

The Odisha Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 114 CUTTACK, THURSDAY, JANUARY 16, 2014 / PAUSA 26, 1935

LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

NOTIFICATION

The 4th January 2014

No. 97—IR (ID)-58/2013-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 4th November 2013 in I. D. Case No. 35 of 2013 of the Presiding Officer, Industrial Tribunal, Bhubaneswar where in the industrial dispute between the Management of M/s Consolidated construction Consortium Ltd., 5, 2nd Link Street, C. I. T. Colony, Mylpore, Chennai-600 004 and their workman Shri Manoranjan Jena was filed by the above named workman under Section 2 A (2) of the I. D. Act, 1947 for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 35 OF 2013

Dated the 4th November 2013

Present :

Shri P. K. Ray, O.S.J.S. (Sr. Branch),
Presiding Officer, Industrial Tribunal,
Bhubaneswar.

Between :

The Management of
M/s Consolidated Construction
Consortium Ltd., 5, 2nd Link Street, C.I.T. Colony,
Mylpore, Chennai-600 004.

.. First Party—Management

And

Their Workman
Shri Manoranjan Jena,
S/o Late Natabar Jena,
At/P.O. Singhpur, P.S. Binjharpur,
Dist. Jajpur, Odisha.

.. Second Party—Workman

Appearances :

None	.. For the First Party—Management
Shri M. Jena	.. For the Second Party—Workman himself

AWARD

This application under Section 2A (2) of the Industrial Disputes Act, 1947 has been filed for a declaration that the termination of service of the second party workman with effect from the 5th December 2012 is illegal, unjustified and arbitrary and for a direction to reinstate him with full back wages along with consequential service benefits.

2. The case of the second party workman is that he was engaged as a Level-T2 under the first party management with effect from the 12th August 2010 at the All India Institute of Medical Science, Sijua, Bhubaneswar. While working as such he was transferred to Pune and subsequently to Bangalore Region in the month of September, 2012. On his arrival at Bangalore he was again served with a transfer order to join at Mangalore. While discharging his duties at Mangalore he suffered from Malaria and unable to discharge his duties from 5-12-2012 and as per the advice of the doctor he had initially taken rest for five days. As he was not recovered from the ailment he returned to his native place with intimation to the Authority by E-mail. On his recovery from Malaria he again suffered from Rheumatoid Arthritis for which he was unable to move and join his duty. Again the treating physician advised him rest for three weeks. During the said period he received E-mail from the management that his service has been terminated from 5-12-2012 attached therewith two other letters, dated the 12th December 2012 and 20-12-2012 in which his service was terminated and the name was struck off from the roll due to unauthorized absence. After receipt of the said E-mail on the same day the second party workman sent a mail along with a medical certificate together with other documents in support of his illness with a prayer for his reinstatement. Since the management did not respond to his representation he lodged complaint before the District Labour Officer, Jajpur and after lapse of more than 45 days as no reference was made for adjudication of his dispute, he has filed this case under Section 2A (2) of the Industrial Disputes Act.

3. The first party management did not contest the case and has been set *ex parte*.

4. In the aforesaid circumstances, the issues involved in this case are as follows :—

ISSUES

- (i) “Whether the termination of services of the second party workman with effect from the 5th December 2012 is legal and/or justified ?
- (ii) To what relief the second party workman is entitled ?”

5. In support of his case the second party workman filed affidavit along with documents namely copy of his appointment order, copy of the E-mail, Dt. 11-12-2012, copies of medical certificates, Dt. 6-12-2012 and 17-2-2013, copy of the E-mail, Dt. 20-2-2013 and 18-2-2013, copy of pay slip of November 2012 and copy of the complaint petition, Dt. 25-4-2013 addressed to the District Labour Officer, Jajpur which are marked as Exts. 1 to 6, respectively.

FINDINGS

6. *Issue No. (i)*—On scrutiny of Ext. 1, the appointment letter of the second party workman, it reveals that he was appointed as a Level-T2 workman with effect from the 12th August 2010 under the first party management. Ext. 4, the copy of the registered letter reveals that the services of the second party were terminated with effect from the 5th December 2012 on the ground of unauthorized absence. The second party workman in support of his stand about absence on medical ground with proper application has been substantiated by copy of his application vide Ext. 2 and the medical certificates along with the pathological investigation reports Ext. 3 series. Since there is no challenge to the aforesaid documents filed on behalf of the second party workman, there is nothing to dispute the credibility of the aforesaid documents. The aforesaid documents reveal that the second party workman had worked for more than 240 days in the preceding year and his service has been terminated without adhering to the principles of natural justice. Therefore, the said termination is contrary to the provision of Section 25-F of the Industrial Disputes Act and hence the same is found to be illegal.

7. *Issue No. (ii)*—The contents of Ext. 1 reveals that the nature of service of the second party workman was regular one and he was getting a salary of Rs. 21,474 per month. He has stated that from the date of his termination he has not been gainfully employed elsewhere. Considering the legal position and the evidence of the second party workman, which remains unchallenged, the first party management is directed to reinstate him with full back wages till the date of his reinstatement.

The case is disposed of accordingly.

Dictated and corrected by me.

P. K. RAY
4-11-2013
Presiding Officer
Industrial Tribunal
Bhubaneswar

P. K. RAY
4-11-2013
Presiding Officer
Industrial Tribunal
Bhubaneswar

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