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## LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

### NOTIFICATION

The 10th March 2014

No. 2229—IR-(ID)-5/2014-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 3rd January 2014 in I. D. Case No.31 of 2013 of the Presiding Officer, Industrial Tribunal, Bhubaneswar wherein the industrial dispute between the Management of (1) The Executive Engineer, Prachi Irrigation Division, Unit-8, Bhubaneswar/SDO, Pratapnagari Irrigation Subdivision, At/PO Pratapnagari, Dist. Cuttack and their workmen Shri Braja Kishore Bhoi, Shri Prafulla Kumar Bhoi, Shri Debananda Barik, Shri Budhanath Bhoi and Shri Brundaban Bhoi was filed by the above named workmen under Section 2-A(2) of ID Act, 1947 for adjudication is hereby published as in the schedule below :—

### SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 31 OF 2013

(Under Section 2A(2) of I.D. Act, 1947)

Dated the 3rd January 2014

### *Present :*

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

### *Between :*

- The Management of
- (1) The Executive Engineer,  
Prachi Irrigation Division.  
Unit-8, Bhubaneswar.
- (2) S.D.O., Pratapnagari  
Irrigation Subdivision,  
At/P.O. Pratapnagari,  
Dist. Cuttack.

.. First Party—Management

- (3) Junior Engineer,  
Mahidharpada Irrigation Section,  
At/P.O. Mahidharpada,  
Dist. Cuttack.

And

- Its Workmen .. Second Party—Workmen
- (1) Shri Braja Kishore Bhoi,  
S/o Sibalava Bhoi,  
Via Bada Patasundarpur,  
P.S. Govindpur, Dist. Cuttack.
- (2) Shri Prafulla Kumar Bhoi,  
S/o Late Premananda Bhoi,  
Vill. Gohal, P.O. Jagannathpur,  
P.S. Baliana, Dist. Cuttack.
- (3) Shri Debananda Barik,  
S/o Dhadi Barik,  
Vill. Pingapada, P.O. Sundargaon,  
P.S. Olatpur, Dist. Cuttack.
- (4) Shri Budhanath Bhoi,  
S/o Late Hrushi Bhoi,  
Vill./P.O. Sundargaon,  
P.S. Olatpur, Dist. Cuttack.
- (5) Shri Brundaban Bhoi,  
S/o Rajib Bhoi,  
Vill. Andhuti, P.O. Harianta,  
P.S. Cuttack Sadar,  
Dist. Cuttack.

*Appearances :*

None	.. For the First Party—Management
Shri B. K. Bhoi, One of the concerned workmen.	.. For the Second Party—Workmen

AWARD

This application under Section 2-A (2) of the Industrial Disputes Act, 1947 has been filed by the second party workmen challenging their termination from service with a prayer to reinstate them in service with full back wages, unpaid wages, continuity of service and other consequential service benefits.

2. The case of the second party workmen namely, S/Shri Brajakishore Bhoi, Prafulla Kumar Bhoi, Debananda Barik, Budhanath Bhoi and Brundaban Bhoi is that initially they joined as D.L.R. Khalasis under the Junior Engineer, Mahidharpada Irrigation Section which comes under the S.D.O., Pratapnagari Irrigation Subdivision and Executive Engineer, Prachi Division, Unit-8, Bhubaneswar during the period from 1986 to 1992 and all of them have rendered services under the first party management for more than twenty years. Though they have been working continuously through

out the year they were paid wages only for six months for each of the completed years. When the second party workmen demanded their wages to Junior Engineer, Mahidharpada Irrigation Section assured them for regularization of their services but till date no action has been taken in that respect. It is stated that the Director, Personnel, Office of the Engineer in Chief, Water Resources, Odisha, Secha Sadan, Kesari Nagar, Bhubaneswar directed to all the Chief Engineers and Basin Manager/ Chief Engineer/Chief Construction Engineer/Superintending Engineer and Director, Research/ Hydrometry/SS & DS vide his letter No. 14972—CSL-W/C-Rev.-2/2009, dated the 25th November 2011 for preparation of panel for re-engagement of retrenched work charged/NMR/DLR workers but inspite of the same the first party management did not take any step for regularization of their services and ultimately on 10-11-2012 when they reported for performing their duties the Junior Engineer, Mahidharpada Irrigation Section did not allow them to perform their duty and told that their services have been terminated. Even their wages for the month of November was not paid to them. Their termination being in violation of the provisions of the Industrial Disputes Act, they made a representation to the first party management on 11-12-2012 and submitted a copy thereof to the District Labour Officer, Khurda on 18-12-2012 but when no action was taken by the District Labour Officer they filed the present application before this Tribunal.

3. The first party management No. 2 in its written statement has stated that the available records do not reflect the engagement of the second party workmen as claimed by them, hence has insisted upon the second party workmen to substantiate the same.

4. In the aforesaid premises, the issues to be decided is as follows :—

#### ISSUES

- (i) “Whether the termination of services by way of refusal of employment of Brajakishore Bhoi, D.L.R. Khalasi, Prafulla Kumar Bhoi, D.L.R. Khalasi, Debananda Barik, D.L.R. Khalasi, Budhanath Bhoi, D.L.R. Khalasi & Brundaban Bhoi, D.L.R. Khalasi by way of refusal of employment with effect from the 10th November 2012 by the Executive Engineer, Prachi Division, Unit-8, Bhubaneswar is legal and/or justified ?
- (ii) If not, what relief they are entitled to ?”

5. In support of the case while the second party workmen have examined two witnesses including Shri Braja Kishore Bhoi, one of the concerned workmen, and filed documents marked Exts. 1 to 11, the first party managements did not contest the case, hence set *ex parte*.

#### FINDINGS

6. *Issue Nos. (i) & (ii)*—In support of their case, in addition to the evidence in affidavit filed by the second party workmen they have filed xerox copy of the Attendance Register which bears the seal of the office of the Junior Engineer, Mahidharpada Section and copy of the Duty Register which bears the seal of the Junior Engineer, Mahidharpada Section and his signature. Since there is no challenge to the aforesaid documents there is no alternative then to accept the same and to presume that the second party workmen were working continuously under the first party management as

NMRs as claimed by them and termination of their service effected without compliance of the provisions contained in Section 25-F of the Industrial Disputes Act is illegal and unjustified. Therefore, the first party management is directed to reinstate the second party workmen in their respective previous post forthwith. Since they have not rendered any service under the first party management during the period they remained out of employment, they are not entitled to any back wages.

The case is disposed of accordingly.

Dictated and corrected by me.

P. K. RAY  
3-1-2014  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

P. K. RAY  
3-1-2014  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

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