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**LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT**

NOTIFICATION

The 10th March 2014

No. 2234—IR(ID)-4/2014-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 31st January 2014 in Industrial Dispute Case No. 46 of 2012 of the Presiding Officer, Industrial Tribunal, Bhubaneswar wherein the industrial dispute between the Managements of (1) Reliance Trends Ltd., Sahid Nagar, Bhubaneswar, (2) Orange Securitas Private Ltd., Satya Nagar, Bhubaneswar and their Workman Shri Santosh Kumar Nayak was filed by the above named Workman under Section 2-A (2) of I. D. Act, 1947 for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 46 OF 2012

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

Dated the 31st January 2014

*Present :*

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

*Between :*

The Managements of—  
(1) The Store Manager, . . . First Party—Managements  
Reliance Trends Ltd.,  
Plot No. 356, In front of IDCO Tower,  
Sahidnagar, Janpath,  
Bhubaneswar, Dist. Khurda.

(2) The Managing Director,  
Orange Securitas Private Ltd.,  
Toshali Complex, Rupa-4,  
Flat No. B-104, Satyanagar,  
Bhubaneswar-7

And

Its Workman . . . Second Party—Workman  
Shri Santosh Kumar Nayak,  
S/o Bhikari Nayak,  
At Krushnasaranpur,  
P.O. Sanapadar, P.S. Begunia,  
Dist. Khurda.

*Appearances :*

Shri A. Mishra, Advocate	. . . For the First Party—Management No. 1
Md. Aslam, Advocate	. . . For the First Party—Management No. 2
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Shri T. Lenka, Advocate	. . . For the Second Party—Workman

**AWARD**

This application under Section 2-A(2) of the Industrial Disputes Act, 1947 has been filed by the second party workman challenging his termination from service by way of refusal of employment with a prayer to reinstate him in service with full back wages and other service benefits.

2. The case of the second party workmen is that as per the requirement of the first party management No. 1, he being selected by the first party management No. 2 was given appointment as a Security Guard under the first party management No. 1 with effect from the 30th August 2011 and initially he was getting remuneration of Rs. 8,000 per month after deduction of E.S.I. and E.P.F. While performing his duty on the 19th January 2011 at about 5 P.M. at Luggage Counter he went to toilet at about 5-45 P.M. after giving charge to one Sarita Das who was on duty at the Customer's Entry Gate, said Sarita Das received a bag from one customer which the customer claimed to have contained one Camera, a Mobile Phone and some other important articles. When the second party workman came back to the Luggage Counter, Sarita Das did not tell him anything. At about 6 P.M. he being relieved by one Rakesh Kumar Harichandan from the Luggage Counter went to the Security Point to perform his duty. After about ten minutes Rakesh told him about exchange of bag of one customer. Subsequently the Security In-charge Shri Das enquired him about the exchange of the bag to which he expressed his ignorance. On the 10th February 2012 when the second party workman went to receive his salary the first party management No. 1 deducted Rs. 5,000 from his salary and paid him only Rs. 3,000. On being asked the Security In-charge intimated that the deduction of Rs. 5,000 was towards exchange of bag and further that the same would be continuing for four months more. It is stated that the second party workman continued his service till dated the 15th January 2012 and thereafter the first party management terminated his service by way of refusal of employment with effect from the 16th February 2012. Though the second party workman requested for his reinstatement the first party management did not pay any heed and engaged new persons namely, Krupasindhu Biswal and Subhakanta Jena. Being aggrieved by such action the second

party workman raised an industrial dispute before the first party management on the 13th March 2012 and lodged a complaint before the District Labour Officer, Khurda on the 7th May 2012. Since the second party workman did not receive any intimation from the District Labour Officer, Khurda up to a period of five months from the date of his lodging complaint before the District Labour Officer, Khurda, he has filed the present case.

3. The first party management No. 1 in its written statement challenging its impleading as a party has stated that as per the contract with the first party management No. 1 it has got no liability and if at all there is any dispute then the first party management No. 2 is liable for the same. Hence, the allegation against the first party management No. 1 is not sustainable and is liable to be dismissed.

4. The first party management No. 2 in its written statement admitting the employment of the second party workman has stated that on the 19th January 2012 the second party workman was allotted duty at the Baggage Counter of the first party management No. 1. At about 5 P.M. on that day when he was performing his duty at the said Counter he claimed to have went to the Urinal informing one Sarita Das, another Security Guard deployed by the first party management No. 2. At 6 P.M. on that day when Shri Rajesh Kumar Harichandan, who was allotted duty at the Baggage Counter, joined his duty reported that there was none at the Counter. Due to lack of care and caution a bag of one customer who alleged to have kept it in the Counter when the second party workman was on duty was lost and after negotiation the said customer was paid a compensation of Rs. 40,000 towards the damage. After enquiry when all the three persons namely, the second party workman, Smt. Sarita Das and Shri Rakesh Kumar Harichandan were cautioned, the second party workman for the reasons best known to him stopped coming to duty with effect from the 15th February 2012 and did not turn up to receive his wages for the period from the 21st January 2012 onwards which is still lying with the first party management No. 2. As the second party workman stopped attending his duty the first party management had to make alternative arrangement by deploying other Security Guards. Therefore, the claim of the second party workman that the alleged termination of his service by way of refusal of employment is false, fabricated and he is not entitled to any relief claimed for.

5. In the aforesaid premises, the issues framed in this case are as follows :

#### ISSUES

- (i) "Whether the termination of service by way of refusal of employment of Shri Santosh Kumar Nayak, Security Guard with effect from the 16th February 2012 by Stores Manager, Reliance Trends Ltd., Plot No. 356, Sahidnagar, Bhubaneswar is legal and/or justified ?
- (ii) If not, what relief Shri Nayak is entitled ?"

#### ADDITIONAL ISSUES

- (i) "Whether the dispute was raised before the District Labour Officer, Khurda, 45 days prior to the filing of the complaint under Section 2-A of the Industrial Disputes Act before this Tribunal ?"

6. In support of their respective case while the second party workman examined himself as W.W. No. 1 and filed a document marked Ext. 1, the first party management No. 1 examined one witness and filed documents marked Exts. A and B. The first party management No, 2, however, did not choose to adduce either any oral or documentary evidence.

## FINDINGS

7. *Issue Nos. (i) and (ii)*—On scrutiny of the evidence it is found that the entire dispute cropped up after missing of the bag from the Luggage Counter. While the second party workman alleged termination of his service by refusal of employment, the stand of the first party management No. 2 is that of abandonment of service by the second party workman and their willingness to accept him in case he joins. The admission of the first party management No. 2 is that the second party workman even did not turn up to receive his wages from the 21st January 2012 to the 15th February 2012. Considering the aforesaid rival contention, the fact that wages of the second party workman is lying with the first party management No. 2 and the willingness of the first party management No. 2 to accept him if he joins, the first party management No. 2 is directed to reinstate the second party workman on his joining duty and to pay him a sum of Rs. 8,150 towards his dues and cost but he is not entitled to any wages during his absence period.

8. *Additional Issue No. (i)*—The second party workman has filed Ext. 1, a copy of his representation made to the first party managements on the 31st March 2012 which has been marked without any objection on behalf of both the first party managements. The said document Ext. 1 reflects that a copy of the complaint was also addressed to the District Labour Officer, Khurda. In the circumstance, it is held that the complaint was lodged before the District Labour Officer, Khurda 45 days prior to the filing of the present complaint under Section 2-A of the Industrial Disputes Act before this Tribunal.

The issue is answered accordingly.

Dictated and corrected by me.

P. K. RAY  
31-01-2014  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

P. K. RAY  
31-01-2014  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

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