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No. 623 CUTTACK, FRIDAY, MARCH 28, 2014/CHAITRA 7, 1936

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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 18th March 2014

No. 2579—IR(ID)-3/2014-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 25th January 2014 in Industrial Dispute Case No. 32 of 2013 of the Presiding Officer, Industrial Tribunal, Bhubaneswar wherein the industrial dispute between the Management of (1) Executive Engineer, Prachi Irrigation Division, Unit - 8, Bhubaneswar, (2) The S. D. O., Pratapnagari Irrigation Subdivision, Cuttack, (3) The Junior Engineer, Jharpada Irrigation Section, Cuttack and their workmen Shri Ajay Kumar Mallick and Shri Biswanath Mallick was filed by the above named workmen 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. 32 OF 2013

Dated the 25th 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  
(1) The Executive Engineer, Prachi Irrigation Division,  
Unit - 8, Bhubaneswar.  
(2) The S. D. O., Pratapnagari Irrigation Subdivision,  
Cuttack.  
(3) The Junior Engineer, Jharpada Irrigation Section,  
Cuttack.

*And*

<p>Its workmen, namely—          (1) Shri Ajay Kumar Mallick,          S/o Dhio Mallick, Vill. Majurai,          P.O. Govindpur, Dist. Cuttack.          (2) Shri Biswanath Mallick,          S/o. Bipin Mallick,          Vill./P. O. Sailo Jharpada,          P.-S. Govindpur, Dist. Cuttack.</p>	<p>.. Second Party—Workmen</p>
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*Appearances :*

<p>None</p> <hr/> <p>Shri A. K. Mallick &amp; B. Mallick</p>	<p>.. For the First Party—Management</p> <hr/> <p>.. For the Second Party—Workmen themselves</p>
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#### A W A R D

This application under Section 2-A (2) of the Industrial Disputes Act, 1947 has been filed by the second party workmen challenging termination of their service and praying to reinstate them in their former posts with all back wages and consequential service benefits.

2. The case of the second party workmen is that both of them joined as D. L. R. Khalasi under the Jharpada Irrigation Section in the year 2000 and continued till the 10th November 2012. Though they have been performing their duties throughout the year the J. E., Jharpada Irrigation Section was paying them wages for six months only with an assurance to regularise their services. Since no action was taken for their regularisation of service in spite of several approaches ultimately they lodged a complaint before the D. L. O., Cuttack on the 11th February 2012 and the 25th June 2012 for which the first party management taking grudge against them refused employment with effect from the 10th November 2012 for which they brought it to the notice of the Labour department on the 18th November 2012. As no action was taken by the labour machinery after lapse of more than 45 days they filed the present case before this Tribunal for redressal of their grievance.

3. On behalf of the first party management one written statement has been filed refuting the claim of the second party workmen regarding their engagement under the Jharpada Irrigation Section of Pratapnagari Subdivision under the Executive Engineer, Prachi Division. It claims that the case is not maintainable and liable to be dismissed.

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

#### I S S U E S

- (i) "Whether the termination of services by way of refusal of employment of Ajaya Kumar Mallick, D. L. R. Khalasi, Biswanath Mallick, D.L.R. Khalasi 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 their case while the second party workmen examined two witnesses and filed documents marked Exts. 1 to 6, the first party management did not contest the case, hence set *ex parte*.

#### FINDINGS

6. *Issue Nos. (i) & (ii)*—In the absence of any challenge there is nothing to dispute about the credibility of the statement of the witnesses examined on behalf of the second party workmen as well as the documents specifically the copy of the Attendance Register marked Ext. 6 reflecting the names of the second party workmen as DLRs. under the Jharpada Irrigation Section. The materials on record reflect the engagement of the second party workmen as DLRs. from 2000 till the 10th November 2012. In the aforesaid circumstances their refusal of engagement without compliance of the provisions of Section 25-F of the Industrial Disputes Act is contrary to law and thus held to be illegal and unjustified.

7. In the aforesaid circumstances, the first party management having violated the provisions of the Industrial Disputes Act, 1947 is liable under law to reinstate the second party workmen in their former post and accordingly the Management is directed to reinstate the second party workmen in their former post. They are however not entitled to any back wages for the period they remained out of employment on the principle of 'no work no pay'.

The case is disposed of accordingly.

Dictated and corrected by me.

P. K. RAY  
25-01-2014  
Presiding Officer  
Industrial Tribunal, Bhubaneswar

P. K. RAY  
25-01-2014  
Presiding Officer  
Industrial Tribunal, Bhubaneswar

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