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## LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

### NOTIFICATION

The 22nd July 2014

No. 5854—IR-(ID)-109/2014-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 5th July 2014 in I. D. Case No. 55 of 2013 of the Presiding Officer, Industrial Tribunal, Bhubaneswar wherein the industrial dispute between the Management of M/s High-Tech. Medical College & Hospital, Rasulgarh, Bhubaneswar and its workman Miss Kumudini Behera under Section 2-A (2) of I. D. Act, for adjudication is hereby published as in the schedule below :—

### SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 55 OF 2013

Dated the 5th July 2014

#### *Present :*

Shri B. C. Rath, o.s.j.s. (Sr. Branch),  
Presiding Officer, Industrial Tribunal,  
Bhubaneswar.

#### *Between :*

- The Management of — .. First Party—Managements
- (1) Chairman-*cum*-Managing Director,  
M/s High-Tech. Medical College & Hospital,  
Rasulgarh, Bhubaneswar.
  - (2) The Director (at present In-charge),  
M/s High-Tech. Medical College & Hospital,  
Rasulgarh, Bhubaneswar.
  - (3) The Medical Superintendent,  
M/s High-Tech. Medical College & Hospital,

Rasulgarh, Bhubaneswar.

And

Its workman,

.. Second Party—Workman

Miss Kumudini Behera,

D/o. Late Karunakar Behera,

At Rangamatia, P.O./P.S. Mancheswar,

Bhubaneswar, Dist. Khurda.

*Appearances :*

None

.. For the First Party—Management

Miss Kumudini Behera

.. For the Second Party—Workman herself

AWARD

This is an application under Section 2-A(2) of the Industrial Disputes Act, 1947 filed by the second party workman challenging her termination of service with effect from the 1st September 2011 by the first party management.

2. The case of the second party workman, as narrated in her claim statement, in brief is that being selected by the first party management she was given appointment with effect from the 4th October 2004 as Promotional Executive in the Marketing and Public Relation Department of the first party and accordingly she joined in the said post with a monthly remuneration of Rs. 5,000. It is pleaded that during her continuance under the first party the second party came to know from reliable source that the first party management was not depositing the EPF dues before the EPF authorities resulting non-regularisation of her EPF account. Further, the second party has alleged that on account of her demanding increment, bonus, leave benefits such as EL, CL, weekly holidays under the Industrial Rules, the first party bore grudge upon her and for that when the second party went to perform her duties on 1-9-2011, the first party management No. 1 did not allow her to perform her duty and told that her service has been terminated. Thereafter, the second party made several representations to the management requesting for her reinstatement in service but the same having proved futile, she raised a dispute before the District Labour Officer, Bhubaneswar. But as the Labour machinery did not refer her dispute within the stipulated time as envisaged under Section 2-A(2) of the Act, she redressed her grievance before this Tribunal.

It is further alleged by the second party workman that on terminating her service, the first party management has engaged new persons, who are juniors to the second party. Further stand of the second party is that while terminating her service neither any charge was framed against her nor any enquiry was conducted. The termination of her service having been effected without compliance of the provisions of Section 25-F of the Act, the second party workman has claimed for her reinstatement in service with full back wages and other service benefits owing to the fact that during the period of her unemployment she has not been gainfully employed elsewhere.

3. As none of the first party managements responded to the notices issued by this Tribunal, they have been set *ex parte* vide Order No. 5, dated the 26th March 2014.

4. On the basis of the claim advanced by the second party workman the point which falls for determination is as to whether the termination of service of the second party workman with effect from the 1st September 2011 by the first party management No. 1 is legal and justified and the relief to which she is entitled.

5. To substantiate her claim, the second party workman has filed her evidence on affidavit and proved as many as eleven documents which have been marked Exts. 1 to 11. In her evidence in affidavit the second party has corroborated the stand taken in the claim statement. The documentary evidence, particularly Ext. 3 which is a letter addressed to the Assistant Labour Officer, Bhubaneswar by the Deputy Medical Superintendent of the first party management, discloses that she was employed under the first party management for the period from 4-10-2004 to 1-9-2011. However, it appears from the said letter that the management has intimated the Assistant Labour Officer, Bhubaneswar that as the second party workman unauthorisedly absented from her duty it neither terminated nor retrenched her from employment. The plea of abandonment of service as well as unauthorised absence of the second party is required to be substantiated by the first party management but due to its non-participation in the proceeding the said plea cannot be taken into consideration.

6. The fact of continuous engagement of the second party workman is admitted by the management under Ext. 3. Therefore, taking into consideration the unchallenged testimony of the second party workman and the documentary evidence such as Ext. 3, the contents of which has been discussed above. Ext. 9, the copy of the Identity Card issued in favour of the second party workman and Ext. 10, the copy of the Bank Statement, this Tribunal is of the view that the second party having rendered continuous service under the first party management for the period from 4-10-2004 to 1-9-2011, it was incumbent upon the first party management to comply with the provisions of Section 25-F of the Act while doing away with her job and non-compliance of the said provisions renders its action as illegal and unjustified. Consequently, the second party workman is held entitled to reinstatement in service with full back wages. The management is directed to implement the Award within a period of two months of the date of its publication in the Official Gazette.

The case is disposed of accordingly.

Dictated and corrected by me.

B. C. RATH  
5-7-2014  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

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Industrial Tribunal  
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By order of the Governor  
M. NAYAK  
Under-Secretary to Government