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## LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

### NOTIFICATION

The 27th April 2013

No. 4080—II/I-(B)-198/1995 (Pt.)-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 17th December 2012 in I. D. Case No. 106 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of Regional Co-operative Marketing Society Ltd., Nimapara and their workman Shri Ashok Kumar Sahu was referred to for adjudication is hereby published as in the Schedule below :

### SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 106 OF 2008

(Previously registered as I.D. Cash No. 477 of 1995 in the file of the Presiding Officer, Labour Court, Bhubaneswar)

Dated the 17th December 2012

#### *Present :*

Shri Raghubir Dash, O.S.J.S. (Sr. Branch),  
Presiding Officer, Industrial Tribunal,  
Bhubaneswar.

#### *Between :*

The Management of Regional Co-op.  
Marketing Society Ltd., Nimapara.

.. First Party—Management

And

Shri Ashok Kumar Sahu,  
C/o Shri Rajat Kumar Sahu,  
At Shop No. 9, Mancheswar  
Railway Market Complex,  
P.O. Mancheswar Railway Colony,  
Bhubaneswar-17.

.. Second Party—Workman

*Appearances :*

Shri Susanta Ku. Das, Advocate.	.. For the First Party—Management
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Shri T. Lenka, Advocate	.. For the Second Party—Workman

## AWARD

This is a reference under Section 10 of the Industrial Disputes Act, 1947 (for short, the 'Act') made by the Government of Odisha in the Labour and Employment Department vide their Order No. 18551—li-1(B)-198/1995-LE., dated the 20th December 1995 which was originally referred to the Presiding Officer, Labour Court, Bhubaneswar for adjudication but subsequently transferred to this Tribunal for adjudication vide Labour and Employment Department's Order No. 4138—li-21-32/2007-LE., dated the 4th April 2008. The schedule of reference runs as follows :

“Whether the termination of services of Shri Ashok Kumar Sahu, by the management of Regional Co-operative Marketing Society Ltd., Nimapara with effect from the 9th November 1994 is legal and/or justified ? If not, to what relief he is entitled ?”

2. In the claim statement the workman has taken the stand that he was an Executive Assistant under the first party Co-operative Marketing Society working as such since 1975. There was no allegation of any misconduct made against him but all on a sudden he was put under suspension with effect from the 18th November 1990. Though he was suspended for a long period, no charge was framed against him till December 1992. He was also not permitted to draw subsistence allowance despite of repeated request made by him. The charges of misconduct were communicated to him vide Letter No. 438, dated the 29th February 1992. On 6-3-1992 the workman requested for supply of copy of the documents related to the charges, but the management refused. On 30-3-1992 he submitted explanation to the charges. Thereafter vide Letter No. 18, dated the 23rd April 1992 the management framed some additional charges. When the workman asked for copy of the relevent documents, the management refused to supply copy. All on a sudden the Sub-Assistant Registrar of Co-operative Societies (Fertiliser) as the Enquiry Officer (For short, the 'E.O.')

served a notice on him intimating that disciplinary proceedings against him was posted to 16-12-1992. Till then the workman was not intimated as to who was appointed as the E.O. He requested the E.O. to direct the management to pay him subsistence allowance and to supply him copy of documents related to the charges. The management refused to supply copy of documents but asked him to come to the office to verify the documents during office hour. Since the office was far away from his native place and he was not getting subsistence allowance it was impossible on his part to attend the office. The E.O. on the prayer of the workman adjourned the enquiry proceeding from time to time. On 9-6-1993 documents were supplied to him and he submitted his explanation to the additional charges on 12-8-1993.

During enquiry no evidence was recorded. He was not given any opportunity to adduce evidence. After completion of enquiry the copy of the report of the E.O. was not supplied to him. Vide Letter, dated the 19th May 1994 the Secretary of the Society asked him to attend office on 6-6-1994 for personal hearing. He requested to supply him the copy of the enquiry report but it was not heeded to. It was falsely shown that he had admitted his liability before the President during personal hearing. When he was served with the second show-cause he submitted his explanation.

But, without considering his explanation the management dismissed him from service with effect from the 18th November 1990.

3. In the written statement the first party's stand is that the workman was charge sheeted for misappropriation of stock and he was also placed under suspension. Subsistence allowance used to be paid to the workman till he stayed at Nimapara i.e., the Headquarters fixed by the management. Payment of subsistence allowance was stopped from 1-7-1991 as the workman left Nimapara and stayed outside the Headquarters. When the workman requested for supply of connected records to enable him to submit his reply to the charge sheet he was asked to verify the connected records in the office. So, on 13-3-1992 he verified the connected records and then submitted his reply. A departmental enquiry was initiated against him. In the enquiry all the charges made against the workman were found proved. The principle of natural justice was followed during the enquiry and full opportunity was given to the workman to defend himself. The workman admitted the misappropriated amount and gave in writing that he would deposit the amount. Since the workman was found guilty of committing misappropriation the management terminated his service after a departmental enquiry which was conducted fairly.

4. The following issues have been settled :—

- (i) "Whether the termination of services of the second party workman by the first party management with effect from the 9th November 1994 is legal and/or justified ?
- (ii) If not, to what relief he is entitled ?
- (iii) Whether the domestic enquiry was conducted fairly and properly ?"

5. On the prayer of the management the issue on the fairness of the domestic enquiry was taken-up as a preliminary issue. The workman examined himself as W.W. No. 1 and exhibited some documents. The management did not adduce any oral evidence but it exhibited a number of documents. Findings on the Preliminary Issue i.e. Issue No. 3 were recorded on 27-11-2010 (vide Order Sheet No. 85, dated the 27th November 2010) in separate sheets which are reproduced hereunder to form part of this Award.

6. Admittedly, Ext. C contains the charges framed against the workman on 29-2-1992. The following are the charges against the workman :—

"Charge No. 1—

You were in-charge of pesticides stock from 19-12-1988 as per the inventory and break open in presence of Executive Magistrate, i.e., Additional Tahasildar, Nimapara. You took charge of pesticides as per the charge list vide Appendix No. I but on 22-12-1990 you have handed over the charge of pesticides as per the charge list vide Appendix No. II. Both the charge list indicate that you have committed deficit of stock of the following items as per the quantity noted against each item below :

- (a) Furdon 10 kg. packing - 18 tins.
- (b) Furdon 5 kg. packing - 84 tins.

- (c) Furdon 500 gm. pack - 220 tins.  
 (d) Dethen-M-45500 gm. - 9 packets.

To patch-up the shortages you have sold the aforesaid stock to one Shri S. K. Sahoo, an outsider whose address is not there in the Bill No. 1, dated the 10th April 1990 for Rs. 6,218.40 by allowing 60% discount instead of Rs. 15,546.10. This cash has not been deposited by you in the Society account. There is no specific authority to allow such discount. You have acted as per your suit will. Thus you have misappropriated the entire amount of Rs. 15,546.10.

Charge No. 2—

You were in-charge of IFFCO stock from 31-1-1989. You took charge of UREA fertiliser Q. 2,726.00 from Shri P. K. Mishra, ex-Secretary of the Nimapara R.C.M.S. During the period from 3-1-1989 to 17-11-1990 i.e., the date of suspension you have received the UREA stock of Q. 125.00, the total of which comes to Q. 2851.00. During the said period you have issued the Urea of Q. 2,606.00 the balance with you accounts to Q. 245.00. The shortage in the godown has not been allowed by the IFFCO. So, you have misappropriated Q. 245.00 of IFFCO UREA.

Charge No. 3—

During the period you were in-charge of IFFCO Buffer stock i.e. from 3-1-1989 to 17-11-1990. You took charge of IFFCO (N. P. K.) Fertiliser stock Q. 30.50 kg. from Shri P. K. Mishra, ex-Secretary of the Nimapara R.C.M.S. During the said period you have received the stock of N.P.K. Q. 500.00, the total of which comes to Q. 530.50 kg. During the said period you have issued Q. 526.00 the balance with you accounts to Q. 4.50 kg. The shortage in the godown has not been allowed by the IFFCO. So you have misappropriated Q. 4.50 kg. of IFFCO (N.P.K.) Fertiliser.

Charge No. 4—

The Nimapara R.C.M.S. Ltd., Nimapara was acting as Storage Agent for controlled commodities. You were in-charge of the stock of controlled commodities like sugar, wheat and Rice. In course of dealing with the stock you have received Q. 662.51 kg. of wheat and Q. 87.38 kg. of Rice. You have issued wheat of Q. 498.00 and Rice stock comes to Q. 84.37 kg. The book balance of the said stock comes to Q. 164.51 kg. and Q. 3.01 kg. respectively. Only stock of Q. 85.87 kg. of wheat is available in the godown as per the verification report dated 21st February 1985 which is still under double lock. Thus you have misappropriated wheat of Q. 78.64 kg. and Rice Q. 3.01 kg.

Charge No. 5—

It is seen from the Bill Book that you have made a credit sale of IFFCO (N.P.K.) Fertiliser to one Shri Alekha Senapati vide Bill No. 712, dated the 25th September 1989. To make such credit sale there is no office order or Board resolution or any authority. There is no provision in the Bye-law of the R.C.M.S. to make credit sale to a non-member. So it is apparent that you have misappropriated the stock and manipulated the account showing credit sale to a non-member.

The following charges are therefore, framed against you :—

1. Misappropriation of Government stock
2. Misappropriation of Fertiliser stock
3. Misappropriation of Society funds.”

Similarly, it is not disputed that Ext. D contains the additional charges framed on 23-4-1992. The following are the additional charges made against the workman :—

“Charge No. 1—

It was revealed from the books of records from the O.C.C.F. (BBSR) that you have received the stock of ex-Note Books worth Rs. 80,119.02 excluding 6% of margin in the following bills. The stock of which has neither been handed over nor accounted for in the Nimapara R.C.M.S. This was detected at the time of reconciliation of the accounts between the Nimapara R.C.M.S. and O.C.C.F. (H.O.), Bhubaneswar.

Sl. No.	Year	Item	File Page	Bill No.	Date	Amount
1	1980-81	ex-Note Books.	66	5483	19-5-81	Rs. 4653.00
2	Ditto	Ditto	67	5496	3-6-81	Rs. 2,961.00
3	1981-82	Ditto	68	5722	10-11-81	Rs. 3,241.10
4	1982-83	Ditto	69	8548	18-8-82	Rs. 1,927.00
5	Ditto	Ditto	70	8560	7-9-82	Rs. 3,998.00
6	1983-84	Ditto	71	9588	30-11-83	Rs. 5,546.00
7	Ditto	Ditto	72	13523	31-3-84	Rs. 4,089.00
8	Ditto	Ditto	73	13534	25-4-84	Rs. 5,076.00
9	1984-85	Ditto	103	13573	25-7-84	Rs. 10,058.00
10	Ditto	Ditto	102	13585	26-7-84	Rs. 8,695.00
11	Ditto	Ditto	101	13589	26-7-84	Rs. 9,400.00
12	Ditto	Ditto	104	11570	27-11-94	Rs. 5,405.00
13	Ditto	Ditto	105	11574	4-12-84	Rs. 5,687.00
14	Ditto	Ditto	106	11635	28-2-85	Rs. 6,974.00
15	Ditto	Ditto	100	10435	22-4-85	Rs. 3,350.00
Total ..						<u>Rs. 80,119.00</u>

Hence you have deceived the institution in not handing over the stock and thereby causing misappropriation of the said stock.

## Charge No. 2—

A sum of Rs. 3,981.40 paise has been shown recoverable in the audit report on the following years. The details of the amount along with the year is given below :

Name of the year	Amount showing recoverable
1. 1975-76 & 1976-77	Rs. 67.88
2. 1977-78	Rs. 27.03
3. 1978-79	Rs. 2,704.89
4. 1980-81	Rs. 1,031.60
Total ..	<u>Rs. 3,831.40</u>

You have not deposited the above amount till yet inspite of issue of several notices to you which shows that you have knowingly committed deficit of the stock thereby causing misappropriation of the entire amount.

## Charge No. 3—Unauthorised absent :

It is revealed from the office records that you were leaving the headquarter unauthorisedly from 10-4-1991 to 3-5-1991. Accordingly an explanation has been called for vide this office Letter No. 57, dated the 4th May 1991, which seems not to have been satisfactory.

The following charges are therefore framed against you :—

1. Misappropriation of ex-Note Books.
2. Misappropriation of audit recoveries as per deficit of the stock.
3. Unauthorised absent from duties.
4. Negligency of duty.”

Ext. 2 is the explanation furnished by the workman to the charges framed against him on 29-2-1992 and Ext. 8 is the explanation to the additional charges.

7. On the non-payment of subsistence allowance the workman has failed to plead and prove that prejudice was caused to him. In U.P. State Textile Corporation Ltd. Vrs. P. C. Chaturvedi and Others, 2006 (109) FLR 411 (S.C.), it has been held that unless prejudice is shown and established mere non-payment of subsistence allowance cannot *ipso facto* be a ground to vitiate the proceedings in every case. It is further held that it has to be specifically pleaded and established as to in what way the affected employee is handicapped because of non-receipt of subsistence allowance. But, in this case workman even though adduced oral evidence has not stated anything as to in what way he suffered inconvenience because of non-payment of subsistence allowance. That apart, he has also refuted the management's plea that initially he was receiving subsistence allowance but when he left his headquarters the management stopped paying the allowance.

8. The workman's plea that copy of the enquir report was not supplied to him is not disputed by the management. However, the workman has not shown as to how prejudice has been caused to him due to non-supply of copy of the enquiry report. In Sarv U. P. Gramin Bank Vrs. Manoj Kumar Sinha, AIR 2010 (S.C.) 2491, it has been observed that if no prejudice is caused for non-supply of copy of the enquiry report the enquiry is not vitiated.

9. On the alleged non-supply of relevant documents the workman in his deposition has stated that when he sought for the documents to the E.O. the documents were supplied to him. He has not stated that due to non-supply of any of the relevant documents he was not in a position to properly answer to the charges.

10. However, the allegation that during the enquiry no evidence was recorded finds support from the enquiry report marked Ext. H. From a bare perusal of the enquiry report it would be clear that on 23-2-1994 the Presenting Officer of the Society and the workman both were present before the E.O. On the same day the E.O. himself verified the records in connection with the disciplinary proceedings and recorded his findings on each of the charges/additional charges and on the same day the E.O. completed the report observing that all the charges/additional charges were found proved. Neither the management nor the workman was asked to adduce evidence on the charges. The E.O. simply verified the records of the Society to find out whether the defence taken by the workman on each of the charges was tenable or not. The E.O. did never ask the workman as to whether he would like to adduce evidence in his defence.

Thus, there is no enquiry worth the name. The E.O. ought to have asked each of the parties to adduce evidence in support of their respective stand. Since the E.O. did not record evidence the workman did not get any opportunity to cross-examine the management's witnesses who might have adduced evidence on the charges. So, it is a case where no enquiry has been conducted by the E.O. and therefore, the enquiry relied on by the management cannot be said to be fair and proper. Consequently, the issue is answered against the management.

#### Further findings on Issue Nos. (i) & (ii)

11. The domestic enquiry being held to be not fair and proper, the management has been permitted to prove the charges by adducing evidence before this Tribunal. Accordingly, the management has examined its Accountant namely, Bichitrananda Sahoo as M.W. No. 1 and the workman has examined himself as W.W. No. 1 to give rebuttal evidence.

12. *Issue No. (i)*—Before going to answer the issue as to whether the termination of services of the workman is legal and/or justified, it is to be discussed in details as to whether all or any of the charges stand proved against the workman. All the charges having already been reproduced in Para. 6 of this Award, it would be mere repetition if the charges are again extracted at this stage. The individual charge and the evidence related thereto will be discussed hereunder in seriatim.

Charge No. 1 is with regard to shortage of pesticides worth Rs. 15,546.10 paise and alleged misappropriation of the whole amount. It is not denied by the workman that he had taken over charge of the four items of pesticides as specified in the charge and that he had shown to have sold the Pesticides vide Bill No. 1, dated the 10th April 1990 for Rs. 6,218.40 paise allowing 60% discount on the total price i.e. Rs. 15,546.10 paise. The workman takes the plea that by the time he took over charge of the Pesticides those had gone past the expiry dates and that under the instructions of the then Secretary of the Society he sold the expired stock of Pesticides to one S. K. Sahoo allowing the discount. To the charge that he sold the Pesticides for Rs. 6,218.40 paise but did not deposit the amount in the Society's Account, the workman's stand is that said S. K. Sahoo paid the cash

to the Secretary but the Secretary did not deposit it. In cross-examination he has stated that the Secretary had not issued any order in writing to sell the expired Pesticides. He has not adduced any evidence showing that it was the Secretary who received the money from said S. K. Sahoo. Ext. M.M. is a copy of Bill No. 1, dated the 10th April 1990. It reflects that the Pesticides were sold to one S. K. Sahoo on 60% discount. The address of the purchaser is not mentioned on the Bill. Therefore, the management could not examine that person. In order to prove that the purchaser paid the price for the Pesticides to the then Secretary, as alleged by the workman, Shri Sahoo should have been examined by the workman. Since the workman has admittedly sold the Pesticides, it is to be presumed that he had received the sale proceeds and ought to have taken it to the Society's Account. The workman has also not proved that on the orders of the Authority he sold the Pesticides allowing the discount. Even if it is assumed that the stock consisted of expired Pesticides the workman should not have sold them at discounted rate without obtaining valid order from the Authority. Not only he has sold the Pesticides on discount without obtaining order from the Authority, he has also not deposited the sale proceeds in the Society's Account. Thus, Charge No. 1 is found duly established.

Charge No. 2 is with regard to shortage of IFFCO stock with regard to UREA Fertiliser to the tune of Q. 245 and it is alleged that the workman has misappropriated the same. The workman does not deny that he was the custodian of the UREAS. His specific stand is that the cost of the shortage material after deduction of admissible shortage has been paid by the workman. To support this contention he has relied on Ext. 1 and Ext. 13 series. Ext. 13 series are money receipts showing deposits made by the workman towards recovery of cost of IFFCO Fertiliser shortage. Ext. 1 is marked without objection. It is a copy of the workman's representation dated 6-9-1991 in which he has stated that he has deposited Rs. 36,145 towards shortage of IFFCO Fertiliser with further mention that the Board of Management had passed a Resolution on 29-7-1988 to issue notice to IFFCO that the Society is not liable for the shortage. M.W. No. 1 admits that the value of the fertiliser found short of stock was not communicated to the workman. The workman has shown to have deposited certain amount towards the cost of the shortage material. It is also not denied by the management that the Board had passed a Resolution on 29-7-1988. However, that Resolution was passed much prior to the period 31-1-1989 to 17-11-1990 during which the stock was found short. However, the workman has made a *prima facie* case that he had deposited the cost of the shortage material much prior to the charge was framed against him. Therefore, the Charge No. 2 is found to be not sustainable.

Charge No. 3 is on alleged misappropriation of Q. 450 of IFFCO (NPK) Fertiliser which is the quantity found as shortage in stock for the period 3-1-1989 to 17-11-1990. The workman does not dispute the custody of the fertiliser stock. It is also not disputed that Q. 450 of IFFCO (NPK) Fertiliser was the quantity of shortage. However, he has taken the stand that the shortage was due to rebagging. Exts. Z, Z/1, AA and BB are the letters/documents of IFFCO which reflect that the standardisation loss of UREA and NPK fertiliser was due to unscientific storage and that the stock was not properly kept by the Society. Under such circumstances, it cannot be said that the shortage is due to misappropriation committed by the workman.

Charge No. 4 is related to alleged misappropriation of 78.44 Qntls. of Wheat and 3.01 Qntls. of Rice which was found as shortage of stock in the Stock Verification Report, dated the 21st February 1986. In this regard, the workman relies on Exts. 11 and 12, the Resolutions of the Management's Board, dated the 21st August 1986 and 29th July 1988, respectively. In the Resolution marked Ext. 11 it is observed by the Board that during Stock Verification of Wheat and Rice it was found that there was leakage of rain water through the tin roof of the godown for which the stock of Wheat and Rice were damaged. The Resolution marked Ext. 12 reflects that due to the inaction of the Civil Supply Corporation there was no clear-cut account as to what was the exact storage loss. The workman takes the stand that the Civil Supply Corporation having not charged the Society for the alleged shortage, the Society could not have claimed shortage on account of his fault. The Resolution marked Ext. 12 further reflects that the management was not sure if the workman was responsible for the shortage and, if so, to what extent. Charge No. 4 refers to the Stock Verification Report, dated the 21st February 1985. The Resolutions vide Exts. 11 and 12 were passed by the management much after 21-2-1985. Considering all the materials discussed above, the charge seems to be unfounded and the management cannot be said to have proved that the workman is solely responsible for the shortage of stock. Hence, Charge No. 4 is also found not proved.

Charge No. 5 is with regard to credit sale of fertiliser to a non-member without authority. It is alleged that the workman has misappropriated the stock shown to have been sold to the non-member and manipulated the accounts by showing credit sale to a non-member. The workman has admitted that the Rules of the Society prohibit sale of fertiliser to non-members. But, from the very beginning the workman has taken the stand that in practice fertiliser used to be sold to non-members. In his show-cause to the charge sheet the workman has contended that the credit sale to non-members was subsequently reflected in the Society's Journal and it has been passed by the Secretary. It is also stated that the non-member namely A. Senapati had been in transaction with the Society on previous occasions. There are non material to show that in practice sale of fertiliser used to be made to non-members. However, M.W. 1 says that documents related to the credit sale and amount, if any, received against the credit sale have not been produced by the management. The Charge No. 5 is to the effect that the stock shown to have sold to a non-member has been misappropriated by the workman and that the workman has manipulated the account showing credit sale to the non-member. The fact of credit sale to a non-member has not been denied by the workman. But, merely on that ground it cannot be said that the workman has either misappropriated the stock or manipulated the account. It is not proved that the workman has falsely shown to have sold the stock vide Bill No. 712, dated the 25th September 1989 to a non-member and appropriated the stock to his benefit. Therefore, this charge is also not found to have been proved.

13. Three additional charges have been framed against the workman on 23-4-1992

Additional Charge No. 1 is on the alleged misappropriation of stock of Exercise Note Books worth Rs. 80,119.02 paise received by the workman against as many as 15 Bills from O.C.C.F.,

Bhubaneswar. Ext. CC series are copy of the concerned Bills. The workman in his evidence (Para. 13) has admitted that vide Ext. CC series he had received the materials from the O.C.C.F., Bhubaneswar but had not accounted for in the Society's Register. Ext. 8 is a copy of the workman's show-cause on the additional charges. In Ext. 8 the workman has stated that he had purchased the Exercise Note Books according to the prevailing practice and customs and had deposited the amount regularly. However, during his cross-examination (as W.W. No.1) he has stated in Para. 13 of his deposition that he had handed over the Exercise Note Books (along with the Bills) to the Accounts Section of the Society. He has not claimed to have deposited the cost of the Exercise Note Books. Thus, he has given prevaricating statements at different stages. It is not proved by him that he had deposited the amount related to the Exercise Note Books. He does not claim that he had either handed over the stock of the Exercise Note Books to any other staff of the Society or the stock was accounted for in the Society's record. Therefore, the additional Charge No. 1 is found to have been proved against the workman.

Additional Charge No. 2 is with regard to non-compliance with the Audit Reports relating to the years 1975-1976 to 1980-1981 by way of depositing the recoverable amount to the tune of Rs. 3,831.40 paise. In his show-cause (Ext. 8) the workman has stated that out of the recoverable amount he had deposited Rs. 1,200 and deposit of the rest amount was waived by the society in its Annual General Body Meeting. But, no evidence has been adduced to prove this stand. Therefore, the additional Charge No. 2 is also found to have been established.

Additional Charge No. 3 is on the alleged unauthorised absence from 10-4-1991 to 3-5-1991 by his leaving the Headquarters unauthorisedly. To this charge the workman had replied in his show-cause that he had already submitted his explanation to his Authority but no further action was initiated by the latter at the relevant time. As it appears, this charge is not related to absence from duty without availing leave but with regard to absence from Headquarters. There is no material showing as to where the workman's Headquarters was fixed at the relevant time and the circumstances under which he was reportedly staying away from the Headquarters during the relevant period. The explanation submitted by the workman but allegedly found to be not satisfactory by the then Authority is not placed before this Tribunal. The Management Witness (M.W. No. 1) has no direct knowledge about the facts and circumstances of the alleged unauthorised absence. Therefore, it cannot be said that this charge has been duly proved.

14. On consideration of the materials on record, Charge No. 1 and additional charge Nos. 1 and 2 are found established. All the charges are on misappropriation of stock. These misconducts can also be said to be acts of dishonesty in connection with the employer's business or property which amounts to misconduct punishable under Order No. 14 of the Model Standing Orders framed under the Odisha Industrial Employment (Standing Orders) Rules, 1946.

The workman has been dismissed from service on gross misconduct of dishonesty in connection with the employer's business/property. The workman was working as an Executive Assistant in the first party Society. Considering that the charges relate to acts of misconduct

committed prior to 1992 and the value of the property misappropriated being little less than Rupees one lakh and the misconduct being dishonesty in connection with employer's business or property, the punishment of dismissal is held to be justified.

## FINDINGS

15. *Issue No. (iii)*—In view of findings on Issue No. (i), the workman is not entitled to any relief.

The reference is disposed of accordingly.

Dictated and corrected by me.

RAGHUBIR DASH  
17-12-2012  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

RAGHUBIR DASH  
17-12-2012  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

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