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**LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT**

NOTIFICATION

The 13th March 2014

No. 2379—IR(I.D.)-07/2014-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 1st February 2014 in Industrial Dispute Case No. 44 of 2012 of the Presiding Officer, Industrial Tribunal, Bhubaneswar wherein the industrial dispute between the Managements of (1) The Chief Executive Officer, CESU, Odisha, Bhubaneswar, (2) The Deputy General Manager (Electrical), Bhubaneswar Electrical Division, CESCO, Bhubaneswar, (3) The Assistant Manager, Inside 33/11 KVA, Sub-Station, Rasulgarh, Bhubaneswar-10 and their workman Shri Lingaraj Dash was filed by the above mentioned workman for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 44 OF 2012

Dated the 1st February 2014

*Present :*

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

*Between :*

The Managements of—

(1) The Chief Executive Officer,  
Central Electricity Supply Utility of  
Odisha, 2nd Floor, IDCO Tower,  
Bhubaneswar.

.. First Party—Managements

- (2) The Deputy General Manager,  
Electrical, Bhubaneswar Electrical  
Division, CESCO, Bhubaneswar,  
Inside 33/11 KVA, Sub-Station,  
Rasulgarh, Bhubaneswar-10.
- (3) The Assistant Manager,  
Inside 33/11 KVA Sub-Station,  
Rasulgarh, Bhubaneswar-10.

And

Its workman . . . Second Party—Workman  
Shri Lingaraj Dash,  
S/o Late Krushna Chandra Samantaray,  
Barasahi, P.O. Pubusahi,  
P.S. Khurda, Dist. Khurda.

*Appearances :*

Shri M. R. Nanda, Auth. Representative . . . For the First Party—Management

Shri T. Lenka, Advocate . . . For the Second Party—Workman

AWARD

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

2. The case of the second party workmen is that they being the ex-servicemen selected by the first party management were appointed to work at Phulnakhara and Rasulgarh Sections with effect from the 7th April 2003 and 8th December 2005 respectively. At the time of their joining they used to get Rs. 4,700 per month, but the first party management did not pay their salary regularly with effect from the 1st January 2009 till 31st August 2010 and only a sum of Rs. 3,300 was being paid to each of them for the aforesaid period. Since the second party workmen after several representations for payment of outstanding salary, bonus and leave salary for the year 2009 ultimately approached the labour machinery and then the Labour Court, Bhubaneswar, the first party management bore grudge against them and terminated their service by way of refusal of employment with effect from the 1st January 2011. After several request since they have not been reinstated in their service they raised a dispute and lodged a complaint before the labour machinery on the 28th April 2011. As no action was taken thereon after even lapse of a year they have filed the present case before this Tribunal.

3. The first party management in its written statement challenging the maintainability of the case has stated that the second party workmen entered into contractual job through outside agencies which came to an end. After closure of the said contract with the Agency subsequently they have been engaged contractually with effect from the 1st January 2009 and were transferred to Khurda

Electrical Division vide the first party management's Letter No. 24364, dated the 27th August 2009 and accordingly they were relieved from Bhubaneswar Division on the 31st October 2009 to report their joining at Khurda Electrical Division but they did not join and remained absent in violation of the terms of the contract. The first party management vide its office Letter Nos. 2931 and 2932, dated the 29th January 2010 and No. 3198, dated the 29th January 2010 informed both the workmen to report their joining immediately but none of them responded. Thus, they have voluntarily abandoned their services. Further, it is stated that the contractual job was for a period of two years with effect from the 1st January 2009 which came to an end on the 31st October 2009. As both of them remained absent without reporting at the new place of work they do not have any claim for their reinstatement or they are entitled to any wages for their absence period.

4. 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 Lingaraj Dash, Meter Reader, Shri Nabaghana Samantaray, Meter Reader with effect from the 1st January 2011 by the Assistant Manager, Electrical, Commercial, Rasulgarh Subdivision, Bhubaneswar is legal and/or justified ?
- (ii) If not, what relief the workmen are entitled to ?"

5. In support of their respective case while the second party workmen have examined one witness and filed documents marked Exts. 1 to 11, the first party management examined one witness and filed documents marked Exts. A to L.

#### FINDINGS

6. *Issue No. (i)*—The claim of the second party workmen is that they have been refused employment with effect from the 1st January 2011. Though both the workmen in their claim statement have stated to have been appointment by the first party management with effect from the 7th April 2003 and the 8th December 2005, respectively, in cross-examination W.W. No. 1 has admitted that till the 31st December 2008 they were engaged through outside agency and joined under the CESU on the 1st January 2009 for a period of two years, i.e. up to the 31st December 2010. He has also admitted that while working as such he was transferred to Khurda Electrical Division on the 27th August 2009 to do the work under the same terms and conditions but he did not join there as he was asked to discharge duties of Squad Operating which amounts to degradation. The terms of appointment reveals that he was appointed as a Squad Operating Personnel. His own admission is that he was transferred to Khurda Electrical Division as Squad Operating Personnel. Therefore, the statement of the second party workman that there was degradation in his posting at Khurda Electrical Division is not correct. In the aforesaid circumstances, there being no refusal to the statement of the first party management that both the workmen had been served with notices vide Ext. H to join their duties and there is clear admission of the second party workmen that they did not join at Khurda. Their absence from duty amounts to abandonment of service and it cannot in any circumstance be presumed that they have been refused employment. Moreover, the terms and

conditions of service being only for a period of two years it was expired on the 31st December 2010. Hence, they have got absolutely no claim for their reinstatement in any terms and conditions.

The case is disposed of accordingly.

Dictated and corrected by me.

P. K. RAY  
01-02-2014  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

P. K. RAY  
01-02-2014  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

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By order of the Governor  
R. K. NANDA  
Under-Secretary to Government