from service without calling for any explanation from him. There is no evidence that the workman was given an opportunity of hearing before the General Body Meeting. The act of the President in terminating the services of the workman without affording any opportunity to him is clearly an act of injustice and in violation of the principles of natural justice. No criminal case was instituted against the workman for the alleged act of misappropriation and besides that no enquiry was conducted by any independent authority to establish the allegations made against him. The management has not examined any witness nor filed any documents in support of its stand that the workman committed any misconduct.

8. In view of the discussions made above, I am constrained to hold that the dismissal of service of the second party workman by the management is illegal and unjustified. The issue No. (i) is accordingly answered in favour of the workman.

9. The second party was a regular employee under the first party with effect from the 1st October 1981 and it has been held that he was illegally dismissed from service on 18-6-2009. The workman made representations as would reveal from the documents filed by him but the management did not take any appropriate step to reinstate him in service. Under such circumstances,

the workman is entitled to reinstatement in service and he is also entitled to full back wages and all other service benefits. The issue is accordingly answered in favour of workman.

Hence, the following Award.

AWARD

The reference is answered on contest without any cost in favour of the workman. The dismissal of services of Shri Banchhanidhi Biswal, ex-Assistant Secretary by the management of M/s Charpali Service Co-operative Society Ltd. with effect from the 17th June 2009 is illegal and unjustified. The management is directed to reinstate the workman in service with full back wages and all other service benefits within two months from the date of publication of Award.

Dictated and corrected by me.

SRIKANTA MISHRA
28-12-2012
Presiding Officer
Labour Court
Sambalpur

SRIKANTA MISHRA
28-12-2012
Presiding Officer
Labour Court
Sambalpur

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