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## LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

### NOTIFICATION

The 4th January 2014

No. 92—IR-(ID)-32/2012-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 10th December 2013 in I. D. Case No. 19 of 2012 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of Shri Kiran Chandra Doshi, Employer of M/s Doshi Automobiles, At/P.O. Januganj, Dist. Balasore-756001 and its workman Shri Ganesh Ch. Mohapatra was referred to for adjudication is hereby published as in the Schedule below :

### SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 19 OF 2012

Dated the 10th December 2013

#### *Present :*

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

#### *Between :*

The Management of .. First Party—Management  
Shri Kiran Chandra Doshi,  
Employer of M/s Doshi Automobiles,  
At/P.O. Januganj, Dist. Balasore-756001.

And

Its Workman .. Second Party—Workman  
Shri Ganesh Ch. Mohapatra,  
S/o Late Sundar Mohan Mohapatra,  
At Tutapala, P.O. Ghodapada,  
Dist. Balasore-756 001.

*Appearances :*

None	.. For the First Party—Management
Shri G. C. Mohapatra	.. For the Second Party—Workman himself

## 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 & ESI Department of the Government of Odisha under Section 12 (5) of the Act vide its Letter No. 3493—IR-(ID)-32/2012-LESI., dated the 4th May 2012 with the following Schedule :

“Whether the termination of services of Shri Ganesh Ch. Mohapatra, Pump Operator by the employer of M/s Doshi Automobiles, Januganj, Balasore with effect from the 15th January 2008 without payment of terminal benefits is legal and/or justified ? If not, to what relief Shri Mohapatra is entitled ?”

2. The case of the second party workman is that he joined service under the first party management in the year 1993 and terminated from service with effect from the 15th January 2008 without compliance of the provisions of the Industrial Disputes Act. Hence, he raised the present dispute on the basis of which the aforesaid reference has been made for adjudication.

3. The first party management did not contest the case, hence set *ex parte*.

4. The issues in this case are as follows :

## ISSUES

- (i) “Whether the termination of services of Shri Ganesh Ch. Mohapatra, Pump Operator by the employer of M/s Doshi Automobiles, Januganj, Balasore with effect from the 15th January 2008 without payment of terminal benefits is legal and/or justified ?
- (ii) To what relief, if any, Shri Mohapatra is entitled ?”

5. In order to substantiate his claim the second party workman examined himself and proved photocopy of his Identity Card and copy of the Attendance Sheet as Exts. 1 and 2, respectively.

## FINDINGS

6. *Issue No. (i)*—On perusal of the evidence of the workman it is found that he joined as a Nozzle Boy in the year 1993 with a salary of Rs. 600 per month under the first party management. His salary was enhanced from time to time and lastly he was drawing Rs. 820 per month. During the tenure of his service there was no adverse remark against him but without any reason or prior notice the first party management terminated his service with effect from the 15th January 2008 without compliance of the provisions of the Industrial Disputes Act. Since the aforesaid statement of the second party workman remained unchallenged there is nothing to discard the same.

On scrutiny of the evidence of the second party workman it is found that he had worked continuously for more than 240 days in the preceding calendar year. As it reveals from record there

is no compliance of the provisions of Section 25-F of the Industrial Disputes Act which envisages that “No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) the workman has been given one month’s notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice ;
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days’ average pay (for every completed year of continuous service) or any part thereof in excess of six months ; and
- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the official Gazette).”

In the aforesaid background due to non-compliance of the provisions of Section 25-F of the Industrial Disputes Act, the termination of service of the second party workman with effect from the 15th January 2008 is held to be bad in law.

7. *Issue No. (ii)*—In this case the service of the second party workman has been terminated without compliance of the provisions of Section 25-F of the Industrial Disputes Act. Therefore, the said termination is illegal. In the aforesaid circumstances in the interest of justice it would be just and proper to direct the first party management to reinstate the second party workman in service and to pay him full back wages. Accordingly, the first party management is directed to reinstate the second party workman in service forthwith and to pay him full back wages till his reinstatement.

The reference is disposed of accordingly.

Dictated and corrected by me.

P. K. RAY  
10-12-2013  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

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10-12-2013  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

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By order of the Governor  
N. BEHERA  
Under-Secretary to Government