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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 26th March 2013

No. 3100—li/I(S)-25/2008-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 10th December 2012 in Industrial Dispute Case No. 07 of 2009 of the Presiding Officer, Labour Court, Sambalpur to whom the Industrial Dispute between the management of M/s Tata Refractories Ltd., Belpahar, Dist. Jharsuguda and their workman Shri Raj Kishore Rout 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. 7 OF 2009

Dated the 10th December 2012

*Present :*

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

*Between :*

The Management of .. First Party—Management  
M/s Tata Refractories Limited,  
Belpahar, Dist. Jharsuguda 768 218.

And

Their Workman .. Second Party—Workman  
Shri Raj Kishore Rout,  
S/o Shri Panchanan Rout,  
Qrs. No. K-134/TH., Township, At/P.O. Belpahar,  
Dist. Jharsuguda.

*Appearances :*

For the First Party—Management . . . Shri Sibaram Sahu, General Manager, (HRM & Admn.)

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For the Second Party—Workman . . . Self

## AWARD

This case arises out of a reference made by the Government of Odisha, Labour & Employment Department under Section 10(1)(c) of the Industrial Disputes Act, 1947, vide their Notification No. 5712—li/1(S)-25/2008-LE., dated the 29th June 2009 for adjudication.

The schedule of reference is as follows :—

“Whether the action of the management of M/s Tata Refractories Ltd., Belpahar, Dist. Jharsuguda by dismissing Shri Raj Kishore Rout, ex Senior Technician from service with effect from the 2nd February 2008 is legal and/or justified ? If not, what relief Shri R. K. Rout is entitled to ?”.

2. The case of the second party workman in brief is that he was working as Sr. Technician in the Silica Department under the first party management and was discharging his duties sincerely but on a false report, the management charge sheeted him on the 20th October 2007 alleging serious misconduct and ultimately issued termination order, dated the 2nd February 2008 against him. The workman alleged that his termination was illegal and the domestic enquiry was conducted in gross violation of principles of natural justice.

3. The management filed written statement wherein they alleged that on the 20th October 2007 the workman abused one Prasanta Kumar Patra, an Officer of the Human Resources Management in filthy language, threatened to kill him and assaulted him causing bleeding injury on his right hand and forehead. Due to such indiscipline and criminal conduct of the workman, the said officer submitted a report and on that basis charge sheet No. 153, dated the 26th October 2007 was issued against him. The workman did not file any explanation though he requested for time to file the same. After a disciplinary inquiry the workman was found to have committed the act of misconduct and on the basis of the enquiry report the management decided to dismiss the workman from service. The management cited several instances of misconduct against the workman and submitted that it lost faith and confidence upon him completely. It is also submitted by the management that the second party is gainfully employed which is apparent from his style of living at present.

4. The workman further filed a rejoinder in which he denied the allegations and according to him, the termination order was issued against him prior to the report of the Enquiry Officer. He called for proof of his gainful employment as alleged by the management.

5. After settlement of issues both parties led evidence and vide Order, dated the 29th October 2011 this Court observed that the domestic enquiry conducted by the management was fair and proper.

The second party then preferred Writ petition (Civil) No. 29766 of 2011 before the Hon'ble High Court of Orissa. The Hon'ble Court vide Order No. 4, dated the 16th November 2012 dismissed the Writ petition as the same was withdrawn. On the 26th November 2012 both parties appeared and filed a joint petition along with Memorandum of Settlement drawn up in Form 'K' under the Odisha Industrial Disputes Rules 1959. It was observed that the parties voluntarily and genuinely arrived at a settlement and they do not want to proceed further with the case. The case was therefore put up for award on the basis of the terms of settlement.

6. On perusal of the terms of settlement I find the first party agreed to pay a sum of Rs. 1,50,000 to the workman towards full and final settlement of all his claims and the workman agreed to the same. It was further agreed by the parties that the second party shall be reinstated as Sr. Technician in the revised grade of SW 6 with basic salary of Rs. 6,910 and other benefits applicable to the said grade. The parties further agreed that the period from the date of the dismissal of the workman till the date of his joining shall be treated as *diss non* but the period shall be taken as his continuous service for other purposes. The terms of settlement are found to be legal and work worthy. The settlement being voluntarily and genuinely accepted by both parties an Award in favour of the workman needs to be passed in terms of settlement.

7. Hence the following Award—

The reference is answered in favour of the workman. The first party is directed to reinstate the workman in service with immediate effect and provide him all service benefits as agreed in the terms of settlement filed by both parties on dated the 6th November 2012. The Memorandum of Settlement (Form 'K') shall form part of the Award.

Dictated and corrected by me.

SRIKANTA MISHRA  
10-12-2012  
Presiding Officer  
Labour Court, Sambalpur

SRIKANTA MISHRA  
10-12-2012  
Presiding Officer  
Labour Court, Sambalpur

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

## FORM 'K'

(Under Rule - 64 of the Orissa Industrial Disputes Rules, 1959)

## MEMORANDUM OF SETTLEMENT

Name of the Parties :

- Representing Employer : . . M/s TRL Krosaki Refractories Limited, represented through Dr. Tarapada Dash, Vice President (HR & Admn.) and Shri Sibaram Sahu, General Manager (HRM & Admn.), At/P.O. Belpahar, Dist. Jharsuguda.
- Representing Workman : . . Shri Raj Kishore Rout, Ex-Personal No. 3222, Ex-Senior Technician, TRL Krosaki Refractories Limited, At Belpahar, P.O. Belpahar, Dist. Jharsuguda.

## SHORT RECITAL OF THE CASE

Whereas, the representing workman Shri Raj Kishore Rout was working with the representing employer M/s TRL Krosaki Refractories Limited (formerly M/s Tata Refractories Limited);

And whereas, the representing workman during his service with the representing employer had resorted to serious acts of misconducts followed by holding of domestic inquiry for such misconducts resulting in dismissal of the representing workman from his service by the representing employer with effect from the 2nd February 2008 ;

And whereas, the matter came up for conciliation before the District Labour Officer, Jharsuguda which ended in a failure ;

And whereas, the Government of Odisha in the Labour & Employment Department has referred the matter in dispute between the employer and the workman for adjudication to the Labour Court, Samabalpur which has been registered as ID Case No. 7/2009 and is pending for disposal in accordance with law ;

And whereas, before the final award was passed in the Labour Court the representing workman challenged the order of the Labour Court before the Hon'ble High Court of Orissa which is pending bearing No. WP(C) 29766/2011 ;

And whereas, the Labour Court has since awaiting the decisions of the Hon'ble High Court ;

And whereas, in the mean time the representing workman has approached time and again to the representing employer to settle up his matter out of the Court and requested for employment in the Company and financial assistance ;

And whereas, after several rounds of discussions between the representing employer and the representing workman, it is agreed by both the concerned parties to reach to a settlement and, therefore, to reduce the terms of settlement between the representing parties, it is hereby agreed to enter into the settlement on the following terms under the provisions of Industrial Disputes Act, 1947 on this Sixth day of November, 2012.

## TERMS OF SETTLEMENT

- (1) The workman has agreed to accept and the employer has agreed to pay the workman a sum of Rs. 1,50,000 (Rupees one lakh fifty thousand only) towards full and final settlement of all his claims.
- (2) It is also agreed by and between the parties that out of the amount mentioned in Sl. No. 1 of this agreement, Mr. Rout will be paid a sum of Rs. 75,000 upon signing this agreement and the rest amount, i. e., Rs. 75,000 shall be deposited into his Bank account after his joining the services.
- (3) The said payment by the employer to the workman shall be one-time payment in lieu of all claims, consequential benefits etc. of the workman as the workman may be entitled for and admissible under the provisions of law and are coming under the purview of the ID Case No. 7/2009 pending in the Labour Court, Sambalpur, for the period of his dismissal to his joining duty consequent upon the settlement.
- (4) It is agreed by the workman that he shall not make any claim whatsoever against the employer relating to his employment or non-employment or conditions of service in future in any form, Forum and Court of law as his claims are fully settled.
- (5) It is also agreed by the workman further that he shall not create any disturbance or engage himself in any unlawful activities against his employer.
- (6) It is agreed by and between the parties that the workman shall be reinstated as Senior Technician at the present revised grade of SW-6 (Rs. 3,650—150—5,150—160—9,950), with a Basic Salary of Rs. 6,910 (Rupees six thousand nine hundred and ten) only and other benefits applicable to the grade.
- (7) It is further agreed by and between the parties that the period from the date of his dismissal till the date of his joining arising out of this agreement shall be treated as dias-non. However, this period will be taken as continuous service for the purpose of allotment of Quarters, Long Service Award, and Gratuity. Further his PF and accumulated Privilege Leave, if any, as on the 2nd February 2008 shall be carried forward to the present service.
- (8) Both the parties agreed to submit copies of this agreement before the concerned Hon'ble Courts to vacate the cases whereupon, the workman shall join his duty after all the respective cases are disposed off.

(9) Both the Management emphasized and workman assured that these terms are agreed purely on compassionate ground and hence shall not create a precedence for any case in future.

In token of the acceptance and the above terms of conditions, both the parties have affixed their signatures hereunto on the date, month and year abovementioned at Belpahar , P. O. Belpahar, Dist. Jharsuguda.

**Signature of the Parties**

Witnesses

1. Goutam Ku. Mohanty
2. [ ILLEGIBLE )

Workman

1. Raj Kishore Rout

Employer

1. Dr. Tarapada Dash  
Vice-President (HR & Admn.)
2. Sibaram Sahu  
General Manager (HRM & Admn.)