

# The Odisha Gazette

EXTRAORDINARY  
PUBLISHED BY AUTHORITY

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No. 982 CUTTACK, WEDNESDAY, MAY 22, 2013/JAISTHA 1, 1935

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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 9th May 2013

No. 4553—li/1(B)-8/2004-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 26th November 2012 in I. D. Case No. 28/2004 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s. Odisha Association for the Blinds, Bhubaneswar and their workman Mrs. Annapurna Dhal was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 28 OF 2004

Dated the 26th November 2012

*Present :*

S. A. K. Z. Ahamed,  
Presiding Officer,  
Labour Court, Bhubaneswar.

*Between :*

The Management of M/s Odisha .. First Party—Management  
Association for the Blinds, Bhubaneswar.

And

Their Workman .. Second Party—Workman  
Mrs. Annapurna Dhal

*Appearances :*

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Shri S. K. Behera, General Secretary .. For First Party—Management  
Mrs. A. Dhal .. Second Party—Workman herself

AWARD

The Government of Odisha in the Labour & Employment Department in exercise of powers conferred upon them by sub-section (5) of Section 12, read with Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Court for adjudication vide Order No. 3136—li/1(B)-8/2004-LE., dated the 27th March 2004 :—

"Whether the termination of Smt. Annapurna Dhal, 'Ayah' with effect from the 28th April 2003 by the management of Odisha Association for the Blinds is legal and/or justified ? If not, what benefits Smt. Dhal is entitled to ?"

2. The case of the workman in brief, as set out in her statement of claim is that initially she was appointed as Ayah on casual basis under the management and thereafter her service was regularised vide Office Order No. 2945/O. A. B., dated the 1st July 1996. But all of a sudden the management suspended her from duty vide order, dated the 22nd October 2002 on the ground of criminal activities. Further the case of the workman is that the management vide Order No. 95/ O. A. B., dated the 17th April 2003 intimated the workman to join in her duty and pursuance to the Order when the workman went to join in her duty, the management did not accept her joining report and ultimately she was dismissed from service on the 28th April 2003 without complying the provisions of Section 25-F of the Industrial Disputes Act, 1947. On these back grounds, the workman has prayed for her reinstatement in service with full back wages and other consequential service benefits.

3. On the other hand, the management filed written statement stating that the present case is not maintainable and the workman has no locus standi to proceed with this case and accordingly the present case is abated on the death of Smt. Annapurna Dhal. Besides the above, the management in its written statement has stated that during the tenure of her service, the workman was involved in many criminal activities for which the deceased workman was rightly dismissed from service after proper enquiry and obtaining show cause from the workman. On these averments, the management has prayed for dismissal of the present case.

4. In view of the above pleadings of both the parties, the following issues have been framed.

#### ISSUES

- (i) "Whether the termination of Smt. Annapurna Dhal, 'Ayah' with effect from the 28th April 2003 by the management of Odisha Association for the Blinds is legal and/or justified ?
- (ii) If not, what benefits Smt. Dhal is entitled to ?

#### FINDINGS

5. *Issue Nos. (i) & (ii)*—Both the issues are taken up together for the sake of convenience.

It is pertinent to mention here that after filing of the statement of claim the workman remained absent till after knowing the death of the workman from the written statement filed by the management. Notice was also issued to the legal heirs of the deceased workman, but none appeared on her behalf. So also the management remained absent when the case was posted for hearing.

6. Law is well settled that :

"If a workman remains absent, it becomes the duty of the Tribunal to consider the claim statement filed by the workman as well as the written statement filed by the management and any other record which is made available to the Labour Court and it should answer the point of dispute referred to it on merit."

So, in view of the above pleadings of the parties and in absence of the workman, the plea taken by the management in its written statement goes unchallenged. Since the written statement filed by the management remains unchallenged from any other independence source, in my opinion the workman is not entitled to get any relief as prayed for.

7. Hence Ordered :

That the termination of Smt. Annapurna Dhal, 'Ayah' with effect from the 28th April 2003 by the management of Odisha Association for the Blinds is legal and justified. The workman Smt. Dhal is not entitled to any relief as prayed for.

The reference is answered accordingly.

Dictated and corrected by me.

S. A. K. Z. AHAMED  
26-11-2012  
Presiding Officer  
Labour Court, Bhubaneswar

S. A. K. Z. AHAMED  
26-11-2012  
Presiding Officer  
Labour Court, Bhubaneswar

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