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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 26th February 2014

No. 1894—IR(ID)-112/2012-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 28th January 2014 in Industrial Dispute Case No. 23 of 2013 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of M/s Sree Metalics Ltd., Lodipada, Keonjhar and their workmen Shri Maguni Charan Baidya and 59 others was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 23 OF 2013

Dated the 28th January 2014

*Present :*

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

*Between :*

The Management of . . . First Party—Management  
M/s Sree Metalics Ltd., Lodipada, Keonjhar.

*And*

Their workman . . . Second Party—Workmen  
Shri Maguni Charan Baidya and 59 others,  
C/o Gokul Charan Baidya,  
At/P.O. Parsala, Via Jhumpura, Dist. Keonjhar  
and 59 others to the order of reference.

*Appearances :*

None . . . For the First Party—Management

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Shri R. M. Latif, Auth. Rept. . . For the Second Party—Workmen

## 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 & E.S.I. Department of the Government of Odisha under Section 12(5) of the Act vide its Letter No. 4904—IR(ID)-112/2012-LESI., dated the 23rd May 2011 with the following Schedule :—

“Whether the termination of services of Shri Maguni Charan Baidya and 59 other workmen (as per list) of Blast Furnace Unit by way of retrenchment with effect from the 19th August 2011 by the Management of M/s Shree Metalics Ltd., Lodipada, Dist. Keonjhar is legal and/or justified ? If not, what relief these workmen are entitled to ?”.

2. The case of the second party workmen is that after working for eight to nine years continuously under the first party management, all on a sudden on the 18th August 2011, it has declared the operation of the Blast Furnace as closed and asked the workmen not to come to the Factory. Since the aforesaid termination of service of the second party workmen is in violation of Section 25-N of the Industrial Disputes Act, 1947, they raised a dispute and on the basis of the complaint lodged before the labour machinery ultimately the reference has been made to this Tribunal for adjudication of the dispute.

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

4. The issues framed in this case are as follows :

## ISSUES

(i) “Whether the termination of services of Shri Maguni Charan Baidya and 59 other workmen (as per list) of Blast Furnace Unit by way of retrenchment with effect from the 19th August 2011 by the Management of M/s Shree Metalics Ltd., Lodipada, Dist. Keonjhar is legal and/or justified ?

(ii) If not, what relief these workmen are entitled to ?”

5. The second party workmen in support of their case examined two of its workmen as witnesses and filed documents marked Exts. 1 to 6.

## FINDINGS

6. *Issue Nos. (i) & (ii)*—Both the workmen have stated that since 2006 they have been working till the 17th August 2011. On the 18th August 2011 the first party management which is a Factory having 700 workmen, terminated their service along with others named in the list. Since there is no challenge to the aforesaid statements of the workmen, there is nothing to discard the same. The aforesaid statements of the second party workmen go to show that the first party management is a Factory having 700 workers, thus is an “Industrial Establishment”. Since these second party

workmen have served under the management for more than 240 days continuously in the preceding years, their termination requires compliance of the provisions of Section 25-N of the Industrial Disputes Act, which prescribes as follows :

“25-N Conditions precedent to retrenchment of workmen—

(1) No workman employed in any industrial establishment to which this Chapter applies 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 three months’ 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 ; and

(b) the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf.

(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.”

7. As there is no material relating to compliance of the aforesaid provision by the first party management while terminating the services of the second party workmen, the said termination is bad in law and they are required to be reinstated in service with full back wages. In the circumstances, the first party management is directed to reinstate the second party workmen in their service and to pay them full back wages till their reinstatement within a period of three months of the date of publication of the Award in the Official Gazette.

The reference is answered accordingly.

Dictated and corrected by me.

P. K. RAY  
28-01-2014  
Presiding Officer  
Industrial Tribunal, Bhubaneswar

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28-01-2014  
Presiding Officer  
Industrial Tribunal, Bhubaneswar

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