



भारत का राजपत्र The Gazette of India

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कोयला मंत्रालय

नई दिल्ली, 23 दिसम्बर, 2020

का.आ. 1092.—केन्द्रीय सरकार को यह प्रतीत होता है कि, इससे उपाबद्ध अनुसूची में उल्लिखित परिक्षेत्र की भूमि में कोयला अभिप्राप्त किए जाने की संभावना है ;

और, रेखांक संख्या एनसीएल/मुख्यालय/भूमि और राजस्व/2020/83, तारीख 24 अगस्त, 2020 को उक्त अनुसूची में वर्णित भूमि का क्षेत्र अंतर्विष्ट किया गया है, का निरीक्षण महाप्रबंधक (भूमि और राजस्व), नार्दर्न कोलफील्ड्स लिमिटेड, जिला सिंगरौली- 486889, मध्य प्रदेश के कार्यालय में या महाप्रबंधक (खोज प्रभाग), सेंट्रल माईन प्लानिंग एण्ड डिज़ाइन इंस्टीट्यूट लिमिटेड, गोंडवाना प्लेस, कांके रोड, रांची-834001, झारखंड के कार्यालय

में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता-700001 के कार्यालय में या जिला कलेक्टर, जिला सिंगरौली- 486889, मध्य प्रदेश के कार्यालय में किया जा सकता है ;

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अनुसूची में वर्णित भूमि में कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है।

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति -

- (i) संपूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उसके ऊपर किसी अधिकार के अर्जन पर आक्षेप कर सकेगा ; अथवा
- (ii) उक्त अधिनियम की धारा 6 के अधीन धारित किसी नुकसानी या उसकी धारा 4 की उप-धारा (3) के अधीन धारित होने वाले नुकसान की संभावना के लिए प्रतिकर का दावा कर सकेगा ; अथवा
- (iii) उक्त अधिनियम की धारा 13 की उप-धारा (1) के अधीन समाप्त हो गयी पूर्वेक्षण अनुज्ञप्तियों के संबंध में या धारा 13 की उप-धारा (4) के अधीन समाप्त हो गए खनन पट्टे के लिए प्रतिकर का दावा कर सकेगा और उक्त अधिनियम की धारा 13 की उपधारा (1) के खंड (i) से खंड (iv) में विनिर्दिष्ट मदों के संबंध में उपगत व्यय को उपदर्शित करने के लिए उपरोक्त भूमि से संबंधित सभी मानचित्रों, चार्टों और अन्य दस्तावेजों को, इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर, महाप्रबंधक (भूमि और राजस्व), नार्दर्न कोलफील्ड्स लिमिटेड, जिला सिंगरौली - 486889, मध्य प्रदेश को परिदत्त कर सकेगा।

अनुसूची

निगाही डीप विस्तार, ब्लॉक बी विस्तार और बिजुल जियोलाजिकल ब्लॉक

निगाही विस्तार ओसीपी हेतु

नार्दर्न कोलफील्ड्स लिमिटेड, सिंगरौली

जिला- सिंगरौली (मध्य प्रदेश)

[रेखांक संख्या एनसीएल/मुख्यालय/भूमि और राजस्व/2020/83, तारीख 24 अगस्त, 2020]

सभी अधिकार:

काश्तकारी और सरकारी भूमि :

ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्रफल (हेक्टेयर में)	टिप्पणियां
मुहेर	00003	सिंगरौली नगर	सिंगरौली	319.787	भाग
कुल: = 319.787 हेक्टेयर (लगभग) या 790.194 एकड़ (लगभग)					

वन भूमि :

क्रम संख्या	वन कक्ष क्रमांक	वन परिक्षेत्र का नाम	जिला	क्षेत्रफल (हेक्टेयर में)	टिप्पणियां
1.	आरक्षित वन (आरएफ) 271 (भाग)	वैढन और गोरबी	सिंगरौली	15.188	भाग

2.	आरक्षित वन (आरएफ) 272 (भाग)	वैढन और गोरबी	सिंगरौली	136.535	भाग
3.	आरक्षित वन (आरएफ) 273 (भाग)	वैढन और गोरबी	सिंगरौली	51.769	भाग
4.	आरक्षित वन (आरएफ) 274 (भाग)	वैढन और गोरबी	सिंगरौली	41.044	भाग
कुल : 244.536 हेक्टेयर (लगभग) या 604.248 एकड़ (लगभग)					

कुल जोड़ : 319.787 हेक्टेयर + 244.536 हेक्टेयर = 564.323 हेक्टेयर (लगभग)

या 790.194 एकड़ + 604.248 एकड़ = 1394.442 एकड़ (लगभग)

सीमा वर्णन :

क-ख : रेखा ग्राम मुहेर में निगाही परियाजना की पूर्व अर्जित भूमि की सीमा पर बिन्दु 'क' से आरंभ होती है और ग्राम मुहेर तथा ग्राम मेढौली से होकर गुजरती है, यही रेखा निगाही डीप विस्तार ब्लॉक की पूर्व अर्जित भूमि की सीमा से गुजरती है तथा ग्राम मेढौली में बिन्दु 'ख' पर मिलती है।

ख-ग : रेखा बिन्दु 'ख' से आरंभ होती है और ग्राम मेढौली से होकर गुजरती है, यही रेखा निगाही डीप विस्तार ब्लॉक की पूर्व अर्जित भूमि की सीमा से गुजरती है तथा ग्राम मेढौली में बिन्दु 'ग' पर मिलती है।

ग-घ : रेखा बिन्दु 'ग' से आरंभ होती है और ग्राम मेढौली से होकर गुजरती है, यही रेखा जयंत -मेहरौली वेस्ट (डीप नार्थ साइड) ब्लॉक की पूर्व अर्जित भूमि से होकर गुजरती है तथा ग्राम मेढौली में बिन्दु 'घ' पर मिलती है।

घ-ङ : रेखा बिन्दु 'घ' से आरंभ होती है और ग्राम मेढौली से होकर गुजरती है, यही रेखा निगाही डीप विस्तार ब्लॉक और बिजुल ब्लॉक से होकर गुजरती है तथा सिंगरौली वन प्रभाग के वैढन और गोरबी वन परिक्षेत्र के वन कक्ष क्रमांक आर.एफ. 272 में बिन्दु 'ङ' पर मिलती है।

ङ-च : रेखा बिन्दु 'ङ' से आरंभ होती है और सिंगरौली वन प्रभाग के वैढन एवं गोरबी वन परिक्षेत्र के वन कक्ष क्रमांक आर.एफ. 272 से होकर गुजरती है, यही रेखा बिजुल ब्लॉक और ब्लॉक बी विस्तार ब्लॉक से होकर गुजरती है तथा ग्राम मुहेर में बिन्दु 'च' पर मिलती है।

च-छ : रेखा बिन्दु 'च' से आरंभ होती है और ग्राम मुहेर से होकर गुजरती है, यही रेखा ब्लॉक बी विस्तार ब्लॉक से होकर गुजरती है तथा ग्राम मुहेर में बिन्दु 'छ' पर मिलती है।

छ-ज : रेखा बिन्दु 'छ' से आरंभ होती है और ग्राम मुहेर से होकर गुजरती है, यही रेखा ब्लॉक बी विस्तार ब्लॉक से होकर गुजरती है तथा ग्राम मुहेर में बिन्दु 'ज' पर मिलती है।

ज-क : रेखा बिन्दु 'ज' से आरंभ होती है और ग्राम मुहेर से होकर गुजरती है, यही रेखा ब्लॉक बी विस्तार ब्लॉक से होकर गुजरती है तथा ग्राम मुहेर में प्रारंभिक बिन्दु 'क' पर मिलती है।

[फा. सं. 43015/20/2020-एलए एण्ड आईआर]

राम शिरोमणि सरोज, उप सचिव

MINISTRY OF COAL

New Delhi, the 23rd December, 2020

S. O. 1092.—Whereas, it appears to the Central Government that coal is likely to be obtained from the land in the locality described in the Schedule annexed hereto;

And, whereas, the plan bearing number NCL/HQ/Land and Revenue/2020/83, dated the 24th August, 2020 containing the details of the area of land described in the said Schedule may be inspected at the office of the General Manager (Land and Revenue), Northern Coalfields Limited, District Singrauli-486889, Madhya Pradesh or at the office of General Manager (Exploration Division), Central Mine planning and Design Institute Limited, Gondwana Place, Kanke Road, Ranchi-834001, Jharkhand or at the office of the Coal Controller, 1, Council House Street, Kolkata-700001 or at the office of the District Collector, District Singrauli, Madhya Pradesh-486889 ;

Now, therefore, in exercise of the powers conferred by sub-section(1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal from the land described in the said Schedule.

Any person interested in the land described in the said Schedule may-

- (i) object to the acquisition of the whole or any part of the land or of any rights in or over the said land; or
- (ii) claim compensation under section 6 of the said Act for any damage caused or likely to be caused by any action taken under sub-section (3) of section 4 of the said Act; or
- (iii) claim compensation under sub-section (1) of section 13 of the said Act in respect of the prospecting licenses ceasing to have effect or under sub-section (4) of section 13 of the said Act, for mining lease ceasing to have effect and deliver all maps, charts and other documents relating to the aforesaid land to show the expenditure incurred in respect of items specified in clauses (i) to (iv) of sub-section (1) of section 13 of the said Act,

to the office of the General Manager (Land and Revenue), Northern Coalfields Limited, District Singrauli-486889, Madhya Pradesh, within a period of ninety days from the date of publication of this notification in the Official Gazette.

SCHEDULE**NIGAHI DIP EXTENSION, BLOCK B EXTENSION AND BIJUL GEOLOGICAL BLOCKS**

For Nigahi Expansion OCP

Northern Coalfields Limited, Singrauli

District - Singrauli (Madhya Pradesh)

[Plan bearing number NCL/HQ/Land and Revenue/2020/83, dated the 24th August, 2020]

ALL RIGHTS :

Tenancy and Government Land :

Name of Village	Patwari Circle number	Tehsil	District	Area (in hectares)	Remarks
Muher	00003	Singrauli Nagar	Singrauli	319.787	Part
Total : 319.787 hectares (approximately) or 790.194 acres (approximately)					

Forest Land :

Sr. No.	Forest number	Compartment	Name of Forest Range	District	Area (in hectares)	Remarks
1.	Reserved Forest (RF) (P)	271	Waidhan and Gorbi	Singrauli	15.188	Part
2.	Reserved Forest (RF) (P)	272	Waidhan and Gorbi	Singrauli	136.535	Part
3.	Reserved Forest (RF) (P)	273	Waidhan and Gorbi	Singrauli	51.769	Part
4.	Reserved Forest (RF) (P)	274	Waidhan and Gorbi	Singrauli	41.044	Part

Total = 244.536 hectares (approximately) or 604.248 acres (approximately)
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Grand Total: 319.787 hectares + 244.536 hectares = 564.323 hectares (approximately)
or 790.194 acres + 604.248 acres = 1394.442 acres (approximately)

Boundary Description:

- A-B : The line starts at point 'A' in Muher village on the boundary of the previously acquired land of Nigahi Project and passes through Muher village and Medhauli village and same line passes over the boundary of the previously acquired land of Nigahi Dip extension block and meets at point 'B' in Medhauli Village.
- B-C : The line starts at point 'B' and passes through Medhauli village and same line passes over the boundary of the previously acquired land of Nigahi Dip extension block and meets at point 'C' in Medhauli village.
- C-D : The line starts at point 'C' and passes through the Medhauli village and same line passes over the boundary of the previously acquired land of Jayant-Mehrauli West (Dip North Side) block and meets at point 'D' in Medhauli Village.
- D-E : The line starts from the point 'D' and passes through Medhauli village and same line passes through Nigahi Dip Extension block and Bijul block and meets at point 'E' in the Singrauli division range Waidhan and Gorbi , forest compartment No. RF 272.
- E-F : The line starts from point 'E' and passes through Singrauli division Range Waidhan and Gorbi , forest compartment No. RF 272. and same line passes over Bijul block and Block B extension block and meets at point 'F' in the Muher village.
- F-G : The line starts at point 'F' and passes through Muher village and same line passes over Block B extension block and meets at point 'G' in Muher village.
- G-H : The line starts at point 'G' and passes through Muher village and same line passes over Block B extension block and meets at point 'H' in Muher village.
- H-A : The line starts at point 'H' and passes through Muher village and same line passes over Block B extension block and meets at starting point 'A' in Muher village.

[F. No. 43015/20/2020-LA&IR]

RAM SHIROMANI SAROJ, Dy. Secy.

नई दिल्ली, 23 दिसम्बर, 2020

का.आ. 1093.—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) के अधीन भारत सरकार ने कोयला मंत्रालय द्वारा जारी की गई अधिसूचना संख्यांक का. आ. 530, तारीख 16 जुलाई, 2020, जो भारत के राजपत्र, भाग II, खण्ड 3, उप-खण्ड (ii), तारीख 18 जुलाई, 2020 में प्रकाशित की गई थी, उस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 297.61 हेक्टर (लगभग) या 735.39 एकड़ (लगभग) है, कोयले का पूर्वेक्षण करने के अपने आशय की सूचना दी थी ;

और केन्द्रीय सरकार का यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विहित उक्त भूमि के भाग में कोयला अभिप्राप्त है ;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इससे संलग्न अनुसूची में वर्णित 230.41 हेक्टर (लगभग) या 569.34 एकड़ (लगभग) माप वाली भूमि में या उस पर के सभी अधिकार का अर्जन करने के अपने आशय की सूचना देती है ;

टिप्पण 1 : इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक संख्यांक सी-1(ई) III / एफयूआर/1020/963, तारीख 10 अक्तूबर, 2020 का निरीक्षण कलेक्टर, जिला नागपुर, महाराष्ट्र के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता- 700 001 के कार्यालय में या विभागाध्यक्ष, वेस्टर्न कोलफील्ड्स लिमिटेड, राजस्व विभाग, कोल इस्टेट, सिविल लाईन्स, नागपुर - 440 001 (महाराष्ट्र) के कार्यालय में किया जा सकता है ;

टिप्पण 2 : उक्त अधिनियम की उपधारा 8 के उपबंधों की ओर ध्यान आकृष्ट किया जाता है, जिसमें निम्नलिखित उपबंध है :-

“8. अर्जन की बाबत आपत्तियां.-(1) कोई व्यक्ति जो किसी भूमि में, जिसकी बाबत धारा 7 के अधीन अधिसूचना निकाली गई है, हितबद्ध है, अधिसूचना के जारी किए जाने से तीस दिन के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का अर्जन किए जाने के बारे में आपत्ति कर सकेगा ।

स्पष्टीकरण.- इस धारा के अंतर्गत यह आपत्ति नहीं मानी जाएगी, कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन संक्रियाएं करना चाहता है और ऐसी संक्रियाएं केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए ।

(2) उप-धारा (1) के अधीन प्रत्येक आपत्ति सक्षम प्राधिकारी को लिखित रूप में की जाएगी और सक्षम अधिकारी, आपत्तिकर्ता को स्वयं सुने जाने का या विधि व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात् और ऐसी अतिरिक्त जांच, यदि कोई हो, करने के पश्चात् जो वह आवश्यक समझता है, वह या तो धारा 7 की उपधारा (1) के अधीन अधिसूचित भूमि के या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक रिपोर्ट या ऐसी भूमि के विभिन्न टुकड़ों या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाही के अभिलेख सहित विभिन्न रिपोर्ट केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा ।

(3) इस धारा के प्रयोजनों के लिए वह व्यक्ति किसी भूमि में हितबद्ध समझा जाएगा जो प्रतिकर में हित का दावा करने का हकदार हो, यदि भूमि या किसी ऐसी भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित कर लिए जाते हैं ।

टिप्पण 3: केन्द्रीय सरकार ने कोयला नियंत्रक 1, काउंसिल हाउस स्ट्रीट, कोलकाता - 700 001 को उक्त अधिनियम की धारा 3 के अधीन संख्यांक का. आ. 2519, तारीख 27 मई, 1983, जो भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii) में तारीख 11 जून, 1983 में प्रकाशित की गयी थी, द्वारा सक्षम प्राधिकारी के रूप में नियुक्त किया है ।

अनुसूची

दिनेश (मकरधोकडा - III) विस्तार विवृत खान

उमरेड क्षेत्र

जिला नागपुर, महाराष्ट्र

(रेखांक संख्या सी- I(ई) III / एफयूआर/1020/963, तारीख 10 अक्तूबर, 2020)

सभी अधिकार:

भाग - I

ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्रफल हेक्टर में			कुल	टिप्पणी
				अभिधृति	सरकारी	वन		
दहेगांव	16	उमरेड	नागपुर	28.05	1.33	20.25	49.63	भाग
कुल :				28.05	1.33	20.25	49.63	

भाग - II

ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्रफल हेक्टर में			कुल	टिप्पणी
				अभिधृति	सरकारी	वन		
मकरधोकड़ा	17	उमरेड	नागपुर	19.20	1.86	2.24	23.30	भाग
कुल :				19.20	1.86	2.24	23.30	

भाग - III

ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्रफल हेक्टर में			कुल	टिप्पणी
				अभिधृति	सरकारी	वन		
मकरधोकड़ा	17	उमरेड	नागपुर	5.15	-	-	5.15	भाग
कुल :				5.15	-	-	5.15	

भाग - IV

ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्रफल हेक्टर में			कुल	टिप्पणी
				अभिधृति	सरकारी	वन		
मकरधोकड़ा	17	उमरेड	नागपुर	2.87	-	-	2.87	भाग
कुल :				2.87	-	-	2.87	

भाग - V

ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्रफल हेक्टर में			कुल	टिप्पणी
				अभिधृति	सरकारी	वन		
मकरधोकड़ा	17	उमरेड	नागपुर	1.46	-	-	1.46	भाग
कुल :-				1.46	-	-	1.46	

भाग - VI

ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्रफल हेक्टर में			कुल	टिप्पणी
				अभिधृति	सरकारी	वन		
मकरधोकड़ा	17	उमरेड	नागपुर	0.76	-	-	0.76	भाग
कुल :-				0.76	-	-	0.76	

भाग - VII

क्रम सं.	ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्रफल हेक्टर में			कुल	टिप्पणी
					अभिधृति	सरकारी	वन		
1.	मकरधोकड़ा	17	उमरेड	नागपुर	7.19	-	8.14	15.33	भाग
2.	बोपेश्वर	17	उमरेड	नागपुर	3.88	0.14	-	4.02	भाग
3.	कटारा	22	उमरेड	नागपुर	6.62	0.90	3.32	10.84	भाग
कुल :					17.69	1.04	11.46	30.19	

भाग - VIII

ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्रफल हेक्टर में			कुल	टिप्पणी
				अभिधृति	सरकारी	वन		
मकरधोकड़ा	17	उमरेड	नागपुर	3.36	-	-	3.36	भाग
कुल :-				3.36	-	-	3.36	

भाग - IX

ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्रफल हेक्टर में			कुल	टिप्पणी
				अभिधृति	सरकारी	वन		
बोपेश्वर	17	उमरेड	नागपुर	2.00	-	-	2.00	भाग
कुल :-				2.00	-	-	2.00	

भाग - XI

ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्रफल हेक्टर में			कुल	टिप्पणी
				अभिधृति	सरकारी	वन		
हेवती	18	उमरेड	नागपुर	72.41	2.11	-	74.52	भाग
कुल :-				72.41	2.11	-	74.52	

भाग - XII

ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्रफल हेक्टर में			कुल	टिप्पणी
				अभिधृति	सरकारी	वन		
हेवती	18	उमरेड	नागपुर	16.17	-	-	16.17	भाग
कुल :-				16.17	-	-	16.17	

भाग - XIII

ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्रफल हेक्टर में			कुल	टिप्पणी
				अभिधृति	सरकारी	वन		
सुकली	18	उमरेड	नागपुर	2.55	-	-	2.55	भाग
कुल :				2.55	-	-	2.55	

भाग - XIV

ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्रफल हेक्टर में			कुल	टिप्पणी
				अभिधृति	सरकारी	वन		
सुकली	16	उमरेड	नागपुर	12.07	0.68	5.70	18.45	भाग
कुल :				12.07	0.68	5.70	18.45	

कुल क्षेत्रफल (भाग - I से भाग - XIV) : अभिधृति भूमि - 183.74 हेक्टर
 : सरकारी भूमि - 7.02 हेक्टर
 : वन भूमि - 39.65 हेक्टर
 कुल भूमि : 230.41 हेक्टर (लगभग)
 या 569.34 एकड़ (लगभग)

भाग - I

ग्राम दहेगांव में अर्जित किए जाने वाले प्लॉट संख्यांक :

43, 64/1- 64/2- 64/3, 65, 67, 68, 69, 70, 71, 72, 73, 74, 109/1- 109/2, 112, 113, 184, 192, सड़क (भाग), नाला (भाग).

वन भूमि :

66, 82 (भाग), 102, 103, 104, 105 (भाग), 108, 110, 111, 186.

भाग - II

ग्राम मकरधोकड़ा में अर्जित किए जाने वाले प्लॉट संख्यांक :

19 (भाग), 24, 51, 52, 53, 54, 55, 56, 57, 58, 59, सड़क (भाग).

वन भूमि :

25 (भाग).

भाग - III

ग्राम मकरधोकड़ा में अर्जित किए जाने वाले प्लॉट संख्यांक :

90/2, 91/2, 92/1- 92/2- 92/3.

भाग - IV

ग्राम मकरधोकड़ा में अर्जित किए जाने वाले प्लॉट संख्यांक :

70, 77, 78.

भाग - V

ग्राम मकरधोकड़ा में अर्जित किए जाने वाले प्लॉट संख्यांक :

71, 72.

भाग - VI

ग्राम मकरधोकड़ा में अर्जित किए जाने वाले प्लॉट संख्यांक :

136/3- 136/4.

भाग - VII

ग्राम मकरधोकड़ा में अर्जित किए जाने वाले प्लॉट संख्यांक :

340/1- 340/2, 341, 344/1- 344/2, 572.

वन भूमि : 343 (भाग).

ग्राम बोपेश्वर में अर्जित किए जाने वाले प्लॉट संख्यांक :

125, 126, 127, 128, 129, नाला (भाग).

ग्राम कटारा में अर्जित किए जाने वाले प्लॉट संख्यांक :

2/1(भाग)- 2/2(भाग)- 2/3(भाग), 3, 4, 37/1- 37/2- 37/3, 130, सड़क (भाग).

वन भूमि : 39.

भाग - VIII

ग्राम मकरधोकड़ा में अर्जित किए जाने वाले प्लॉट संख्यांक :

338, 339, 342.

भाग - IX

ग्राम बोपेश्वर में अर्जित किए जाने वाले प्लॉट संख्यांक :

32 (भाग).

भाग - XI

ग्राम हवेली में अर्जित किए जाने वाले प्लॉट संख्यांक :

120/1- 120/2- 120/3- 120/4, 121, 122, 123, 124, 125/1- 125/2, 126, 127, 155, 156, 159/1/अ- 159/1/ब-159/2-159/3, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169/1- 169/2- 169/3, 170/1- 170/2- 170/3, 188, 189, 190, 191, 192/1- 192/2- 192/3, 194, 195, 196/1- 196/2, 197, 198, 199, 200, 201, 202/1- 202/2- 202/3, 203/1/अ- 203/1/ब- 203/2/अ-203/2/ब, 204, 205, 217/1- 217/2- 217/3, 218, 219/1- 219/2, नाला (भाग), सड़क (भाग).

भाग - XII

ग्राम हेवती में अर्जित किए जाने वाले प्लॉट संख्यांक :

100/1- 100/2, 101/1- 101/2- 101/3, 107/2/अ- 107/2/ब, 108/1- 108/2, 109/1- 109/2, 110/1- 110/2.

भाग - XIII

ग्राम हेवती में अर्जित किए जाने वाले प्लॉट संख्यांक :

107/1, 108.

भाग - XIV

ग्राम सुकली में अर्जित किए जाने वाले प्लॉट संख्यांक :

70/1- 70/2, 74, 75/1- 75/2, 79, 83, 93, सड़क (भाग).

वन भूमि :

72 (भाग), 73 (भाग).

सीमा वर्णन :

भाग - I

क - ख : रेखा ग्राम दहेगांव में प्लॉट संख्या 192 के उत्तर-पश्चिम छोर पर स्थित बिन्दु 'क' से आरंभ होकर, प्लॉट संख्यांक 192, 64 की बाह्य सीमा से होकर, फिर सड़क की उत्तरी सीमा से लगकर होती हुई पूर्व दिशा से गुजरती हुई बिन्दु 'ख' पर मिलती है।

ख - ग : रेखा बिन्दु 'ख' से आरंभ होकर पूर्व दिशा में प्लॉट संख्या 74 की बाह्य सीमा से होती हुई, प्लॉट संख्यांक 82, 105 में से होती हुई उत्तर दिशा में मुड़ती है तथा सड़क पार कर बिन्दु 'ग' पर मिलती है।

ग - घ : रेखा बिन्दु 'ग' से आरंभ होकर दक्षिण-पूर्व दिशा में सड़क से लगकर होती हुई ग्राम दहेगांव और मकरधोकड़ा की सम्मिलित ग्राम सीमा पर स्थित 'घ' पर मिलती है।

घ - ड. : रेखा बिन्दु 'घ' से आरंभ होकर उत्तर-पश्चिम दिशा में रेल अधिग्रहित भूमि की उत्तर दिशा से लगकर होती हुई तथा प्लॉट संख्यांक 186, 108, 113, 112, 110, 111, 69, 68, 64, 43 की दक्षिण सीमा से लगकर गुजरती हुई प्लॉट संख्या 43 के पश्चिम कोने पर बिन्दु 'ड.' पर मिलती है।

ड. - क : रेखा बिन्दु 'ड.' से आरंभ होकर उत्तर दिशा में सड़क से लगकर फिर प्लॉट संख्या 192 की सीमा से लगकर गुजरती हुई आरंभिक बिन्दु 'क' पर समाप्त होती है।

भाग - II

च - छ : रेखा ग्राम मकरधोकड़ा में प्लॉट संख्या 25 के दक्षिण-पश्चिम छोर पर स्थित बिन्दु 'च' से आरंभ होकर दक्षिण पूर्व दिशा में प्लॉट संख्या 25 की उत्तर सीमा से लगकर होती हुई बिन्दु 'छ' पर मिलती है।

छ - ज : रेखा बिन्दु 'छ' से आरंभ होकर दक्षिण-पूर्व दिशा में रेल अधिग्रहित भूमि के दक्षिण तट से लगकर गुजरती हुई प्लॉट संख्यांक 24, 19, 51, 53 की उत्तर सीमा से लगकर गुजातर हुई बिन्दु 'ज' पर मिलती है।

ज - झ : रेखा बिन्दु 'ज' से आरंभ होकर दक्षिण-पूर्व दिशा में रेल अधिग्रहित भूमि के दक्षिण तट से लगकर गुजरती हुई तथा प्लाट संख्यांक 53, 54, 55, 56, 57, 58, 59 की बाह्य सीमा से लगकर गुजरती हुई बिन्दु 'झ' पर मिलती है।

झ - ज : रेखा बिन्दु 'झ' से आरंभ होकर दक्षिण-पश्चिम दिशा में प्लाट संख्यांक 58, 59 की बाह्य सीमा से लगकर गुजरती हुई सड़क पार करती है फिर उत्तर-पश्चिम दिशा में सड़क से लगकर गुजरती हुई, फिर प्लाट संख्यांक 19, 24 की बाह्य सीमा से लगकर गुजरती हुई प्लाट संख्या 24 के दक्षिण-पूर्व छोर पर बिन्दु 'ज' पर मिलती है।

ज - ट-च : रेखा बिन्दु 'ज' से आरंभ होकर प्लाट संख्यांक 24, 25 की बाह्य सीमा से लगकर गुजरती हुई प्लाट संख्या 25 के दक्षिण-पूर्व कोने पर स्थित बिन्दु 'ज' से गुजरती हुई आरंभिक बिन्दु 'च' पर समाप्त होती है।

भाग - III

ठ - ड : रेखा ग्राम मकरधोकड़ा में बिन्दु 'ठ' से आरंभ होकर पूर्व दिशा में प्लाट संख्यांक 92, 91/2, 90/2 की उत्तर सीमा से लगकर गुजरती है और बिन्दु 'ड' पर मिलती है।

ड - ढ : रेखा बिन्दु 'ड' से आरंभ होती है और दक्षिण दिशा में प्लाट संख्या 90/2 की बाह्य सीमा से लगकर गुजरती है और बिन्दु 'ढ' पर मिलती है।

ढ - ण : रेखा बिन्दु 'ढ' से आरंभ होती है और पश्चिम दिशा में प्लाट संख्यांक 90/2, 91/2, 92 की दक्षिण सीमा से लगकर गुजरती है और बिन्दु 'ण' पर मिलती है।

ण - ठ : रेखा बिन्दु 'ण' से आरंभ होती है और उत्तर दिशा में प्लाट संख्या 92 की बाह्य सीमा से लगकर गुजरती है और आरंभिक बिन्दु 'ठ' पर समाप्त होती है।

भाग - IV

त - थ : रेखा ग्राम मकरधोकड़ा में बिन्दु 'त' से आरंभ होती है, दक्षिण-पूर्व दिशा में प्लाट संख्यांक 78, 77, 70 की उत्तर सीमा से लगकर गुजरते हुए बिन्दु 'थ' पर मिलती है।

थ - द : रेखा बिन्दु 'थ' से आरंभ होती है, दक्षिण दिशा में प्लाट संख्या 70 की बाह्य सीमा से लगकर गुजरते हुए बिन्दु 'द' पर मिलती है।

द - ध : रेखा बिन्दु 'द' से आरंभ होती है, पश्चिम दिशा में प्लाट संख्यांक 70, 77, 78 की दक्षिण सीमा से लगकर गुजरती है, बिन्दु 'ध' पर मिलती है।

ध - त : रेखा बिन्दु 'ध' से आरंभ होती है, उत्तर-पूर्व दिशा में प्लाट संख्या 78 की बाह्य सीमा से लगकर होती हुई आरंभिक बिन्दु 'त' पर समाप्त होती है।

भाग - V

न-प-फ-

ब-न : यह भाग ग्राम मकरधोकड़ा में प्लाट संख्यांक 71 और 72 को संलग्नित करता है।

भाग – VI

भ-म-य-

क1-भ : यह भाग ग्राम मकरधोकड़ा में प्लॉट संख्यांक 136/3 और 136/4 को संलग्नित करता है।

भाग – VII

ख1 – ग1 : रेखा बिन्दु 'ख1' से आरंभ होती है, पूर्व दिशा में प्लॉट संख्यांक 572, 344 की उत्तर सीमा से लगकर गुजरती है और बिन्दु 'ग1' पर मिलती है।

ग1 – घ1 : रेखा बिन्दु 'ग1' से आरंभ होकर पूर्व दिशा में रेल अधिग्रहित भूमि के दक्षिण किनारे से लगकर होती हुई प्लॉट संख्यांक 343, 341, 340, की उत्तर सीमा से लगकर गुजरती है, ग्राम बोपेश्वर में प्लॉट संख्यांक 128, 127, 126, 125 की उत्तरी सीमा से लगकर होती है, फिर ग्राम कटारा में प्लॉट संख्यांक 2, 130, 3, 4 की उत्तरी सीमा से लगकर गुजरती है और ग्राम कटारा में बिन्दु 'घ1' पर मिलती है।

घ1 - ड.1: रेखा बिन्दु 'घ1' से आरंभ होती है, पश्चिम दिशा में सड़क से लगकर गुजरती है, फिर दक्षिण दिशा में प्लॉट संख्यांक 37, 39 की बाह्य सीमा से लगकर होती हुई ग्राम कटारा में बिन्दु 'ड.1' पर मिलती है।

ड.1 –च1: रेखा बिन्दु 'ड.1' से आरंभ होकर पश्चिम दिशा में प्लॉट संख्या 39 की बाह्य सीमा से लगकर होती हुई बिन्दु 'च1' पर मिलती है।

च1 – छ1 : रेखा बिन्दु 'च1' से आरंभ होकर उत्तर दिशा में प्लॉट संख्यांक 39, 37, 3 की बाह्य सीमा से लगकर होती हुई बिन्दु 'छ1' पर मिलती है।

छ1 – ज1: रेखा बिन्दु 'छ1' से आरंभ होकर पश्चिम दिशा में प्लॉट संख्यांक 3, 2 की बाह्य सीमा से लगकर होती हुई फिर ग्राम बोपेश्वर की ग्राम सीमा से लगकर होती हुई फिर ग्राम मकरधोकड़ा की सीमा से लगकर होती हुई ग्राम मकरधोकरा में प्लॉट संख्या 341 के दक्षिण-पश्चिम कोने पर बिन्दु 'ज1' पर मिलती है।

ज1 – झ1 : रेखा बिन्दु 'ज1' से आरंभ होकर पश्चिम दिशा में प्लॉट संख्या 343 की बाह्य सीमा से लगकर होती हुई बिन्दु 'झ1' पर मिलती है।

झ1 – ञ1: रेखा बिन्दु 'झ1' से आरंभ होकर पश्चिम दिशा में प्लॉट संख्यांक 343, 344 की बाह्य सीमा से लगकर होती हुई ग्राम मकरधोकड़ा में बिन्दु 'ञ1' पर मिलती है।

ञ1 – ख1 : रेखा बिन्दु 'ञ1' से आरंभ होकर उत्तर दिशा में प्लॉट संख्यांक 344, 572 की बाह्य सीमा से लगकर होती हुई ग्राम मकरधोकड़ा में आरंभिक बिन्दु 'ख1' पर समाप्त होती है।

भाग – VIII

ट1 - ठ1 : रेखा ग्राम मकरधोकड़ा में बिन्दु 'ट1' से आरंभ होकर उत्तर दिशा में प्लॉट संख्या 342 की पश्चिम सीमा से लगकर होती हुई बिन्दु 'ठ1' पर मिलती है।

ठ1- ड1 : रेखा बिन्दु 'ठ1' से आरंभ होकर पूर्व दिशा में प्लॉट संख्यांक 342, 338, 339 की उत्तरी सीमा से लगकर होती हुई ग्राम मकरधोकड़ा और ग्राम बोपेश्वर की सम्मिलित ग्राम सीमा पर स्थित बिन्दु 'ड1' पर मिलती है।

ड1 – ढ1: रेखा बिन्दु 'ड1' से आरंभ होकर दक्षिण-पश्चिम दिशा में ग्राम मकरधोकड़ा और ग्राम बोपेश्वर की सम्मिलित ग्राम सीमा से लगकर होती हुई प्लाट संख्या 339 के दक्षिण-पूर्व छोर पर बिन्दु 'ढ1' पर मिलती है।

ढ1 - ट1 : रेखा बिन्दु 'ढ1' से आरंभ होकर पश्चिम दिशा में प्लाट संख्यांक 339, 338, 342 की दक्षिण सीमा से लगकर होती हुई आरंभिक बिन्दु 'ट1' पर समाप्त होती है।

भाग - IX

ण1 – त1 –थ1

- द1 – ण1: यह भाग ग्राम बोपेश्वर में प्लाट संख्या 32 को संलग्नित करता है।

भाग - XI

ध1 – न1 : रेखा ग्राम हेवती में प्लाट संख्या 127 के पश्चिम कोने पर स्थित बिन्दु 'ध1' से आरंभ होकर उत्तर-पूर्व दिशा में नहर के दक्षिण तट से लगकर होती हुई प्लाट संख्यांक 155 और 156 के उत्तर-पश्चिम कोने पर बिन्दु 'न1' पर मिलती है।

न1 – प1 : रेखा बिन्दु 'न1' से आरंभ होकर पूर्व दिशा में प्लाट संख्यांक 156, 159 की उत्तरी सीमा से लगकर फिर ग्राम हेवती की ग्राम सीमा से होती हुई प्लाट संख्या 205 के उत्तर-पूर्व कोने पर तथा हेवती ग्राम सीमा पर स्थित बिन्दु 'प1' पर मिलती है।

प1-फ1: रेखा बिन्दु 'प1' से आरंभ होकर दक्षिण दिशा में ग्राम हेवती में प्लाट संख्यांक 205, 217, 219 की पूर्व सीमा से लगकर होती हुई बिन्दु 'फ1' पर मिलती है।

फ1-ब1: रेखा बिन्दु 'फ1' से आरंभ होकर पश्चिम दिशा में प्लाट संख्यांक 219, 196, 195, 194, 192, 190, 189, 170, 120 की बाह्य सीमा से लगकर होती हुई बिन्दु 'ब1' पर मिलती है।

ब1 – ध1 : रेखा बिन्दु 'ब1' से आरंभ होकर उत्तर-पश्चिम दिशा में प्लाट संख्यांक 120, 125, 126, 127 की बाह्य सीमा से लगकर होती हुई आरंभिक बिन्दु 'ध1' पर समाप्त होती है।

भाग – XII

भ1-म1: रेखा ग्राम हेवती में बिन्दु 'भ1' से आरंभ होकर उत्तर दिशा में प्लाट संख्यांक 101/1- 101/2- 101/3 की बाह्य सीमा से लगकर होती हुई फिर पूर्व दिशा में प्लाट संख्यांक 100, 108 की बाह्य सीमा से लगकर होती हुई नहर के तट पर स्थित बिन्दु 'म1' पर मिलती है।

म1-य1: रेखा बिन्दु 'म1' से आरंभ होकर दक्षिण-पूर्व दिशा में नहर के दक्षिण किनारे से लगकर होती हुई प्लाट संख्या 110 के दक्षिण-पूर्व कोने पर बिन्दु 'य1' पर मिलती है।

य1- क2: रेखा बिन्दु 'य1' से आरंभ होकर पश्चिम दिशा में प्लाट संख्या 110 की बाह्य सीमा से लगकर होती हुई बिन्दु 'क2' पर मिलती है।

क2 – भ1 : रेखा बिन्दु 'क1' से आरंभ होकर पश्चिम दिशा में प्लाट संख्यांक 108, 107/2अ, 101/1 की बाह्य सीमा से लगकर होती हुई ग्राम हेवती में आरंभिक बिन्दु 'भ1' पर समाप्त होती है।

भाग - XIII**ख2-ग2-घ2-**

ड.2- ख2: यह भाग ग्राम सुकली में प्लाट संख्यांक 107/1 और 108 को संलग्नित करता है।

भाग – XIV

च2 – छ2: रेखा बिन्दु 'च2' से आरंभ होकर पूर्व दिशा में प्लाट संख्यांक 70/1, 79 की बाह्य सीमा से लगकर होती हुई फिर प्लाट संख्या 72 से होती हुई सड़क पार करती है फिर पूर्व दिशा में प्लाट संख्यांक 75, 74, 83 की बाह्य सीमा से लगकर होती हुई बिन्दु 'छ2' पर मिलती है।

छ2 – ज2: रेखा बिन्दु 'छ2' से आरंभ होकर दक्षिण दिशा से होती हुई सड़क पार कर प्लाट संख्या 93 की बाह्य सीमा से लगकर होती हुई बिन्दु 'ज2' पर मिलती है।

ज2 – झ2: रेखा बिन्दु 'ज2' से आरंभ होकर पश्चिम दिशा में दिनेश विवृत खदान के लिए पूर्व में अधिग्रहित भूमि की उत्तरी सीमा से लगकर होती हुई सड़क के पूर्वी तट पर तथा प्लाट संख्या 70/2 के दक्षिण कोने पर स्थित बिन्दु 'झ2' पर मिलती है।

झ2 – च2 : रेखा बिन्दु 'झ2' से आरंभ होकर उत्तर दिशा में दिनेश विवृत खदान के लिए पूर्व में अधिग्रहित भूमि की सीमा से लगकर होती हुई फिर सड़क के पूर्वी तट से लगकर होती हुई ग्राम सुकली में प्लाट संख्या 70/1 के उत्तर-पश्चिम छोर पर आरंभिक बिन्दु 'च2' पर समाप्त होती है।

[फा. सं. 43015/11/2020-एलए एण्ड आईआर]

राम शिरोमणि सरोज , उप सचिव

New Delhi, the 23rd December, 2020

S. O. 1093.—Whereas by the notification of the Government of India in the Ministry of Coal number S. O. 530, dated the 16th July, 2020, issued under sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act) and published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 18th July, 2020, the Central Government gave notice of its intention to prospect for coal in 297.61 hectares (approximately) or 735.39 acres (approximately) of the land in the locality specified in the Schedule annexed to that notification ;

And whereas, the Central Government is satisfied that coal is obtainable in a part of the said lands prescribed in the Schedule appended hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire all rights in or over the land measuring 230.41 hectares (approximately) or 569.34 acres (approximately) described in the aforesaid Schedule ;

Note 1: The plan bearing number C-I(E)III/FUR/1020/963, dated the 10th October, 2020 of the area covered by this notification may be inspected in the office of the Collector, District Nagpur (Maharashtra) or in the office of the Coal Controller, 1, Council House Street, Kolkata - 700 001 or in the office of the Chief Manager or Head of Department, Revenue Department, Western Coalfields Limited, Coal Estate, Civil Lines, Nagpur – 440 001 (Maharashtra);

Note 2: Attention is hereby invited to the provisions of section 8 of the said Act which provides as follows:-

“8. Objections to acquisition.- (1) Any person interested in any land in respect of which a notification under section 7 has been issued, may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or of any rights in or over such land.

Explanation:- It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operations in the land for the production of coal and that such operations should not be undertaken by the Central Government or by any other person.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of section 7 or of rights in or over such land, or make different reports in respect of different parcels of such land or of rights in or over such land, to the Central Government, containing his recommendations on the objections, together with the record of proceedings held by him, for the decision of that Government.

(3) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act.”

Note 3: The Coal Controller, 1, Council House Street, Kolkata - 700 001 has been appointed by the Central Government as the competent authority under section 3 of the said Act, vide number S.O. 2519, dated the 27th May, 1983, published in Part II, Section 3, Sub-section (ii) of the Gazette of India, dated the 11th June, 1983.

SCHEDULE

Dinesh (Makardhokra - III) Expansion Opencast Mine

Umrer Area

District Nagpur, Maharashtra

(Plan Number C-I(E)III/FUR/1020/963, dated the 10th October, 2020)

All Rights:

Part-I

Name of Village	Patwari Circle number	Tahsil	District	Area in hectares			Total	Remarks
				Tenancy	Govern-ment	Forest		
Dahegoan	16	Umrer	Nagpur	28.05	1.33	20.25	49.63	Part
Total:				28.05	1.33	20.25	49.63	

Part-II

Name of Village	Patwari Circle number	Tahsil	District	Area in hectares			Total	Remarks
				Tenancy	Govern-ment	Forest		
Makardhokra	17	Umrer	Nagpur	19.20	1.86	2.24	23.30	
Total:				19.20	1.86	2.24	23.30	

Part-III

Name of Village	Patwari Circle number	Tahsil	District	Area in hectares			Total	Remarks
				Tenancy	Govern-ment	Forest		
Makardhokra	17	Umrer	Nagpur	5.15	-	-	5.15	Part
Total:				5.15	-	-	5.15	

Part-IV

Name of Village	Patwari Circle number	Tahsil	District	Area in hectares			Total	Remarks
				Tenancy	Govern-ment	Forest		
Makardhokra	17	Umrer	Nagpur	2.87	-	-	2.87	Part
Total:				2.87	-	-	2.87	

Part-V

Name of Village	Patwari Circle number	Tahsil	District	Area in hectares			Total	Remarks
				Tenancy	Govern-ment	Forest		
Makardhokra	17	Umrer	Nagpur	1.46	-	-	1.46	Part
Total:				1.46	-	-	1.46	

Part-VI

Name of Village	Patwari Circle number	Tahsil	District	Area in hectares			Total	Remarks
				Tenancy	Govern-ment	Forest		
Makardhokra	17	Umred	Nagpur	0.76	-	-	0.76	Part
Total:				0.76	-	-	0.76	

Part-VII

Sr. No.	Name of Village	Patwari Circle number	Tahsil	District	Area in hectares			Total	Remarks
					Tenancy	Govern-ment	Forest		
1.	Makardhokra	17	Umred	Nagpur	7.19	0.00	8.14	15.33	Part
2.	Bopeshwar	17	Umred	Nagpur	3.88	0.14	-	4.02	
3.	Katara	22	Umred	Nagpur	6.62	0.90	3.32	10.84	
Total:					17.69	1.04	11.46	30.19	

Part-VIII

Name of Village	Patwari Circle number	Tahsil	District	Area in hectares			Total	Remarks
				Tenancy	Govern-ment	Forest		
Makardhokra	17	Umred	Nagpur	3.36	-	-	3.36	Part
Total:				3.36	-	-	3.36	

Part-IX

Name of Village	Patwari Circle number	Tahsil	District	Area in hectares			Total	Remarks
				Tenancy	Govern-ment	Forest		
Bopeshwar	17	Umred	Nagpur	2.00	-	-	2.00	Part
Total:				2.00	-	-	2.00	

Part-XI

Name of Village	Patwari Circle number	Tahsil	District	Area in hectares			Total	Remarks
				Tenancy	Govern-ment	Forest		
Hewati	18	Umred	Nagpur	72.41	2.11	-	74.52	Part
Total:				72.41	2.11	-	74.52	

Part-XII

Name of Village	Patwari Circle number	Tahsil	District	Area in hectares			Total	Remarks
				Tenancy	Govern-ment	Forest		
Hewati	18	Umred	Nagpur	16.17	-	-	16.17	Part
Total:				16.17	-	-	16.17	

Part-XIII

Name of Village	Patwari Circle number	Tahsil	District	Area in hectares			Total	Remarks
				Tenancy	Govern-ment	Forest		
Sukli	18	Umred	Nagpur	2.55	-	-	2.55	Part
Total:				2.55	-	-	2.55	

Part-XIV

Name of Village	Patwari Circle Number	Tahsil	District	Area in hectares			Total	Remarks
				Tenancy	Govern-ment	Forest		
Sukli	16	Umred	Nagpur	12.07	0.68	5.70	18.45	Part
Total:				12.07	0.68	5.70	18.45	

Total Area (Part-I to Part – XIV)	:	Tenancy land	-	183.74 hectares
	:	Government land	-	7.02 hectares
	:	Forest land	-	39.65 hectares

Total land : 230.41 hectares (approximately)
or 569.34 acres (approximately)

Part-I

Plot numbers to be acquired in village Dahegaon:

43, 64/1- 64/2- 64/3, 65, 67, 68, 69, 70, 71, 72, 73, 74, 109/1- 109/2, 112, 113, 184, 192, Road (Part), Nallah (Part).

Forest land :

66, 82 (Part), 102, 103, 104, 105 (Part), 108, 110, 111, 186.

Part-II

Plot numbers to be acquired in village Makardhokra:

19 (Part), 24, 51, 52, 53, 54, 55, 56, 57, 58, 59, Road (Part).

Forest land :

25 (Part).

Part-III

Plot numbers to be acquired in village Makardhokra:

90/2, 91/2, 92/1- 92/2- 92/3.

Part-IV

Plot numbers to be acquired in village Makardhokra:

70, 77, 78.

Part-V

Plot numbers to be acquired in village Makardhokra:

71, 72.

Part-VI

Plot numbers to be acquired in village Makardhokra:

136/3- 136/4.

Part-VII

Plot numbers to be acquired in village Makardhokra:

340/1- 340/2, 341, 344/1- 344/2, 572.

Forest land :

343(Part).

Plot numbers to be acquired in village Bopeshwar:

125, 126, 127, 128, 129, Nallah (Part).

Plot numbers to be acquired in village Katara:

2/1(Part)- 2/2(Part)- 2/3(Part), 3, 4, 37/1- 37/2- 37/3, 130, Road (Part).

Forest land :

39.

Part-VIII

Plot numbers to be acquired in village Makardhokra:

338, 339, 342.

Part-IX

Plot numbers to be acquired in village Bopeshwar:

32 (Part).

Part-XI

Plot numbers to be acquired in village Hewati:

120/1- 120/2- 120/3- 120/4, 121, 122, 123, 124, 125/1- 125/2, 126, 127, 155, 156, 159/1/A- 159/1/B- 159/2- 159/3, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169/1- 169/2- 169/3, 170/1- 170/2- 170/3, 188, 189, 190, 191, 192/1- 192/2- 192/3, 194, 195, 196/1- 196/2, 197, 198, 199, 200, 201, 202/1- 202/2- 202/3, 203/1/A- 203/1/B- 203/2/A- 203/2/B, 204, 205, 217/1- 217/2- 217/3, 218, 219/1- 219/2, Nallah (Part), Road (Part).

Part-XII

Plot numbers to be acquired in village Hewati:

100/1- 100/2, 101/1- 101/2- 101/3, 107/2/A- 107/2/B, 108/1- 108/2, 109/1- 109/2, 110/1- 110/2.

Part-XIII

Plot numbers to be acquired in village Hewati:

107/1, 108.

Part-XIV

Plot numbers to be acquired in village Sukli:

70/1- 70/2, 74, 75/1- 75/2, 79, 83, 93, Road (Part).

Forest land :

72 (Part), 73 (Part).

Boundary description:

Part - I

A – B : Line starts from point 'A' on north west corner of plot number 192 in village Dahegaon, passes along the outer boundary of plot number 192, 64, passes in east direction along the north side of the road and meets at point 'B' on the road.

- B – C : Line starts from Point ‘B’, passes in east direction along the outer boundary of plot number 74, passes through plot number 82, 105, then turns in north direction, crosses the road, and meets at point ‘C’ across the road.
- C – D : Line starts from Point ‘C’, passes in south-east direction along the road and meets at point ‘D’ on common boundary of villages Dahegaon and Makardhokra.
- D – E : Line starts from point ‘D’ passes in north-west direction along the north side of railway acquired land and passes along the south boundary of plot numbers 186, 108, 113, 112, 110, 111, 69, 68, 64, 43 and meets at point ‘E’ on west corner of plot number 43.
- E – A : Line starts from point ‘E’ passes in north direction along the road, then passes along the outer boundary of plot number 192 and meets at starting point ‘A’.

Part – II

- F – G : Line starts from point ‘F’ on north west corner of plot number 25 in village Makardhokra, passes in south east direction along the north boundary of plot number 25 and meets at point ‘G’.
- G – H : Line starts from point ‘G’ passes in south-east direction along the south side of railway acquired land and along the north boundary of plot numbers 24, 19, 51, 53 and meets at point ‘H’.
- H – I : Line starts from point ‘H’ passes in south-east direction along the south side of railway acquired land and along the boundary of plot numbers 53, 55, 56, 57, 58, 59 and meets at point ‘I’ at east corner of plot number 59 in village Makardhokra.
- I – J : Line starts from point ‘K’ passes in south–west direction along outer boundary of plot numbers 58, 59 then crosses the road, then passes in north-west direction along the road, then passes along the outer boundary of plot numbers 19, 24 and meets at point ‘L’ on south-east corner of plot number 24.
- J – K-F : Line starts from point ‘J’ passes along the outer boundary of plot numbers 24, 25 passes through point ‘F’ on south west corner of plot no. 25 and ends at starting point ‘F’.

Part - III

- L – M : Line starts from point ‘L’ in village Makardhokra, passes in east direction along the north boundary of plot numbers 92, 91/2- 90/2 and meets at point ‘M’.
- M – N : Line starts from point ‘M’ passes in south direction along the outer boundary of plot number 90/2 and meets at point ‘N’.
- N – O : Line starts from point ‘N’ passes in west direction along the south boundary of plot numbers 90/2, 91/2, 92 and meet at point ‘O’
- O – L : Line starts from point ‘O’ passes in north direction along the outer boundary of plot number 92 and ends at starting Point ‘L’

Part - IV

- P – Q : Line starts from point ‘P’ in village Makardhokra, passes in south-east direction along north boundary of plot numbers 78, 77, 70 meet at point ‘Q’.
- Q – R : Line starts from point ‘Q’ passes in south direction along outer boundary of plot number 70 meet at point ‘R’.
- R – S : Line starts from point ‘R’ passes in west direction along the south boundary of plot numbers 70, 77, 78 and meet at point ‘S’.
- S – P : Line starts from point ‘S’ passes in north-east direction along the outer boundary of plot number 78 and ends at starting point ‘P’.

Part - V

T-U-V-W-T : This part encompasses the plot numbers 71 and 72 in village Makardhokra.

Part - VI

X - Y- Z-

A1-X : This part encompasses the plot numbers 136/3 and 136/4 in village Makardhokra.

Part - VII

B1-C1 : Line starts from point 'B1' in village Makardhokra, passes in east direction along the north boundary of plot numbers 572, 344 and meets at point 'C1'.

C1-D1 : Line starts from point 'C1', passes in east direction along the south side of railway acquired land and along the north boundary of plot numbers 343, 341, 340, passes through village Bopeshwar along the north boundary of plot numbers 128, 127, 126 & 125, then passes in village Katara along the north boundary of plot numbers 2, 130, 3, 4, crosses the road and meets at point 'D1' in village Katara.

D1-E1:- Line starts from point 'D1' passes in south west direction along the road, then passes in south direction along the outer boundary of plot numbers 37, 39 of village Katara and meets at point 'E1'.

E1-F1:- Line starts from point 'E1' passes in west direction along the outer boundary of plot number 39 and meets at point 'F1'.

F1-G1:- Line starts from point 'F1' passes in north direction along the outer boundary of plot numbers 39, 37, 3 and meets at point 'G1'.

G1-H1:- Line starts from point 'G1' passes in west direction along the outer boundary of plot numbers 3, 2, then passes along the boundary of village Bopeshwar, then passes long the boundary of village Makardhokra and meets at point 'H1' on south-west corner of plot number 341 in village Makardhokra.

H1-I1:- Line starts from point 'H1' passes along the outer boundary of plot number 343 and meets at point 'I1'.

I1-J1:- Line starts from point 'I1' passes in west direction along the outer boundary of plot numbers 343, 344 of village Makardhokra and meets at point 'J1'.

J1-B1:- Line starts from point 'J1' passes in north direction along the outer boundary of plot numbers 344, 572 and ends at starting point 'B1' in village Makardhokra.

Part-VIII

K1-L1:- Line starts from point 'K1' in village Makardhokra, passes in north direction along the west boundary of plot number 342 and meets at point 'L1'.

L1-M1:- Line starts from point 'L1' passes in east direction along the north boundary of plot numbers 342, 338, 339 and meets at point 'M1' on common village boundary of villages Makardhokra and Bopeshwar.

M1-N1:- Line starts from point 'M1', passes in south-west direction along the common village boundary of villages Makardhokra and Bopeshwar and meets at point 'N1' on south-east corner of plot number 339.

N1-K1:- Line starts from point 'N1' passes in west direction along the south boundary of plot numbers 339, 338, 342 and ends at point 'K1'.

Part-IX

O1-P1-Q1-R1-O1:- This part encompasses the single plot number 32 in village Bopeshwar.

Part-XI

- S1-T1:- Line starts from point 'S1' on west corner of plot number 127 in village Hewati, passes in north-east direction along the south boundary of canal and meets at point 'T1' on north-west corner of plot number 156.
- T1-U1:- Line starts from point 'T1' passes in east direction along the north boundary of plot numbers 156, 159, then passes along the village boundary of Hewati and meets at point 'U1' on north-east corner of plot number 205 on boundary of village Hewati.
- U1-V1:- Line starts from point 'U1' passes in south direction in village Hewati along the east boundary of plot numbers 205, 217, 219 and meets at point 'V1'.
- V1-W1:- Line starts from point 'V1' passes in west direction along the outer boundary of plot numbers 219, 196, 195, 194, 192, 190, 189, 170, 120 and meets at point 'W1'.
- W1-S1:- Line starts from point 'W1' passes in north-west direction along the outer boundary of plot numbers 120, 125, 126, 127 and ends at starting point 'S1' in village Hewati.

Part-XII

- X1-Y1:- Line starts from point 'X1' in village Hewati, passes in north direction along the outer boundary of plot numbers 101/1- 101/2- 101/3, then passes in east direction along the outer boundary of plot numbers 100, 108 and meets at point 'Y1' at the bank of the canal.
- Y1-Z1:- Line starts from point 'Y1' passes in south-east direction along south bank of canal and meets at point 'Z1' on south-east corner of plot number 110.
- Z1-A2:- Line starts from point 'Z1' passes in west direction along the outer boundary of plot number 110 meets at point 'A2'.
- A2-X1:- Line starts from point 'A2' passes in north direction and then in west direction along the outer boundary of plot numbers 108, 107/2A, 101/1 and ends at starting point 'X1' in village Hewati.

Part-XIII

B2-C2-D2-E2-B2:- This part encompasses plot numbers 107/1 and 108 in village Sukli.

Part-XIV

- F2-G2:- Line starts from point 'F2' passes in east direction along the outer boundary of plot numbers 70/1, 79, passes through plot number 72, crosses road, continues in east direction along the outer boundary of plot numbers 75, 74, 83 and meets at point 'G2'.
- G2-H2:- Line starts from point 'G2' passes in south direction crossing the road, passes along the outer boundary of plot number 93 and meets at point 'H2'.
- H2-I2:- Line starts from point 'H2' passes in west direction along the north boundary of land already acquired for Dinesh Opencast Mine and meets at point 'I2' on south west corner of plot number 70/2.
- I2-F2:- Line starts from point 'I2' passes in north direction along the land already acquired for Dinesh Opencast Mine, then continues in north along the east side of the road and ends at starting point 'F2' on north-west corner of plot number 70/1 in village Sukali.

[F. No. 43015/11/2020-LA&IR]

RAM SHIROMANI SAROJ, Dy. Secy.

आयुष मंत्रालय

नई दिल्ली, 16 दिसम्बर, 2020

का.आ. 1094.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम (10) के उप-नियम (4) के अनुसरण में, आयुष मंत्रालय के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है:-

1. “हकीम अजमल खाँ साहित्यिक एवं ऐतिहासिक यूनानी चिकित्सा अनुसंधान संस्थान, नई दिल्ली”
2. “क्षेत्रीय यूनानी चिकित्सा अनुसंधान संस्थान, नई दिल्ली”
3. “नैदानिक अनुसंधान इकाई (यूनानी), कर्नूल, आन्ध्र प्रदेश”

[फा. सं. ई-11018/1/2018-आयुष (रा.भा.)]

रोशन जग्गी, संयुक्त सचिव

MINISTRY OF AYUSHNew Delhi, the 16th December, 2020

S.O. 1094.—In pursuance of Sub-Rule (4) of Rule 10 of the official language (Use for official purposes of the Union) Rules, 1976 (as amended in 1987), the Central Government hereby notifies the following offices under the administrative control of the Ministry of AYUSH, wherein more than 80 % officers/employees have acquired the working knowledge of Hindi:

1. “Hakim Ajmal Khan Institute for Literary and Historical Research in Unani Medicine, New Delhi”
2. “Regional Research Institute of Unani Medicine, New Delhi”
3. “Clinical Research Unit (Unani), Kurnool, Andhra Pradesh”

[F. No. E-11018/1/2018-AYUSH (O.L.)]

ROSHAN JAGGI, Jt. Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 16 दिसम्बर, 2020

का.आ. 1095.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 46/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.12.2020 प्राप्त हुआ था।

[सं. एल-12012/15/2017-आई आर (बी-1)]

डी. गुहा, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 16th December, 2020

S.O. 1095.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 46/2017) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bhubaneswar as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 16.12.2020.

[No. L-12012/15/2017-IR(B-1)]

D. GUHA, Under Secy.

ANNEXURE
IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 46 OF 2017

Dated Bhubaneswar, the 17th March, 2020.

Present: Shri B.C. Rath, Presiding Officer,
CGIT-cum-Labour Court, Bhubaneswar

Between:

The Chief Manager,
State Bank of India, Kandasar Branch,
At: Kandasar, PO. Nalconagar,
Dist. Angul (Odisha) – 759145.

...First party management

AND

Sri Raghunath Behera
At. Soubhagya Nagar, Angul
(Near Maa Muni Durga Jewellery),
Po/Dist. Angul Odisha – 759122.

...Second party workman

Appearances:

Sri B. K. Mishra : For first party management

Sri R. N. Behera : Second party workman himself

AWARD

The Government of India, Ministry of Labour have referred the industrial dispute for adjudication vide its Order No. L-12012/15/2017 -(IR(B-I)) dated 04.07.2017 in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) (herein after referred to as ‘the Act’) and the terms of reference reads as follows:

“Whether the action of the management of SBI, Kandasar Branch, Dist. Angul, Odisha in removing Sh. Raghunath Behera from service w.e.f. 19.09.2012 is legal & justified ? If not, to what relief the workman is entitled to ?”

2. The case of the second party workman as emerging from his statement of claim is that in the year 2007 when he was in search of a job, the Branch Manager of the management Bank offered him to work as a Messenger in the management Branch Bank. Thus he joined in the said Branch to work as Messenger on daily wage basis by the oral order of the then Branch Manager. He was receiving wages for such engagement on monthly basis by cheque or payment to his Saving Account through voucher. He continued in the job till 19th July, 2012 when the Branch Manager informed him not to attend duty from 20th onwards and paid Rs. 2,700/- to him towards his salary for his engagement till 19th July, 2012. According to him, when he put forth a grievance to the other authorities of the management Bank he was recalled to duty on 12.9.2012. He was offered a cheque of Rs.1300/- and a cheque of Rs.1400/- on two different occasions for his engagement. On 19.9.2012 he was again refused employment. Hence, he preferred a writ before the Hon’ble High Court of Odisha and thereafter he raised a dispute before the labour machinery. It is his claim that he was in the job of Messenger from 2007 to September, 2012 and he was disengaged from such job of Messenger without compliance of the requirements of the Act. Hence, his retrenchment/termination of service was illegal for which he is entitled to be reinstated in service with back wages.

3. On being noticed the management Bank has contested the claim taking a stand that the disputant workman was not appointed in any point of time to work as a Messenger. His engagement was not continuous and uninterrupted as claimed by the disputant workman. It is the contention of the management that the disputant workman was given to do certain work i.e. contract job like cleaning the premises of the Branch Office and shifting of records etc. when such exigencies arose or labour was needed. As such, his engagement was purely intermittent and temporary in nature as well as need basis. The management Bank has its own recruitment rules and procedures for appointment of Messenger. No appointment letter was ever issued to the disputant workman. He received wages or remuneration from the Bank for his contract job. Therefore, the scope of continuance of his service for a period of 240 days in a calendar year preceding to his alleged retrenchment

did not arise. When there was no appointment or continuous engagement of the disputant workman to work as Messenger, there was no scope of removal or retrenchment of the disputant workman from the service of Messenger. Hence, prayer has been made by the management Bank for rejection of the statement of claim.

4. On the aforesaid pleadings of the parties the following issues are settled.

ISSUES

- (i) Whether the reference is maintainable under the Industrial Disputes Act ?
- (ii) Whether the action of SBI Kandasar Branch, Dist. Angul, Odisha in removing Sri Raghunath Behera from service with effect from 19.9.2012 is legal and justified ?
- (iii) If not, to what relief the workman entitled to ?

5. The second party workman has examined himself as W.W.1 and filed the documents like copies of cheque of Rs.1300/-, cheque of Rs.1400/-, order dated 21.2.2014 of the Hon'ble High Court of Odisha, application dated 26.2.2014 of the complainant, letter of the Bank, Kandasar Branch, letter dated 11.10.2011 of the Chief Manager of SBI, Kandasar Branch, working certificate dated 1.6.2012 issued by Dy. Manager, SBI of Kandasar Branch and series of vouchers for working in different months marked as Ext.1 to Ext.8 in support of his claim whereas, the management Bank has examined its Chief Manager, Kandasar Branch as M.W.1 to refute the claim of the disputant workman.

FINDINGS

6. All the issues are taken into consideration for the sake of convenience.

7. Law is well settled that when ever a claim has been advanced by a workman/employee that he was dismissed/removed/retrenchment/disengagement or refusal of employment in violation of provision as enumerated in Section 25-F of the Act, burden lies on him to adduce cogent and credible evidence to establish that he was appointed or engaged by the management/industry and he worked for more than 240 days in the year preceding to his termination. Coming to the case at hand, it is the case of the claimant that he had worked as Messenger in the management Bank in between 2007 to September, 2012. But, this plea is denied by the management. Hence, a duty is cast upon the disputant workman to lead credible evidence to show that he had infact worked for 240 days in the year preceding to his termination. Filing of an affidavit by the workman in regard to employment/engagement is only own statement in his favour and the same cannot be regarded as sufficient evidence for any Court or Tribunal to come to the conclusion that the workman, infact, worked for 240 days in a year. On the other hand, it is elicited from his cross-examination that he did not receive any interview letter though he claimed to have been appointed after an interview was held by the Branch Manager. He has admitted that no advertisement was made for the post. He had not submitted any application for his engagement. Undisputedly the management is a public sector Bank and judicial notice can be taken that it must have its own recruitment rules and procedures for appointment of its staff. The disputant admits of not possessing any document to show his appointment or engagement as a Messenger or he attended any interview in the Bank. Though, he claims to have received the wages for his engagement, not a single scrap of paper except copies of two Bank's cheque issued by the management Bank is filed to show that he received wages from the management Bank for his alleged engagement. Two conduct certificates filed by the disputant workman are not apparently credit-worthy as where about of the original is not explained or maker of the same is not examined in the Tribunal to establish the genuineness of the certificates. Thus, the evidence of the workman is totally wanting to establish or to prove that he was ever appointed or engaged as a Messenger and he worked as such in between 2007 to 2012. Similarly no credit-worthy evidence is led to establish that the disputant workman worked for 240 days in a calendar year preceding to the date of his disengagement. Hence, it can be safely said that the disputant workman has miserably failed to discharge his onus to establish or to prove that he was employed or engaged in the management Bank to work as a Messenger. When the disputant workman fails to establish his engagement as a Messenger, he is not entitled to any relief as contemplated under Section 25-F of the Act. Thus, the statement of claim preferred by him has no merit for consideration and the same stands rejected.

Accordingly the reference is answered and Award is passed.

Dictated and corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2020

का.आ. 1096.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कर्नाटका ग्रामीण बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट (संदर्भ संख्या 11/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.12.2020 प्राप्त हुआ था।

[सं. एल-12025/01/2020-आई आर (बी-1)]

डी. गुहा, अवर सचिव

New Delhi, the 16th December, 2020

S.O. 1096.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2016) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of Karnataka Gramin Bank and their workmen, received by the Central Government on 16.2.2020.

[No. L-12025/01/2020-IR (B-1)]

D. GUHA, Under Secy.

ANNXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**DATED : 07TH DECEMBER, 2020**PRESENT :** JUSTICE SMT. RATNAKALA, Presiding Officer**ID 11/2016****I Party**

Sh. Revanasiddappa,
Revanasiddheswara Nilaya,
H No. 1-892/72/70,
Tamke Layout, Jewargi Road,
Ganesh Nagar,
Gulbarga - 577 001.

II Party

The Chairman,
Karnataka Gramin Bank,
Head Office, Gandhinagar,
Bellary - 583 103.

Appearance

Advocate for I Party : Mr. B. M. Madhava

Advocate for II Party : Mr. Z. N. Hansi

AWARD

1. It is a petition filed by the former employee (1st Party / workman hereinafter) of the 2nd Party Erstwhile Pragathi Grameena Bank presently Karnataka Gramin Bank under Sec 2-A (2&3) of the Industrial Dispute (Amendment) Act, 2010 (for brevity 'the Act') assailing the order of dismissal imposed on him by way of punishment, since certain charges came to be proved against him in a Departmental Enquiry.

2. He had joined service with the 2nd Party as Office Assistant on 18.05.1992 and while working at Deodurga Branch he was issued charge sheet which was followed by Domestic Enquiry and Report of the Enquiry Officer holding that the charges are proved; he is dismissed from service by the order of Disciplinary Authority dated 19.02.2014.

The workman claims that, the copy of the Investigation Reports are not furnished to him, though summons were issued to the witnesses who are staff members and signatory of some of the documents marked in the evidence, 2nd Party managed to stop them from appearing before the Enquiry. Competent Authority has not given permission to them to depose in the enquiry; as per Sec 33 of the Service Regulations 2010, the staff members are not allowed to give evidence in the enquiry without the permission of the Competent Authority. During the enquiry documents were marked through MW-1 and MW-2 though they are not the authors of the documents. Common enquiry should have been held against all the staff members named in the Enquiry Report. The Enquiry Officer did not consider the demand made by the Defence for producing 74 documents; instead of taking action against the Branch Manager / Assistant Manager who were responsible for the transaction, the allegations is shifted to the shoulders of the 1st Party who was only a Clerk; he is discriminated and punished to

protect the officers. The Enquiry Report was biased and perverse, the Disciplinary Authority without analysing the evidences recorded in the enquiry, ignoring the argument and evidence of defence accepted the same. Norms of natural justice is violated both by Disciplinary Authority and the Appellate Authority by accepting the biased finding of the Enquiry Officer.

3. The claim is contested by the 2nd Party. It is stated in the written statement that,

the 1st Party joined the services of the erstwhile Tungabhadra Gramin Bank which subsequently amalgamated into Pragathi Gramin Bank, thereafter Pragathi Gramin Bank was renamed as Pragathi Krishna Gramin Bank on amalgamation with Krishna Gramin Bank. The Government of India notified the amalgamation of Pragathi Krishna Gramin Bank (sponsored by Canara Bank) and Kaveri Gramin Bank (sponsored by State Bank of India) and thus new RRD called Karnataka Gramin Bank came into existence w.e.f 01.04.2019 under the sponsorship of Canara Bank. The service condition of the 1st Party is governed by Pragathi Krishna Gramin Bank (Officers and Employees) Service Regulations, 2013 as on the date of imposing punishment on him.

Further, the allegations against the proceedings of enquiry, Enquiry Report and the orders of the Disciplinary and Appellate Authority are all denied and punishment order is sought to be justified. It is further stated that Disciplinary Action is taken against 3 employees – Rahmatulla, Assistant Manager was Compulsorily Retired, Pradeep Kumar, Assistant Manager was imposed minor punishment and case against Ramakrishnappa, Assistant Manager became infructuous since he was imposed punishment of Removal from service in another case.

4. Vide order dated 25.07.2019 a Preliminary Issue was raised regarding fairness of the Domestic Enquiry. The Domestic Enquiry records produced by the 2nd Party were marked with the consent of the 1st Party as Ex M-1 to Ex M-12 and the Preliminary Issue was answered in the affirmative holding that the enquiry is held in a fair and proper manner. However, all the legal contentions regarding insufficiency of evidence, perversity of enquiry finding are kept open for consideration during final arguments on merits.

5. Written argument is submitted by 1st Party and oral argument is addressed by the 2nd Party.

6. The allegation against the workman in the charge sheet dated 28.07.2011 was to the effect that-

Credits to the SB Account No. 18683 of Jai Hanuman Vidya Shikshana Samste is posted by him against norms governing dealing with subsidy and he has dealt with the cheques having material alteration. List of 16 transactions showing transaction wise lapses, 8 transaction showing the slips posted to SB 11146 / Banker's Account, 3 transaction showing the slips posted by the CSE to SB Account of SHGs directly instead of keeping in Suspense Account and 4 transactions showing the cheques with material alteration posted to SB Accounts were mentioned in the charge sheet. It was alleged that he has misused official position, connived with fraudsters, committed and abetted fraud with ulterior motives of making personal gains amounting to misconduct within the meaning of Regulation Nos. 18 and 20 of Pragathi Gramin Bank (Officers and Employees) Service Regulations, 2010, punishable under Regulation No. 39 2 (b).

7. During the enquiry the 1st Party had the assistance of a co-employee for his defence. 116 documents were marked for the 2nd Party and two witnesses were examined for them.

MW-1 is the Investigating Officer and MW-2 was the present Branch Manager.

The Management produced Photostat copies of the documents relied by them, at the request of the Defence Representative the documents were verified and found that small corrections were made in respect of few documents after duly informing the defence. The Defence Representative acknowledged verifying the documents with originals and the corrections submitted for the 2nd Party.

8. MW-1 / Investigating Officer stated that there was mis-utilisation of SGSY (Swarna Jayanthi Grama Swarajya Yojana) Subsidy amount i.e. the amount kept in the SB Account of Taluk Panchayat Deodurga operated by Accounts Officer and Executive Officer of Taluk Panchayat in SB A/c No. 11146 meant for administration of subsidy amount under SGSY Scheme and also revolving fund of SHG (Self Help Group) Account. Taluk Panchayat is issuing cheques (A/c Payee) favouring concerned SHG, if it pertains to Pragathi Gramin Bank Deodurba Branch or sometimes favouring the Manager of concerned Branch of the 2nd Party or other Banks also. During investigation he found that concerned cheques are not passed as per the direction of the drawer Taluk Panchayat Deodurga: as per the slip bundles in many cases the proceeds of subsidy cheques were credited to SB AC No. 18683 of Jai Hanuman Vidya Samsthe without any proper authority from the drawer or without any valid SGSY Subsidy sanction. Thus, the Branch deviated and fraudulently credited subsidy amount to the 3rd Party's account. The total of such amount credited to SB 18683 comes to around Rs. 56.43 lakhs. The Investigation Report submitted by him to the Head Office was marked as ME-1. He had identified the documents collected during his investigation ME-2 to ME-7.

9. MW-2 / the present Branch Manager deposed that, he has reported one incident of irregularities in SGSY subsidy when the officials of Taluk Panchayat Deodurga sought for utilisation certificate wherever subsidy has been released to various accounts. Through him documents ME-8 to ME-10 were marked. He identified further 94 + 14 + 3 documents which were already on record.

10. After the closure of evidence from the Management side, the CSE was examined as a witness, he stated to the effect that he has not deviated any Circular guidelines, but did act as per the instructions of Higher ups; he has put up 20 years of service and not dealt with Advance matter, and do not know about SGSY subsidy rules. There was no mention of SGSY Subsidy in the cheques as alleged in the charge sheet. The transaction pertaining to BBKA were looked after by Internal Officers; on the basis of the counter foils provided to him, he had made entries. Sh. R N Ramakrishnappa, Pradeep Kumar and Manager R S Thimmanagoud were taking care of Banker's Account and internal work. He has credited BBKA by debiting SB 11146 of Taluk Panchayat Deodurga as there was balance in the account SB 11146; he has credited as per the instructions of the Officers. He prepared and posted the slips and directly credited SB 13131, 20169 and 20175 as per the instruction of field officer and internal officer, he did not know SGSY subsidy guidelines. He posted altered cheques to SB Accounts and deviated while passing the cheques by bringing to the notice of the higher authorities – his statements ME-111 and 112 were taken by the Investigation Officer by force and he is not bound by those statements.

Four independent witnesses were examined for the defence.

DW-2 / Eranna Naik deposed that he has Institutional Account No. 18683 in the name of Jai Hanuman Vidya Shikshana Samsthe, it is a joint account operated by him and Secretary. His SB Passbook depicts credit entries of subsidy amounts transferred from Taluk Panchayat Account; the transfers were brought to his knowledge by the Manager and the Field Officer namely Timmannagoud and Verma. He used to approach Timmannagoud, Verma and Rahamathulla for these transactions and does not know any other staff. No official of the Bank or the Taluk Panchayat official had approached him to seek clarifications / explanations in connection with the bulk credits from the Taluk Panchayat to his SB Account. Though he deposed that amount so credited to his account is disbursed to the Self Help Groups in the presence of the Manager, during cross examination he could not memorise any such name of SHGs.

The third defence witness / Devamma was the representative of Marikamba SHG, stated that her group has been *sanctioned subsidy* by Taluk Panchayat Member and Field Officer, and it is distributed among 12 members each at Rs. 5,500/- per person. There was no cross examination to this witness.

The fourth witness one Rukmavva: she introduced herself as a member of Anjaneya Self Help Group, she could not remember the name of the group which she was representing, she deposed that her group has received subsidy amount of Rs. 25,000/- each for 10 members. There was no cross examination.

The fifth witness was one Chennamma who could not remember the name of SHG which she represented, however she produced a Bank Passbook, she deposed that she has received Rs. 12,500/- each in respect of 10 members towards subsidy. There was no cross examination to this witness.

11. The Enquiry Officer in his Report brushed aside some of the admissions surfacing from the cross examination evidence of DW-2, on the ground that he is not the person to say whether CSE has passed the entries shown in the charge sheet or not in the books of Accounts of the Bank. He dwelled mostly upon the evidence of the Investigating Officer which was to the effect that, along with the Present Branch Manager and Assistant Manager he visited various villages / Tandas and visited the spot of 14 SHGs; the general observation during the visit was, SHGs have not maintained any Books of Accounts as required. Some of them gave statement that they have neither received any SGSY Subsidy nor submitted any application for SGSY subsidy to the Taluka Panchayat, Deodurga or to the 2nd Party Branch; they had discontinued savings and Banking operations, but SGSY subsidy was claimed by 2nd Party Branch (Form-C was signed by Rahamatulla, Assistant Manager) and released by Taluka Panchayat Deodurga. Some of the entries made by the CSE related to the proceeds of local / outstation cheques clearing and said to have been presented by SBH, Deodurga and Jalahalli Branches. During the investigation the Investigating Officer / MW-1 sought details from the Branch Managers concerned as to whether those instruments were sent by them; those banks categorically denied that they have not presented any such instruments to 2nd Party Branch, and the stamps and signatures put on the instruments do not pertain to their Branch. As per ME-53 to ME-66 LCC Register Folios, the instruments were lodged, at the same time they were passed in the Branch itself without actually sending it to the concerned Banks. The prosecution contended that this was done by the CSE with ulterior motive. DW-3 to DW-5 were examined by the defence to highlight that subsidy amount are received by the beneficiaries but the Enquiry Authority did not accept their evidence, as they failed even to name the SHG they were representing.

12. The CSE had given written statement as per ME-112 before the Investigating Officer on three dates i.e. 20.12.2010, 22.12.2010 and 24.12.2010. In these letters he had pleaded that he is aware of the fact that it is a subsidy account of Taluk Panchayat; he has carried out his duties as per the instructions of his official superiors, he had not done anything on his own. The officers from the Taluk Panchayat visited the Branch many times and they were being attended by the Manager / Field Officer of the Branch. He quoted 6 transactions wherein he acted as per the letter given by the Taluk Panchayat to transfer the amount to SB Account 18683 of Jai Hanuman Vidya Shikshana Samsthe; he quoted further 5 transactions wherein there was alteration of the name of the payee which was authenticated by one of the joint holder of the Account i.e. Account Superintendent, this was done at the request made by the Taluk Panchayat to pass the cheques and as per the instructions of the officials. Likewise, his explanation in respect of all the questionable transactions was, it was done at the instructions of the official superiors / Account holders / Taluk Panchayat.

13. The Investigating Officer also had recorded the answers given by the CSE to his queries; during the course he had stated that he has not maintained counter foil pertaining to the credit made to SB 18683 of Jai Hanuman Vidya Shikshana Samsthe; with regard to passing the cheques with material alterations he had stated that it is only after the instruction of Taluk Panchayat he passed the cheques. He had retained the cheques of State Bank of Hyderabad pertaining to the LCC of the said Bank and he surrendered those withheld cheques to the Investigating Officer. To the specific query that who was that Superior Officer at whose instruction he was posting the cheques he named his Field Officer Sh. Rahamatulla.

The above statement was not disputed by him during his examination in chief evidence. But during his cross examination by the Presenting Officer he stated that those statements were taken from him by force.

14. The Investigating Officer summed the defence put forth by the CSE,

- (1) Banking transactions have to go through certain process (dual control) accordingly slips posted by Officer has to be verified by the Internal Officer or any other Officer as the case may be.
- (2) SGSY Scheme pertains to advances matters and it is purely under the control of Field Officer of the Branch
- (3) By mere posting of slips it is not possible to comment any irregularities or deviations (ie, unless they are verified by Officers).
- (4) No complaint has been received from Taluk Panchayat Deodurga regarding the transactions in question or material alterations in cheque.
- (5) Bank funds are not involved in this case.
- (6) Bank has not lodged any police complaint against Bank Officials / Taluk Panchayat officials / concerned SB Account holders.
- (7) No complaint is received from concerned SHG groups regarding non receipt of subsidy.
- (8) Apart from CSE some other staff members in the Branch also committed deviations like him.

15. The Enquiry Officer observed that all the acts are done to accommodate the transfer of huge sums of Government to the Account of the unconnected. The defence raised by the CSE was not successful in persuading the Enquiry Officer. The Enquiry Officer reproduced the Investigation Report highlighting the wilful complicity of the CSE in the transaction. In the report the Investigating Officer had also given the details, credits made to his SB Account No. 30769027163 (opened on 10.06.2009) at SBI Deodurga and SB Account No. 62125589559 (opened on 08.03.2010) with SBH Deodurga. He had opined that the credit entries made in SB Account of SBI Deodurga that Rs. 7,14,665/- is credited into his account between 10.06.2009 to 21.12.2010; almost all credit entries co-relates with the dates of debits of SB Account No. 11146 (of Taluk Panchayat, Deodurga); he has posted 52 cheques of Taluk Panchayat out of 61 cheques to the Account of Jai Hanuman Vidya Samste, thus committed deviations 63 times. The posting of the slips mentioned in the charge sheet was proved through the evidence of MW-1 corroborated with the evidence of MW-2 and same was not contradicted by the CSE.

16. Before this Tribunal the Enquiry Report is assailed mainly on the ground that, all the management witnesses are not examined, there is no misconduct on his side by merely posted the slips to the SB Account No. 18683 of Jai Hanuman Hanuman Vidya Shikshana Samste; the Investigation Report refers to various lapses observed in the Branch and names other officials including Office Assistants and Officers. In the statement given before the Investigating Officer they had categorically admitted authorising the transactions in respect of crediting the amount of cheques mentioned in the charge sheet to the SB Account No. 18683 and passing the

cheques having material alterations at the request of the Taluk Panchayat Staff. Two other clerical staff had also admitted about passing the altered cheques at the instructions of the superior, it is not only 1st Party but other staff also had carried out the work of slip posting. As admitted by MW-2, the previous Manager had written confidential letter to the Bank highlighting the irregularities committed by Sh. Rahamathulla in connection to SGSY advance. On the same set of allegation other staff members were also charge sheeted but are imposed lesser punishments, a joint enquiry ought to have been held as per regulation 42 of the Service Regulations 2010 which is now violated by the 2nd Party.

He concludes his defence argument that by overruling the objections raised, by denying the demanded documents, by allowing the 2nd Party to produce documents in instalments, by not producing relevant witnesses, by denying the staff members to appear as witnesses, by accepting the statements of third parties produced through MW-2 the Enquiry Officer has submitted the Report.

17. In this regard the 1st Party has to be reminded that the allegations against him pertain to his involvement in posting the credits to SB Account 18683 of Jai Hanuman Vidya Shikshana Samste against the norms governing dealing with subsidy and dealing with cheques having material alterations and also postings made to the SB Account of SHGs instead of keeping in Suspense Account. He has not disowned postings made by him as alleged.

18. During the course of the enquiry he had called for as many as 73 documents in support of his defence. The Presenting Officer in the proceedings of 26.11.2012 submitted that those documents are not relevant. Before this Court it is not shown as to how non production of those 73 documents prejudiced the case of the 1st Party. It is obvious that at the initial stage no request was made by the defence to conduct a joint enquiry and it is too late in the end of the day to allege that the matter required a joint enquiry. The production of management documents in two phases cannot be attributed any irregularity as long as copies of those documents were provided to the CSE before cross examination of the management witnesses and he had opportunity to adduce rebuttal evidence. Non-examination of particular witnesses is within the propriety of the Party who has the onus of establishing the charges. It is not the number of witnesses but the quality of evidence that an Adjudicating Authority would look for. The Enquiry Authority has not placed reliance on the statements recorded by the Investigating Officer hence non examination of those witnesses have no impact on the outcome of the enquiry. Since, the documents produced are all official documents generated during the course of business / administration of the Branch, they deserve favourable presumption under Sec 114 (e) of the Indian Evidence Act. Hence, there is no difficulty in upholding the finding to the extent that the postings as detailed in the charge sheet are made by the 1st Party. But the difficulty is, with regard to the finding recorded in respect of misuse of official position, conniving with fraudsters, committing and abetting fraud with ulterior motive for making personal gains. Unfortunately there is no direct evidence in respect of these allegations. Though the Investigating Officer in his Report had referred to the Bank Accounts maintained by the CSE at SBI and SBH those pass books were not marked in his evidence.

19. The Enquiry Officer has acted upon the opinion of the Investigating Officer recorded in his Investigating Report pertaining to the CSE, and records that he made personal gains by his alleged acts etc. As such there was no complaint against the 1st Party by any quarter. It appears on the basis of the report sent by the previous

Manager about the irregularities in handling SGSY the investigation commenced. The Investigating Report finds involvement of other officials of the Branch too. 1st Party alleges that while the other officials are let out with minor punishments he only is discriminated by imposing major punishment. Unfortunately 2nd Party has not brought any evidence to establish that those officials were also prosecuted and appropriately punished. The misconduct of postings of the cheques of questionable transactions is not shown to have financial implication on the 2nd Party; there is no evidence that subsequent to the investigation made in this case there was any complaint against the Private Parties, Taluk Panchayat members for misappropriating the public funds. In the absence of direct evidence pertaining to the unlawful gain made by the 1st Party by his postings, I hold that the punishment of dismissal was too harsh on him.

20. The Disciplinary Authority and Appellate Authority have acted upon the Enquiry Report to impose / confirm the punishment of dismissal. By the time of his punishment vide order dated 19.02.2014, the 1st Party had rendered 20 years of service, there is no reference in the charge sheet or in the punishment order about any previous misconduct. Considering the nature of the allegations proved during the enquiry, I hold the dismissal order imposed on him calls for modification by reducing the punishment order to removal from service with all terminal benefits. That will do justice in the matter.

AWARD**The petition is allowed.**

The Dismissal order passed is modified as Removal from service with all the terminal benefits, for which 1st Party workman is entitled towards the service rendered to the 2nd Party.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 07th December, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2020

का.आ. 1097.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. नालको लि. के प्रबंधन संवद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ सं. 48/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.12.2020 को प्राप्त हुआ था।

[सं. एल-43011/3/2017-आई आर (एम)]

नवीन वैद्य, उप निदेशक

New Delhi, the 16th December, 2020

S.O. 1097.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 48/2017) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the management of M/s. NALCO Ltd., and their workmen, received by the Central Government on 16.12.2020.

[No. L-43011/3/2017-IR(M)]

NAVIN VAIDYA, Dy. Director

ANNXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
BHUBANESWAR**

I.D. Case No. 48 of 2017

Dated Bhubaneswar the 10th July, 2019

Present : Shri B. C. Rath, LL.B, Presiding Officer,

C.G.I.T., Bhubaneswar

Between :

The General Manager (S&P)
NALCO, Angul.

...First party-management

Vrs.

The General Secretary,
Aluminum Mazdoor Sangh

...Second Party-workman

Appearances:

S.S. Panda : For first party management

B.K. Samal : Second Party-workman

AWARD

Authorised representatives of the 2nd Party Union and the 1st Party Management are present. The 2nd Party Union filed a Memo in the official pad of the Union along with a Xerox copy of a circular issued by the Senior Manager S & P Complex, NALCO Nagar, Angul, Establishment Dept. The authorized representative of the Union submitted that the 2nd Party is no more interested to prosecute the reference case in the event of a settlement arrived at between the parties. It is also submitted by him that the reference case may be disposed of the dispute being resolved amicably.

Perused the contents of the Memo and the copy of the circular. The 2nd Party raised the dispute for with drawal of the revised policy in regard to change of permanent home address introduced by the

Management vide its office order No.CHRD/RR/0003.3/625 dt.3.10.2015 and as the policy was introduced overlooking the certified standing order of the 1st Party Management the dispute was raised whether the policy adopted in the above office order is legal and justified. The policy was in regard to the allotment of Quarters. Having regard to the Memo filed by the 2nd Party Union there seems no dispute between the parties for adjudication. Hence, there is no need to proceed further in the matter of the reference. As there is an amicable settlement the case be treated as disposed of without any award. The Government of India, Ministry of Labour be informed accordingly by furnishing a copy of the order.

Dictated & corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2020

का.आ. 1098.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार में नेशनल एन्टरप्राइसिस के प्रबंधतंत्र संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ सं. 26/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.12.2020 को प्राप्त हुआ था।

[सं. एल-26011/20/2015-आई आर (एम)]

नवीन वैद्य, उप निदेशक

New Delhi, the 16th December, 2020

S.O. 1098.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2015) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the management of M/s. National Enterprises, and their workmen, received by the Central Government on 16.12.2020.

[No. L-26011/20/2015-IR(M)]

NAVIN VAIDYA, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

I.D. Case No. 26 of 2015

Dated Bhubaneswar the 24th June, 2019

Present : Shri B. C. Rath, LL.B, Presiding Officer,
C.G.I.T., Bhubaneswar

Between :

The General Manager,
M/s. National Enterprises,
Jajang Iron Ore Mines, AT/PO- Jajang, Via – Joda,
Dist-Keonjhar, Odisha.

... First party-management

Vrs.

The General Secretary,
Shramik Surakshya Sangh,
AT/PO – Champua, Dist: Keonjhar, Odisha.

...Second Party-workman

Appearances:

None : For first party management

None : Second Party-workman

AWARD

None appears from either side on calls. On perusal of the record it reveals that neither the 2nd Party Union/workman nor the 1st party management is taking steps for last three adjournments. After filing of the written statements issues were settled and the case was posted to 25.6.2018 for evidence of the 2nd party workman. Three to four adjournments were taken by the 2nd Party to adduce his evidence and thereafter no step

is being taken for last five adjournments. This reference case cannot be protracted in such a manner for an indefinite period when the applicant workman does not appear to be interested for adjudication of the dispute if any. When no material or evidence is produced before the Tribunal, it is not practicable to adjudicate the dispute under reference.

This I.D. Case is registered in the event of a reference with the schedule “ Whether the age of the workman as claimed by him to be 15.10.1957 can be said to be true and authentic date of birth. Whether the act of the management to superannuate the workman on 31.12.2012 as per the entry made in B. Register, as per the submission made by the management in their letter no.NE/BBL/1593/14-15 dated.02.02.2015 can be held as fair and justified. If not, what relief the workman is entitled to? Is made by the Central Government of India, Ministry of Labour by exercising its authority under clause(d) of sub section(1) and sub section(2A) of Section.10 of I.D. Act, 1947(14 of 1947).

It is pertinent to mention here that until adjudication of the dispute referred to by the authority concerned, there is no provision in the Act to pass a no dispute award or Nil award in case the disputant fails to make appearance and prosecute his claim. In that circumstance passing of no dispute or Nil award in absence of the disputant or both the parties would be a misc conception and the above position has been settled by the Hon’ble High Court of Odisha in the case between M/s.IDL Chemical Ltd. –Vers- Presiding Officer, Labour Court, Sambalpr reported in 72(1991) CLT 73 and in the decision of the Calcutta High Court in the case between D.R. Burman and Mohatta India Pvt.Ltd. –Versus- 7th Industrial West Bengal and others (Short Note)1977. The Hon’ble High Court have held that so long as the dispute remains unsettled and the proceeding came to an end without adjudication of the dispute between the parties, there is no bar under the Act whereby the Government is precluded from referring the dispute over and again so that there may be an industrial adjudication as contemplated by the Act.

Having regard to the above facts and circumstance as well as settled principles it is just and appropriate to dismiss the case registered on the reference of the dispute without any award. Accordingly the reference is disposed of. A copy of the order be sent to the Government of India, Ministry of Labour for their reference.

Dictated & corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2020

का.आ.1099.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ब्लू होक सिक्योरिटी सर्विसिज प्रा. लि. के प्रबंधन संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ सं. 34/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.12.2020 को प्राप्त हुआ था।

[सं. एल-29011/4/2016-आई आर (एम)]

नवीन वैद्य, उप निदेशक

New Delhi, the 16th December, 2020

S.O. 1099.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 34/2016) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the management of Blue Hawk Security Services Pvt. Ltd, and their workmen, received by the Central Government on 16.12.2020.

[No. L-29011/4/2016-IR(M)]

NAVIN VAIDYA, Dy. Director

ANNEXURE
IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
BHUBANESWAR

I.D. Case No. 34 of 2016

Dated Bhubaneswar the 5th August, 2019

Present : Shri B. C. Rath, LL.B, Presiding Officer,
C.G.I.T., Bhubaneswar

Between :

1. The Managing Director, Blue Hawk Security Services Pvt. Ltd., Berhampur, Ganjam.
2. The Head OSCOM, IRE, Matikhalo, Chatrapur, Ganjam.

...First party-management

Vrs.

The President, Orissa Security & Services Employees Union, Bhubaneswar, Odisha.

...Second Party-workman

Appearances:

P.K. Rout, Manager (Security) : For first party management

S. K. Reddy : For Second Party-workman

AWARD

Parties are present through their authorized representative. A memo along with one settlement between the parties is filed wherein prayer has been made that the case be disposed of in accordance with the settlement arrived at between the parties. Being asked the 2nd party union admits of the settlement as per the terms as mentioned in the settlement. Keeping in view the settlement as their own volition the dispute is adjudicated as per the terms and conditions of the settlement. Accordingly the reference is answered and the matter is disposed of.

Dictated & corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2020

का.आ. 1100.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैं सीमेंट कोरपोरेशन ऑफ इंडिया के प्रबंधन संवद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलोर के पंचाट (संदर्भ सं. 03/2019) प्रकाशित करती है जो केन्द्रीय सरकार को 16.12.2020 को प्राप्त हुआ था।

[सं. एल-29011/13/2018-आई आर (एम)]

नवीन वैद्य, उप निदेशक

New Delhi, the 16th December, 2020

S.O. 1100.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03/2019) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of M/s. Cement Corporation of India Ltd., and their workmen, received by the Central Government on 16.12.2020.

[No. L-29011/13/2018-IR(M)]

NAVIN VAIDYA, Dy. Director

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE

DATED : 2nd DECEMBER 2020

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

C R No. 03/2019

I Party

Sri Gopal Rao Gudi,
 Sr. Trade Unionist & Union Advisor, H. No.
 10-718, Shastri Chowk, Brahampur,
 KALABURGI – 585 103.

II Party

1. The Chairman cum Managing Director, M/s. Cement Corporation of India Limited, Core-V, Scope Complex 7, Lodhi Road, NEW DELHI – 110 003.
2. The General Manager, M/s Cement Corporation of India Limited, Cement Factory, Kurkunta, Sedam, GULBARGA – 585 210.

Appearances:

I Party : Sh. Muralidhara, Advocate

II Party : Sh. T Rajaram, Advocate

1. The Government of India, Ministry of Labour vide order No. L-29011/13/2018-IR(M) dated 13.12.2018 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred as “The Act”) (14 of 1947) referred the following Industrial Dispute to this Tribunal for adjudication:

SCHEDULE

“Whether the demand of CCI Workers Union, Kurkunta (AITUC) to claim equal treatment and implementation of the same rules and principles as followed by Nayagaon Cement Factory, Mandasoor in Mandhya Pradesh is proper and justified? If yes, what directions are necessary in the matter?”

2. On receipt of the reference order, notice was issued to both parties. Sh. MD, Advocate filed power for the 1st Party. 2nd Party appeared through their Learned Counsel Sh. TRR on 01.12.2020. So far, parties have not filed their respective statement. On 01.12.2020 a Memo is filed by Sh. MD for the 1st Party which reads thus:

“I Party / Union had espoused the dispute with regard to demands of workers / un-loaders in the packing plant of Cement Corporation of India, Kurkunta, before the Conciliation Officer, Gulbarga. However, when the matter was referred to this Hon’ble Tribunal for adjudication the order of reference was entirely different and irrelevant. Subsequently, I Party / Union has sought corrigendum from the Ministry of Labour, Government of India, which is yet to be issued by the concerned Authority. Hence, I Party / Union is approaching the Central Government, Ministry of Labour to get fresh order of reference on the dispute.

In view of the above, I Party does not want to press the above case for adjudication.

WHEREFORE, this Hon’ble Court may be pleased to dispose of the case (order of reference) as “NOT PRESSED” in the interest of justice and equity”.

3. In view of the above memo now it is not required to record any finding on the referred issue.

AWARD

Reference is Rejected.

(Dictated to U D C, transcribed by him, corrected and signed by me on 2nd DECEMBER 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2020

का.आ. 1101.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स फूड कारपोरेशन ऑफ़ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह - श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ शिकायत संख्या 01/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.12.2020 को प्राप्त हुआ था।

[सं. एल-22013/01/2020-आईआर. (सीएम- II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th December, 2020

S.O. 1101.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. Complain No. 01/2007) of the Cent.Govt.Indus.Tribunal-cum-Labour, Bangalore as shown in the Annexure, in the industrial dispute between the management of M/s. Food Corporation of India and their workmen, received by the Central Government on 08.12.2020.

[No. L-22013/01/2020-IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**DATED : 11TH NOVEMBER, 2020**PRESENT :** JUSTICE SMT. RATNAKALA, Presiding Officer**Comp 01/2007****Complainant**

Sri. G. Reddy,
S/o Late Sri. Gangi Reddy
Aged about 51 years,
House no. 36, Sakkanahalli village
Magoondi Post, Bangarpet Taluk
Kolar District - 563114.

Respondents

1. The Area Manager [District Manager],
Food Corporation of India,
F.C.I Godown
Krishnarajapuram,
Bangalore - 560 016
2. The Senior Regional Manager,
Food Corporation of India,
Regional Office,
East End Main Road,
4th T Block, Jayanagar,
Bangalore – 560 041

Appearance :

Advocate for I Party : Mr. Mr. K.T. Govinde Gowda

Advocate for II Party : Mr. B.L. Sanjeev

AWARD

1. It is a complaint filed under the Sec 33-A of Industrial Disputes Act, 1947 (for brevity 'the Act') by the former employee of the Respondent FCI.

Succinctly stated,

the Complainant was terminated from service vide order dated 11.03.2004 during the course of Dispute pending before this Tribunal in CR No. 65/2002, CR No. 27/2002 and CR No. 25/2003, of which the Complainant was a concerned workman: before his termination from the service, the Respondent has not complied with mandatory procedure contemplated by Proviso to 33 (2) of 'the Act'. The Respondent has not delivered the dismissal order to him and has not paid one-month wages and has not submitted necessary approval application for confirmation of the dismissal order under sec 33 of the ID Act before this Court. The action of the Respondent is highly illegal and not sustainable in law. His date of birth is 01.07.1961, therefore, he is entitled to be continued on service till he attains the age of superannuation i.e. 01.07.2021. Before terminating him from service, he was not issued charge sheet, show cause notice and no Enquiry was conducted against him.

2. The defence of the Respondent is,

the Complainant is dismissed after following the procedure prescribed under the law. The Dismissal order was issued by the District Office of the Respondent to the work spot of the Depot, wherein the Complainant was working. If the said order / information was not received by the Complainant, it is because he did not attend the duty on the same day or on subsequent days. Dismissal order was sent to his last known address but the postal cover returned with a shara that the 'addressee is not available'. Since, provision was made in the dismissal order for appeal within 45 days, payment of one-month salary was not considered during the pendency of the appeal. Several notices were issued to the Complainant against his long period of absence and he was informed that he would be terminated for the same cause. Even though, several letters / summons were sent to him through R.P.A.D to attend the Enquiry, to his last known address, same had returned and finally the matter was decided ex-parte. He was issued termination letter after conducting proper Enquiry prescribed under 'the Act' vide memo dated 31.12.2001, he was called to explain his misconduct and after getting explanation, he was permitted to join duty but again he remained absent for which Enquiry was held on 09.01.2002. Again based on explanation submitted by him, he was permitted to join the duty on 02.05.2002 but he did not join the duty instead he submitted a representation on 23.07.2002 which was examined and found to be false. He was not serious or sincere in performing his duties and was in the habit of abstaining from the work without giving any information.

3. Both parties have adduced evidence and produced documents: Ex C-1 to C-3 are marked for Complainant: Ex R-1 to R-8 are marked for Respondent / FCI. Written argument is submitted for the Complainant and oral argument is addressed by the learned Counsel for the Respondent.

4. For our purpose we will read Sec 33 (2) (b) of 'the Act' which is said to be violated leading to the Complaint under Sec 33 A.

“(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute [or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman],--

(a)

(b) for any misconduct not connected with the dispute, or discharge or punish, whether by dismissal or otherwise, that workman:

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.”

It is clear from the above that though an employee who is connected with the pending dispute is to be punished, discharged or dismissed in respect of any other misconduct, that should be done only after paying one-month wages to him, simultaneously the employer shall make an application to the Authority, in our case before this Tribunal for approval of the action taken against the workman. The punishment shall be imposed in accordance with the provisions of the standing orders applicable to the workman or in terms of the contract. It is not the case of 2nd Party that any such application was made to this Tribunal seeking permission to terminate the service of the concerned workman.

The three cases cited by the Complainant are CR 27/2002, 25/2003 and 65/2002. The issues referred for adjudication in those cases are as follows

- I. CR 27/2002 – whether the claim of the FCI Loading and Unloading Workers Union for the payment of increased tender rate of wages for the earlier period in respect of White-Field (Bangalore) and Unkal (Hubli) depot is legal and justified? If yes, what relief the workmen are entitled to?
- II. CR 65/2002 – whether the demand of FCI Loading and Unloading Workers Union claiming equal pay for equal work w.e.f 01.11.1990 and re-introduction of monthly pay scale for DPS workers w.e.f. 01.09.2001 is justified? If so, what relief the workmen are entitled to?
- III. CR 25/2003 – whether the FCI Loading and Unloading Workers Union is justified in claiming the wages of Sardars and Mandals in the FCI Godowns at K.R.P.G., White-Field, Unkal-Hubli, K.R. Nagar and Nanjungoodu for 16 DPS labourers? If yes, what relief they are entitled to and from which date?

All the three cases are adjudicated and the award is published in the official Gazette: in CR No. 27/2002, CR No. 25/2003 and the references are rejected, whereas in CR No. 65/2002, reference is partly accepted.

In the case on hand, the Complainant was a Handling Worker in the FCI godown, thus, a concerned workman in the above references pending before this Court. He was dismissed on the charges of unauthorised and long absence w.e.f 15.03.2004 onwards vide Ex R-5.

Copy of the un-served memo cum articles of charge and the returned postal cover are produced as Ex R-3 and Ex R-4. As per the memo / articles of charge / Ex R-5, the misconduct or unauthorised absence for long period is liable for severe disciplinary action as per the model standing orders.

5. It is a fact that the workman was not paid one month wage and application seeking approval of the action taken was not filed before this Authority before terminating him from service. The contravention of mandate of proviso to Sec 33 2(b) has enabled the aggrieved employee to file the present complaint, before this Tribunal under sec 33 A of 'the Act'. Under Sec 33 A (b), it is the mandate that such complaint shall be adjudicated, as if it is a 'dispute referred to' or "pending" in accordance with the provisions of this act.

6. Though, the 2nd Party has some material at it's disposal to state that since the workman was not attending the duty as on the date of his removal dated 15.03.2004, they were not able to serve the termination order and pay one-month wages to him personally. But what about the omission on their part in not filing an application seeking approval of the action taken against the Complainant? It is a major lapse on their part and goes to the root of the matter. The complaint is filed after a long lapse of 3 years of the termination. However, Sec 33-A does not contemplate any limitation period for filing such complaint.

7. The Apex Court in the judgment reported in LAWS(SC) 1971 8 56 in the matter of HINDUSTHAN GENERAL ELECTRICAL CORPORATION VERSUS BISHWANATH PRASAD held as below

9. The scope of sections 33 and 33-A was examined by this Court in several cases to some of which we shall presently refer. Section 33 (1) has obviously no application to the facts of this case. Section 33 (2) relates to the dismissal, discharge etc. of a workman for any misconduct not connected with an industrial dispute during the pendency of any conciliation proceeding before a conciliation officer or a Board etc. unless he had been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer. Section 33-A enables a workman who has been punished by dismissal or discharge etc. to make a complaint in writing to a labour court, tribunal or National Tribunal when an employer contravenes the provisions of S. 33 during the pendency of proceedings before Labour Court. Tribunal or National Tribunal etc. If such a complaint is made, the labour court, tribunal etc. is to adjudicate upon the complaint as if it were a dispute referred to or pending before it and in accordance with the provisions of the Act submit its award to the appropriate Government. In other words, when the conditions laid down in S. 33-A apply a workman who is punished as mentioned therein does not have to wait for a reference of an industrial dispute by an appropriate authority under S. 10 of the Act for adjudication of the dispute but can himself prefer his complaint which is to be treated in the same way as a dispute under S. 10. These sections do not lend themselves to the construction that as soon as the Labour Court, Tribunal etc. finds that there has been a violation of S. 33 it should award reinstatement. It must go through the proceedings which would have to be taken under S. 10 and it would be the duty of the labour court etc. to examine the merits of the case in the light of the principles formulated in the Indian Iron and Steel Co.'s case (1958) SCR 667.

That takes us to enquire into the merits of the dismissal order independently, though there is glaring violation of proviso to Sec 33 2(b) of 'the Act'.

8. The documents marked by both the parties are undisputed. A notice / R-1 dated 08.01.2004 was addressed to him, on his absence w.e.f 06.11.2003 onwards and he was directed to report for duty immediately. Ex R-2 is the postal acknowledgement from the Complainant for having received the said notice. In the memo / article of charge / Ex R-3 dated 25.02.2004, it was alleged that he remained unauthorisedly absent for a long period of 110 days from 06.11.2003 to till date, he has not come forward to re-join duty even after the issue of notice dated 19.01.2004, and on the said charges, Enquiry will be conducted by the Assistant Manager (General) at District Office, FCI on 04.03.2004 at 11 am. Ex R-4 is the returned postal cover, which reflects that the addressee was not available for service for 6 consecutive days. As per Ex R-5, dated 15.3.2004, he was removed from the service for his unauthorised absence w.e.f 06.11.2003, giving liberty to prefer Appeal against the said order. Ex R-6 is the returned postal cover with the punishment order. As per the postal shara on the cover, he was not available for service continuously for 5 days.

9. It is the case of the workman that he was on sick leave from 06.11.2003 to 19.03.2004. He was under treatment after recovery. He requested the officials to permit him to work from 20.03.2004 but was not allowed. He has produced a copy of his request letter dated 31.03.2004 as Ex C-1 which is also marked as Ex R-7. Appeal memo submitted by him as Ex C-3. In this appeal memo, he has acknowledged receipt of the termination order dated 15.03.2004. At Ex R-7, he has stated that he was suffering from viral Hepatitis disease and was admitted to the hospital and thereafter, he was taking bed rest in his daughter's house: he has sought to

consider his leave and take him back to duty and undertakes that he will be regular for duty and will not take leave. The Photostat copy of his medical certificate and fitness certificate issued by Medical Officer is annexed to Ex R-7. The designation of the author of the letter is not clear. It appears that both certificates are signed and attested at a stretch: while the Medical Certificate contemplates that the workman is suffering from Viral Hepatitis and he requires leave for 118 days w.e.f 15.11.2003, the fitness certificate certifies that he has recovered from illness and fit to resume duty w.e.f 29.03.2004. This representation is rejected by the Appellate Authority vide order dated 23.06.2004 / Ex R-8. It is observed in the body of the order that his plea *and submission are found to be baseless and not trustworthy; he could sustain his family burden without this job for such a long period. Further, not responding to the Disciplinary Authority's communication / notices earlier to the dismissal orders also tantamount to misconduct / disobedience and dereliction of duties which attracts disciplinary action.*

If he was really fit to report for duty on 29.03.2004, what came in his way from reporting to duty on 29.03.2004 is not explained by Complainant before this court. All he has stated in his claim statement is that he was on sick leave from 06.11.2003 to 19.03.2004, when he requested to permit him to work w.e.f 20.03.2004, he was not allowed. He had given a request dated 31.03.2004 to consider his leave and take him on duty. But, as per his own Medical Certificate, he was fit to resume duty on 29.03.2004, thus his case is self-contradictory. He has no explanation for not responding to the call notice Ex R-1 which was served on him. He has no proper explanation for not receiving the memo / articles of charge Ex R-3. It is not his case that he was prevented from any valid reason from appearing before the Enquiry Officer / Assistant Manager (General) on 04.03.2004. But, that does not absolve the employee of its liability to comply the procedure contemplated by the service rules governing the workman or Model Standing Rules, before imposing punishment on him. Hence, our further probe is to see whether Enquiry was held by the Management in accordance to the established procedure.

Unfortunately, Enquiry Report along with the Enquiry proceedings is not produced. At the least, the witness for the 2nd Party has not stated anything about any such Departmental Enquiry having been held. Nothing is stated by the 2nd Party about any witness being examined and documents being produced in support of the articles of charge during the Enquiry. That probabalises one thing, that no independent enquiry into the allegations made in the articles of charge was held. On the absence of the workman on the date scheduled for Enquiry he is terminated from service by the Disciplinary Authority. Not following the mandatory procedures contemplated before imposing punishment has vitiated the termination order.

10. It is his case that he is entitled to be continued in service till the age of superannuation i.e. 01.07.2021. Considering that he filed complaint after a considerable delay and not gainfully employed till now, I hold reinstatement with continuity of service and 40% of the back wages suffices to meet the ends of justice.

AWARD

The complaint 01/2007 filed by Sri. G Reddy is allowed.

The termination order passed against the Complainant Sri. G Reddy dated 15.03.2004 is not legal and set aside.

Respondent FCI is directed to reinstate the workman with continuity of service and 40% of the back wages forthwith.

(Dictated to LDC, transcribed by him, corrected and signed by me on 11th November, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2020

का.आ. 1102.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स फूड कारपोरेशन ऑफ़ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह - श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ शिकायत संख्या 02/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.12.2020 को प्राप्त हुआ था।

[सं. एल-22013/01/2020-आईआर (सीएम-II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th December, 2020

S.O. 1102.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. Complain No. 02/2007) of the Cent.Govt.Indus.Tribunal-cum-Labour, Bangalore as shown in the Annexure, in the industrial dispute between the management of M/s. Food Corporation of India and their workmen, received by the Central Government on 08.12.2020.

[No. L-22013/01/2020-IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**DATED : 11TH NOVEMBER, 2020

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

Comp 02/2007**I Party**

- Sh. B. Thimmarayappa,
S/o. Sri. Bodiappa,
Since dead by his LR's
1. Smt. Gowramma,
W/o. Late Sri. B. Thimmarayappa,
 2. Sri. Manjunatha,
S/o. Late Sri. B. Thimmarayappa,
 3. Sri. Anand,
S/o. Late Sri. B. Thimmarayappa,
 4. Smt. Sampath,
W/o. Late Sri. B. Thimmarayappa,
 5. Smt. Sunanda,
D/o Late Sri. B. Thimmarayappa

All are residing together at
Hoovaharasanahalli,
Magoondi Post,
Kasaba Hobli, Bangarpet Taluk,
Kolar District

Appearance

Advocate for I Party : Mr. Mr. K.T. Govinde Gowda

Advocate for II Party : Mr. B.L. Sanjeev

II Party

1. The Area Manager
[District Manager],
Food Corporation of India,
F.C.I Godown
Krishnarajapuram,
Bangalore – 560 016
2. The Senior Regional Manager,
Food Corporation of India,
Regional Office,
East End Main Road,
4th T Block, Jayanagar,
Bangalore – 560 041

AWARD

1. It is a complaint filed under the Sec 33-A of Industrial Disputes, Act 1947 (for brevity 'the Act') by the former employee of the Respondent FCI during the pendency of the proceedings before this Tribunal, the Complainant expired and his legal representatives / Class 1 legal heirs are prosecuting the complaint.

Succinctly stated,

the Complainant was terminated from service vide order dated 11.03.2004 during the course of the Disputes pending before this Tribunal in CR no. 65/2002, CR no. 27/2002 and CR no. 25/2003, of which the Complainant was a concerned workman: before his termination from the service, the Respondent has not complied with mandatory procedure contemplated by Proviso to 33 (2) of 'the Act'. The Respondent has not delivered the dismissal order to him and has not paid one-month wages and has not submitted necessary approval application for confirmation of the dismissal order under Sec 33 of the ID Act before this Court. The action of the Respondent is highly illegal and not sustainable in law. Before terminating him from service, he was not issued charge sheet, show cause notice and no Enquiry was conducted against him.

2. The defence of the Respondent is,

the Complainant is dismissed after following the procedure prescribed under the law. The Dismissal order was issued by the District Office of the Respondent to the work spot of the Depot, wherein the Complainant was working. If the said order / information was not received by the Complainant, it is because he did not join duty on the same day or on subsequent days. Dismissal order was sent to his last known address but the postal cover returned with a shara that the 'addressee is not available'. Since, provision was made in the dismissal order for appeal within 45 days, payment of one-month salary was not considered during the pendency of the appeal. Several notices were issued to the Complainant against his long period of absence and he was informed that he would be terminated for the same cause. Even though, several letters / summons were sent to him through RPAD to attend the Enquiry, to his last known address, same had returned and finally the matter was decided ex parte. He was issued termination letter after conducting proper Enquiry prescribed under 'the Act'. Vide memo dated 31.12.2001, he was called to explain his misconduct and after getting explanation, he was permitted to join the duty but again he remained absent for which Enquiry was held on 09.01.2002. Again based on explanation submitted by him, he was permitted to join the duty on 02.05.2002 but he did not join the duty, instead he submitted a representation on 23.07.2002, which was examined and found to be false. He was not serious or sincere in performing his duties and was in the habit of abstaining from the work without giving information.

3. The Complainant adduced evidences and produced documents Ex C-1 to C-5, rebuttal evidence was adduced by the Respondent through their Manager (General) and documents Ex R-1 to R-9 were marked.

Written argument is submitted for the Complainant and oral argument is addressed for the Respondent.

For our purpose we will read Sec 33 (2) (b) of 'the Act' which is said to have been violated thereby leading to the present Complaint under Sec 33 A.

“(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute [or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman],--

(b)

(b) for any misconduct not connected with the dispute, or discharge or punish, whether by dismissal or otherwise, that workman:

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.”

It is clear from the above that though an employee who is connected with the pending dispute is to be punished, discharged or dismissed in respect of any other misconduct, that should be done only after paying one-month wages to him, simultaneously the employer shall make an application to the Authority, in our case before this Tribunal for approval of the action taken against the workman. The punishment shall be imposed in accordance with the provisions of the standing orders applicable to the workman or in terms of the contract. It is not the case of 2nd Party that any such application was made to this Tribunal seeking permission to terminate the service of the concerned workman. In that view of the matter, there is glaring violation of the procedure / pre-requisite to the termination of the concerned workman of a pending industrial dispute.

The three cases cited by the Complainant are CR 27/2002, 25/2003 and 65/2002. The issues referred for adjudication in those cases are as follows

- I. CR 27/2002 – whether the claim of the FCI Loading and Unloading Workers Union for the payment of increased tender rate of wages for the earlier period in respect of White-Field (Bangalore) and Unkal (Hubli) depot is legal and justified? If yes, what relief the workmen are entitled to?
- II. CR 65/2002 – whether the demand of FCI Loading and Unloading Workers Union claiming equal pay for equal work w.e.f 01.11.1990 and re-introduction of monthly pay scale for DPS workers w.e.f. 01.09.2001 is justified? If so, what relief the workmen are entitled to?
- III. CR 25/2003 – whether the FCI Loading and Unloading Workers Union is justified in claiming the wages of Sardars and Mandals in the FCI Godowns at K.R.P.G., White-Field, Unkal-Hubli, K.R. Nagar and Nanjundoou for 16 DPS labourers? If yes, what relief they are entitled to and from which date?

All the three cases are adjudicated and the award is published in the official Gazette: in CR No. 27/2002, CR No. 25/2003 and the references are rejected, whereas in CR No. 65/2002, reference is partly accepted. The Complainant herein was a Handling Worker at the Godown of White-field, thus was a concerned workman in the above pending reference cases.

Though the disputes (supra) are now disposed off, it has no bearing on adjudication of the complaint on its merits. The crux of the entire matter being compliance of the mandatory procedure by the employer before terminating the employee, while disputes concerning him were still pending before this Authority.

4. The Apex Court in the judgment reported in LAWS(SC) 1971 8 56 in the matter of HINDUSTHAN GENERAL ELECTRICAL CORPORATION VERSUS BISHWANATH PRASAD held as below

9. The scope of sections 33 and 33-A was examined by this Court in several cases to some of which we shall presently refer. Section 33 (1) has obviously no application to the facts of this case. Section 33 (2) relates to the dismissal, discharge etc. of a workman for any misconduct not connected with an industrial dispute during the pendency of any conciliation proceeding before a conciliation officer or a Board etc. unless he had been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer. Section 33-A enables a workman who has been punished by dismissal or discharge etc. to make a complaint in writing to a labour court, tribunal or National Tribunal when an employer contravenes the provisions. of S. 33 during the pendency of proceedings before Labour Court. Tribunal or National Tribunal etc. If such a complaint is made, the labour court, tribunal etc. is to adjudicate upon the complaint as if it were a dispute referred to or pending before it and in accordance with the provisions of the Act submit its award to the appropriate Government. In other words, when the conditions laid down in S. 33-A apply a workman who is punished as mentioned therein does not have to wait for a reference of an industrial dispute by an appropriate authority under S. 10 of the Act for adjudication of the dispute but can himself prefer his complaint which is to be treated in the same way as a dispute under S. 10. These sections do not lend themselves to the construction that as soon as the Labour Court, Tribunal etc. finds that there has been a violation of S. 33 it should award reinstatement. It must go through the proceedings which would have to be taken under S. 10 and it would be the duty of the labour court etc. to examine the merits of the case in the light of the principles formulated in the Indian Iron and Steel Co.'s case (1958) SCR 667.

That takes us to enquire into the merits of the dismissal order independently, though there is glaring violation of Proviso to Sec 33 2 (b) of 'the Act'.

5. As per the documentary evidence, Ex R-1 / notice dated 08.01.2004 was issued to the workman on his absence from 09.11.2003 directing him to report to duty. The notice was served on him as per the postal acknowledgement R-2: that was followed by a memo / articles of charge dated 25.02.2004 / Ex R-3, it was alleged that the workman remained unauthorizedly absence for a long period of 106 days from 09.11.2003 to till date: he has not come forward to re-join duty even after issuing of notice dated 19.01.2004. The articles of charge sent to workman has returned un-served. Ex R-5 is the punishment order dated 15.3.2004, whereby he was removed from the rolls of the FCI for remaining absent from 09.11.2003. The punishment order is served on the workman as per the postal acknowledgement Ex R-6. Ex R-7 is the representation of the workman dated 30.3.2004 along with the medical certificate requesting him to take him on duty. Ex R-8 is the order passed by Senior Regional Manager / Appellate Authority dated 26.06.2004 rejecting his appeal. Ex R-9 is the returned postal cover in this regard.

6. It was the case of the deceased workman that he was suffering from a disease Herpes Zoster and was admitted to the Hospital and after getting discharged from the hospital, he was under rest in his daughter's house and could not attend the duty for a long time. Before this Tribunal, he has produced medical records which are all of period subsequent to his dismissal. However, as held by the Apex Court in the matter of Hindustan General Electrical Corporation (supra) it is always for the employer before terminating an employee from service to demonstrate that a fair Enquiry was conducted against the workman into the charges adhering to the principles of natural justice and the workman was given ample opportunity to defend himself. Unfortunately, in this case, no such document pertaining to the Enquiry is produced by the Respondent. The termination order does not refer to any such Enquiry having been held against the workman. There is no reference to the Model Standing Order under which the articles of charges were issued. There is no reference to the Domestic Enquiry held against the workman, in evidence of the Management witness MW-1. In all probability, no Enquiry into the charges was held. In all probability, no independent enquiry is held on the charges. On his absence on the date scheduled for Enquiry, he is terminated from service by the Disciplinary Authority.

The deceased workman in his affidavit evidence had stated that he was under sick leave from 09.11.2003 to 29.3.2004: as per Ex C-1 / Medical Certificate issued by private medical practitioner, he required

the leave of 142 days commencing from 09.11.2003 and was fit to report to office from 30.03.2004. He had preferred an appeal, along with the Medical Certificate, vide Ex C-5. But, Appellate Authority has brushed aside his plea as baseless and not trustworthy in a single stroke. Had if the Respondent adduced evidence to the effect that Departmental Enquiry was held into the charges of unauthorised and long absence, as per the Model Standing Rules, then there was scope for this Tribunal to call upon the workman to rebut the case of the Respondent employer. When no Enquiry was held against the workman before his termination, it is inevitable to hold that the termination order is illegal.

7. The son of the deceased workman adduced evidence before this Court that the date of birth of his father was 01.07.1962 and he expired on 14.05.2014 and he would have worked until he attained the age of superannuation i.e. on 01.07.2022. In the usual course, when a termination order is held illegal, the eventuality is reinstatement with or without back wages. Since, the workman has expired during the pendency of the proceedings the relief that can be moulded is to treat him as on duty from the date of his termination till the date of his expiry. Considering that though he was terminated in the year 2004 after a long lapse of 3 years, he has filed this complaint. Taking note of the said fact, I hold that a monetary compensation at 40% of his back wages, along with terminal benefits to his Class 1 legal heirs would suffice the ends of justice being met. As it is noticed from the claim statement that all his children are majors, it is required that the monetary compensation shall be paid to his wife Smt. Gowramma.

AWARD

The complaint 02/2007 filed by Sri B. Thimmarayappa is allowed.

The termination order passed by the Respondent FCI against the deceased Complainant Sri. B. Thimmarayappa is not legal.

The deceased workman shall be treated as on continuous duty from the date of his termination till his death on 14.05.2014 and back wages at 40% and the terminal benefits shall be paid to his spouse Smt. Gowramma

(Dictated to LDC, transcribed by him, corrected and signed by me on 11th November, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2020

का.आ. 1103.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स फूड कारपोरेशन ऑफ़ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह - श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ शिकायत संख्या 03/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.12.2020 को प्राप्त हुआ था।

[सं. एल-22013/01/2020-आईआर (सीएम-II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th December, 2020

S.O. 1103.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. Complain No. 03/2007) of the Cent.Govt.Indus.Tribunal-cum-Labour, Bangalore as shown in the Annexure, in the industrial dispute between the management of M/s. Food Corporation of India and their workmen, received by the Central Government on 08.12.2020.

[No. L-22013/01/2020-IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE

DATED : 11TH NOVEMBER, 2020

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

Comp 03/2007

I Party

Sri. C. Jagadeesh,
S/o. Sri. Chikkathimme Gowda,
C/o. Sri. Venkataramaiah
Building, Chokkasandra,
Near Anjaneya Temple,
T. Dasarahalli, Tumkur Road,
Bangalore - 560 057

II Party

1. The Area Manager
[District Manager],
Food Corporation of India,
F.C.I Godown
Krishnarajapuram,
Bangalore – 560 016
2. The Senior Regional Manager,
Food Corporation of India,
Regional Office,
East End Main Road,
4th T Block, Jayanagar,
Bangalore – 560 041

Appearance

Advocate for I Party : Mr. Mr. K.T. Govinde Gowda

Advocate for II Party : Mr. B.L. Sanjeev

AWARD

1. It is a complaint filed under the Sec 33-A of Industrial Disputes Act, 1947 (for brevity 'the Act') by the former employee of the Respondent FCI.

Succinctly stated,

the Complainant was working as a Handling Worker in the FCI godown from 01.02.1995. He was terminated from service vide order dated 31.08.2002 during the course of Dispute pending before this Tribunal in CR No. 65/2002, CR No. 27/2002 and CR No. 25/2003, of which the Complainant was a concerned workman. The termination order was sent to him through post, which he received during the 2nd week of September. It was alleged in the termination order that he remained absent upto 22.07.2002: he was informed to file the Appeal within 45 days.

Before terminating him from service, the Respondent has not complied with mandatory procedure contemplated by Proviso to Sec 33 (2) of 'the Act'. The termination order is not supported by any charge sheet/show cause notice and no Enquiry was held against him. Since he was suffering from major health issue, he could not prefer appeal immediately. After recovery, he filed appeal on 02.08.2006 but the said appeal is not disposed till date. The order of termination is in violation of sec 33 of 'the Act' and the mandatory requirements of payment of one-month wages, serving the Dismissal Order on the employee on the same day and submitting a necessary approval appeal are not complied. The so called Preliminary Enquiry mentioned in the order of termination is without following FCI Service Staff Regulation, 1971 or Model Standing Order or any other Regulation applicable to the FCI and the Complainant. The punishing authority has mechanically accepted the so-called findings of the Preliminary Enquiry and held him guilty of charges. The penalty is highly excessive and shockingly disproportionate.

2. The defence of the Respondent is,

the Complainant is dismissed after following the procedure prescribed under the law. Vide memo dated 31.12.2001, he was called upon to explain his misconduct and after getting explanation, he was permitted to join duty: he remained absent in the similar manner for which Enquiry was held on 09.01.2002. Based on the explanation submitted by him, he was permitted to join duty on 02.05.2002 but he did not join duty, instead submitted a representation on 23.07.2002, which was examined and found to be false. He was not serious or sincere in performance of his duties. The absence of the Complainant during the period 31.08.2001 to 01.05.2002 was regularised and he was permitted to join duty from 02.05.2002 but he continued to be absent

from 02.05.2002 to 22.07.2002 without giving any information to the Respondents: another memo was issued asking his explanation about his absence. If he had not received the letter permitting him to joining the duty on 02.05.2002, it is because of his habitual absence without giving proper information to the Respondents. He has not given information to his superiors about the reasons for his absence: considering all these aspects and by following the process of law, he was awarded dismissal order. The order was dispatched by the office of the Respondent at Bangalore on 02.09.2002.

3. Both parties have adduced evidence. Respondent has produced the documents Ex R-1 to R-8. Written argument is submitted for the Complainant and Oral argument is addressed by Sh. BLS for the Respondent.

For our purpose we will read Sec 33 (2) (b) of 'the Act' which is said to be violated leading to the Complaint under Sec 33 A.

“(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute [or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman],--

(c)

(b) for any misconduct not connected with the dispute, or discharge or punish, whether by dismissal or otherwise, that workman:

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.”

It is clear from the above that in the event, an employee who is connected with the pending dispute is to be punished, discharged or dismissed in respect of any other conduct, that should be done only after paying one-month wages to him, simultaneously the employer shall make an application to the Authority, in our case before this Tribunal for approval of the action taken against the workman. The punishment shall be imposed in accordance with the provisions of the Model Standing Orders or Service Rules applicable to the workman or in terms of the contract. It is not the case of 2nd Party that any such application was made to this Tribunal seeking permission while terminating the service of the concerned workman.

The three cases cited by the Complainant are CR 27/2002, CR25/2003 and CR 65/2002. The issues referred for adjudication in those cases is as follows

- I. CR 27/2002 – whether the claim of the FCI Loading and Unloading Workers Union for the payment of increased tender rate of wages for the earlier period in respect of White-Field (Bangalore) and Unkal (Hubli) depot is legal and justified? If yes, what relief the workmen are entitled to?
- II. CR 65/2002 – whether the demand of FCI Loading and Unloading Workers Union claiming equal pay for equal work w.e.f 01.11.1990 and re-introduction of monthly pay scale for DPS workers w.e.f. 01.09.2001 is justified? If so, what relief the workmen are entitled to?
- III. CR 25/2003 – whether the FCI Loading and Unloading Workers Union is justified in claiming the wages of Sardars and Mandals in the FCI Godowns at K.R.P.G., White-Field, Unkal-Hubli, K.R. Nagar and Nanjungoodu for 16 DPS labourers? If yes, what relief they are entitled to and from which date?

All the three cases are adjudicated and the award is published in the official Gazette: in CR No. 27/2002, CR No. 25/2003 and the references are rejected, whereas in CR No. 65/2002, reference is partly accepted.

Though the disputes (supra) are now disposed off, it has no bearing on adjudication of the complaint on its merits. The crux of the entire matter being non-compliance of the mandatory procedure by the employer while terminating the complainant (who is a Handling Worker in the FCI Godown, thus a concerned workman in the pending reference), while disputes were still pending before this Authority.

4. The Apex Court in the judgment reported in LAWS(SC) 1971 8 56 in the matter of HINDUSTHAN GENERAL ELECTRICAL CORPORATION VERSUS BISHWANATH PRASAD held as below

9. The scope of sections 33 and 33-A was examined by this Court in several cases to some of which we shall presently refer. Section 33 (1) has obviously no application to the facts of this case. Section 33 (2) relates to the dismissal, discharge etc. of a workman for any misconduct not connected with an industrial dispute during the pendency of any conciliation proceeding before a conciliation officer or a

Board etc. unless he had been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer. Section 33-A enables a workman who has been punished by dismissal or discharge etc. to make a complaint in writing to a labour court, tribunal or National Tribunal when an employer contravenes the provisions. of S. 33 during the pendency of proceedings before Labour Court. Tribunal or National Tribunal etc. If such a complaint is made, the labour court, tribunal etc. is to adjudicate upon the complaint as if it were a dispute referred to or pending before it and in accordance with the provisions of the Act submit its award to the appropriate Government. In other words, when the conditions laid down in S. 33-A apply a workman who is punished as mentioned therein does not have to wait for a reference of an industrial dispute by an appropriate authority under S. 10 of the Act for adjudication of the dispute but can himself prefer his complaint which is to be treated in the same way as a dispute under S. 10. These sections do not lend themselves to the construction that as soon as the Labour Court, Tribunal etc. finds that there has been a violation of S. 33 it should award reinstatement. It must go through the proceedings which would have to be taken under S. 10 and it would be the duty of the labour court etc. to examine the merits of the case in the light of the principles formulated in the Indian Iron and Steel Co.'s case (1958) SCR 667.

That takes us to enquire into the merits of the dismissal order independently, though there is glaring violation of proviso to Sec 33 2 (b) of 'the Act'. Now, let us see the allegations in the articles of charge and the nature of Enquiry held into the charges.

5. The 2nd Party has examined its Manager (General) who has no personal knowledge of the facts involved in the complaint. However, through her following documents are marked, Ex R-1 is the memorandum dated 31.12.2001 whereby it was alleged

Vide article 1, it is stated that the Complainant was unauthorizedly absent for 253 days during 01.01.1999 to 18.10.2001.

Vide article 2, it was alleged that he remained absent without obtaining prior permission from his superior officer from 13.12.2000 to 05.01.2001 but subsequently submitted leave application along with Medical Certificate/ Fitness Certificate to re-join duty on 06.01.2001: after calling for explanation vide memo dated 09.01.2001 and getting his explanation, he was severely warned and permitted to re-join duty on 18.01.2001. But he remained unauthorizedly absent from 31.08.2001 to 18.10.2001 without prior permission which amounts to total indiscipline in his conduct.

Vide above memo, the Complainant was informed to attend the Enquiry proposed to be conducted by the Assistant Manager (Lab. Admn.) on 09.01.2002 at 11 a.m.

Ex R-2 is the memorandum / articles of charge dated 02.01.2002.

Vide above memo, the Complainant was informed to attend the Enquiry proposed to be conducted by the Assistant Manager (Lab. Admn.) on 09.01.2002 at 11 a.m.

Ex R-3 is the Enquiry Report dated 09.01.2002. Infact, the Enquiry Officer has not recorded his findings to the articles of charge number 1 and 2. It is only the gist of Enquiry procedure held on 09.01.2002.

Ex R-4 is the proceedings of Enquiry. It is a mere summary of the answers given by the workman to the query of the Enquiry Officer in respect of articles 1 and 2.

Ex R-5 is the representation of the workman dated 09.01.2002 to the District Manager.

Ex R-6 is the warning memo dated 01.05.2002 in respect of his absence from 31.8.2002 to 01.05.2002.

Ex R-7 is the representation of the Complainant dated 23.07.2002 along with his prescription chits and medical bills.

Ex R-8 is the punishment order dated 31.08.2002. The Disciplinary Authority has recorded to the effect that during the course of Enquiry, the worker accepted the charges and about the receipt of the warning letter issued by the District Manager for his absence: he had submitted that due to Typhoid he was in treatment at Primary Health Centre, Kadugodi and could not intimate the office in advance for his leave period: he had undertaken not to repeat such mistakes in future. But, his representation is not convincing and not appropriate.

It is a matter of record that along with the termination the Complainant was not given one-month wages and no application was filed seeking approval of the action taken against him before this Authority, where, CR 27/2002 was pending. It is verified from the records that CR 27/2002 was referred for adjudication vide order of Central Government dated 03.06.2002. CR 65/2002 was referred to this Tribunal vide order dated 09.12.2002. In all probability by that time, the dispute was already raised by the 1st Party Union, prior to

31.08.2002. An independent investigation dehors the pendency of CR 27/2002 will not justify the action taken against the workman. Because of the following facts,

the workman was issued 2 memos dated 31.12.2001 and 02.01.2002 on the same set of allegation and the Enquiry was fixed 09.01.2002 in respect of both memos. The Enquiry Officer in his report does not refer as to whether or not the Articles of charge were proved. He has not taken the risk of examining the documents produced by the workman. In his representation submitted to Enquiry Officer during the course of Enquiry on 09.01.2002, Complainant has narrated about his health issues and had stated that because of the serious illness, he had not obtained prior permission from the Assistant Manager (D). The Enquiry was closed on 09.01.2002 itself and that is followed by a warning memo R-6 dated 01.05.2002 permitting him to join duty w.e.f 02.05.2002. In the said memo, his absence period from 31.08.2001 to 01.05.2002 was treated as leave without wages.

In his representation dated 23.07.2002 / Ex R-7, the Complainant has stated that now he has come to know that his absence was regularised and permitting him to join duty from 01.05.2002. Thus, he sought to permit him by condoning his delayed joining. This representation was accompanied with medical prescriptions and medical bills. The Disciplinary Authority in one stroke vide termination order dated 31.08.2002 / R-8 records that his misconduct is proved and the reasons furnished by him is not convincing and not appropriate.

As such, the Enquiry Officer had not recorded his findings and there is no proof as to on which date the warning memo was served on the Complainant. It is the contention of the Complainant that the said memo was served on him only on 19.07.2002. Immediately, he had given his representation / Ex R-7 seeking permission to report to duty. While the workman was in witness box, there was no cross examination to him that he had the knowledge of warning memo Ex R-6 dated 01.05.2002. Thus, examination chief affidavit evidence about service of the warning memo only on 19.07.2002 remained uncontroverted. Having regularised his leave for the period 31.08.2001 to 01.05.2002 and warning his unauthorised absence was sufficient punishment for him for the allegations at article 1 and 2 of the memos dated 31.12.2001 and 02.01.2002. The absence of the workman from 02.05.2002, if any, does not amount to continued absence since his earlier misconduct was sufficiently addressed. In this circumstance, only inference is the workman is terminated from service without issuing a charge sheet / holding an Enquiry for his absence w.e.f 02.05.2002. Termination order passed without issuing a charge sheet and without holding Enquiry is nothing but denial of natural justice to him. Thus, the termination order dated 31.08.2002 is vitiated and illegal.

To the knowledge of the workman, he was not permitted to report to duty from 23.07.2002 and was issued punishment order dated 31.08.2002. But he has filed this complainant after a long lapse of 5 years. Though he has assigned some reasons for the delay in filing the complaint, said reason is not appealing to the common sense. Having found his termination illegal, the relief that can be moulded in the given circumstances is reinstatement to service without back wages but with continuity of service.

AWARD

The complaint filed by Sh. Jagadeesh is allowed.

The termination order passed by the Respondent FCI dated 31.08.2002 is not legal.

The Respondent is directed to reinstate the Complainant to his original post with continuity of service without any back wages.

(Dictated to LDC, transcribed by him, corrected and signed by me on 11th November, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2020

का.आ. 1104.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स फूड कारपोरेशन ऑफ़ इंडिया और अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह - श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 31/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.12.2020 को प्राप्त हुआ था।

[सं. एल-22012/116/2006-आईआर. (सीएम-II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th December, 2020

S.O. 1104.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2007) of the Cent.Govt.Indus.Tribunal-cum-Labour Lucknow, as shown in the Annexure, in the industrial dispute between the Management of M/s. Food Corporation of India and others and their workmen, received by the Central Government on 10.12.2020.

[No. L-22012/116/2006-IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—CUM-LABOUR COURT LUCKNOW****PRESENT :** P. K. SRIVASTAVA, HJS (Retd.)**I.D. No. 31/2007****Ref. No. L-22012/116/2006-IR(CM-II) dated: 09.07.2007****BETWEEN:**

The State President
Bharatiya Khadya Nigam Karmchari Sangh
DC/3V, Vibhuti Khand
Gomti Nagar, Lucknow.
(Espousing case of Sri Daulat Singh)

AND

1. The Sr. Regional Manager
Dy. General Manager
Canara Bank
Circle Office, Vipin Khand
Gomti Nagar, Lucknow (UP) – 226010
2. The District Manager
Food Corporation of India
3rd Floor, Vikas Manzil
Moradabad (UP)

AWARD

1. By order No. L-22012/116/2006-IR(CM-II) dated: 09.07.2007 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute for adjudication.

2. The reference under adjudication is:

“1. WHETHER THE ACTION OF THE MANAGEMENT OF FOOD CORPORATION OF INDIA FOR NOT GRANTING 2 ADDITIONAL INCREMENTS AS AN INCENTIVE DESPITE THE FACT THAT SHRI DAULAT SINGH, AG-I ACQUIRED THE MA ((ECONOMICS) DEGREE IN THE YEAR 1976 IS LEGAL AND JUSTIFIED? IF NOT, TO WHAT RELIEF IS THE WORKMAN ENTITLED?”

2. WHETHER THE ACTION OF THE MANAGEMENT OF FOOD CORPORATION OF INDIA FOR IMPOSING PENALTY OF RECOVERY OF RS. 1,22,999.14 ON SHRI DAULAT SINGH VIDE THEIR ORDER DATED 18/23.12.2002 ON ACCOUNT OF STORAGE LOSS IS LEGAL AND JUSTIFIED? IF NOT, TO WHAT RELIEF IS THE WORKMAN ENTITLED?”

3. The case of the workman, Daulat Singh, in brief, is that the workman had been appointed as Assistant Grade III (D) on 03.04.1976 and after joining FCI, the workman persuaded MA (Economics) and final mark sheet was issued by Agra University on 12.08.1976. The workman has submitted that that as per Scheme framed by the FCI in the year 1984, the workman was entitled for grant of two additional incentive increments on account of acquiring qualification of MA (Economics); but the management of FCI did not grant the same without any rhyme or reason.

The another issue involved in the statement of claim of the workman is regarding issuance of a charge sheet dated 26/27-12-2001 under Regulation 60 of the Staff Regulation, 1971 for alleged storage loss. The workman has stated that he replied to the charge sheet vide his letter dated 05.02.2002; but the authorities without considering his reply in accordance with law, imposed a punishment of recovery of Rs. 1,22,999.14/- vide order dated 18/23-12-2002. The workman has alleged that he demanded for certain documents in order to place an effective reply; but he was not provided with the same; further, the observation of the management in impugned order that the workman ought to have satisfy with the quality and quantity of stock is wholly misconceived and protest in this regard was lodged through Assistant Manager (D). Accordingly, the workman has submitted that there was flagrant denial of the principles of natural justice during injury and the findings of the inquiry officer are based on assumptions and presumptions.

Accordingly, the workman has prayed that he be granted two additional increments for acquiring qualification of MA (Economics) w.e.f. 01.04.1984 and interest be paid on arrears; also he has prayed that the impugned order of punishment dated 18/23-12.2002 be set aside.

3. The management of the FCI has disputed the claim of the workman through its written statement; wherein it has submitted that the workman has passed his MA (Economics) Ist year examination in the year 1975 before joining FCI; whereas, under Rules an employee who acquire higher education during their services with FCI are entitled for incentive increment.

The management has submitted that the workman while working as unit in charge of RL Godown Nagina during 1996-97, filed to maintain absolute integrity, devotion to duty, faithfulness and honesty, in as much as, he committed the gross misconduct, which resulted into storage loss; for which the workman was issued a charge sheet dated 26/27-12-2001 under Regulation 60 of FCI (Staff) Regulation 1971. The workman submitted his reply to the charge sheet and on due consideration to the reply of the charge sheet, the penalty of recovery of Rs. 1,22,999.14 was imposed upon the workman vide order dated 18/23-12-2002. The management has submitted that the penalty order was issued after due consideration of the reply of the workman and following procedure provided under Rules; hence the same is in accordance with law; moreover, the workman did not exhaust the alternative remedy of appeal/review provided under Regulation 68 & 74 of FCI (Staff) Regulation 1971. Accordingly, the management has prayed that the claim of the workman be rejected being devoid of any merit.

6. The workman's union has filed its rejoinder, reiterating the averments already made in the statement of claim.

7. The parties have filed documents in support of its case to be referred to as and when required. The workman's union examined the workman; whereas the management has examined Shri Amrit Lal Seth, Area Manager in support of their respective case. The workman did not turn up to argue his case; however, heard submissions of the authorized representative of the management and perused written submission on behalf of the management is already on record; and keeping in view long pendency of the case, the file was reserved for award.

8. I have given my thoughtful consideration to the rival pleadings of the parties and scanned entire evidence, documentary as well as oral, available on record in light of written arguments.

9. The reference, which has been referred by the Appropriate Government for adjudication to this Tribunal is two pointed; the first borne the question regarding non-grant of two additional increments on attaining higher qualification; whereas the second issue relates to the legality of the imposition of penalty of recovery upon the workman, therefore, both the issues are being taken up hereunder.

10. As regards **first issue**, it the case of the workman that as per Scheme framed by the FCI in the year 1984, he was entitled for grant of two additional incentive increments on attainment of higher qualification i.e. MA (Economics). In this connection the workman has stated that he persuaded the course and was given final mark sheet on 12.08.1976 by Agra University.

In rebuttal, the case of the management is that as per Scheme, the benefit was available to the employees who attained the higher qualification during course of their employment; but in the case of the workman, who joined FCI on 03.04.1976 had already cleared his first year examination in 1975 before joining FCI, therefore, his case was not covered within the purview of Scheme of 1984. In this connection, the management has referred to case of one O.P. Dixit who was denied benefits of Scheme due to reason that he had attained higher professional qualification before his appointment in FCI and when the matter agitated before Hon'ble High Court, Lucknow Bench, Lucknow, it dismissed the writ petition vide order dated 04.01.2000; however, in Special Appeal, the order dated 04.01.2000 was set aside vide order dated 14.10.2003; but Hon'ble Apex Court vide its order dated 14.08.2006 pleased to stay the operation of order dated 14.10.2003 and the stay order dated 14.08.2006 is still continuing.

Admittedly the workman, Daulat Singh joined FCI in the year 1976 and he passed his first year examination in MA (Economics) in the year 1975; whereas he competed his second year examination in the year 1976, after joining the FCI. The relevant provisions regarding eligibility criteria of the Scheme, circulated vide circular No. 40 of 1985, which is on record, is reproduced hereunder:

- “(i) The Scheme would apply to all the regular employees of the Corporation except deputationists/those employed on contract basic/casual or on tenure basis.*
- (ii) Employees covered under (i) above should have acquired or may acquire higher professional qualifications from recognized Institutions/University during the course of their service in the FCI with prior permission from the competent authority of the Corporation. The acquisition of said qualification should be useful to the Corporation in its operations.”*

Thus, from perusal of the above quoted eligibility criteria, it is crystal clear that the higher professional qualification should have acquired ‘during the course of the service in the FCI’; however, in the instant case, the workman had already completed half of the course before joining the FCI i.e. first year of the studies in the year 1975. Also, as per pleadings of the workman, he joined FCI on 03.04.1976 and had been issued mark sheet for the final year i.e. second year on 12.08.1976, therefore, it could be well presumed that the workman had taken up the studies of the entire course and taken up the examinations, for the second year of the course, well before joining the services of FCI as there is only four months’ difference between the joining of the workman and issuance of mark sheet to the workman. Therefore, keeping in view the facts and circumstances of the case, the workman could not be granted benefits of the Scheme as claimed by him; accordingly, I am of the considered view that the action of the management of FCI for not granting two additional increments as an incentive to the workman was neither illegal nor unjustified; and accordingly, the workman is not entitled for any relief in this respect.

11. Now coming to the **second issue of reference**, it is admitted that the workman had been issued a charge sheet dated 26/27-12-2001 under Regulation 60 of FCI (Staff) Regulation 1971 and the workman submitted his reply to the charge sheet, resulting into imposition of penalty of recovery upon the workman vide order dated 18/23-12-2002.

In this regard, the management has contended that penalty of recovery, amounts to minor penalty and as per laid down procedure under Regulation 60 1 (b) of the FCI (Staff) Regulation 1971, holding of an inquiry is mandatory in every case in which the disciplinary authority is of the opinion that such inquiry is necessary; and in the instant case after considering the reply of the workman, it was not felt necessary to conduct a formal inquiry and penalty was imposed upon the workman. The Regulation 54 regarding Penalties (Minor & Major) and Regulation 60 (1) & (2) of the FCI (Staff) Regulation 1971, which provides the procedure for imposing minor penalty is reproduced hereunder:

“54. Penalties:

Minor Penalties:

- (i) **Censure;**
- (ii) **Withholding of his promotion;**

- (iii) Recovery from; his pay of the whole or part of any pecuniary loss caused by him to the Corporation by negligence or breach of orders;
- (iv) (a) Reduction to a lower stage in the time scale of pay for a period not exceeding 3 years without cumulative effect and not adversely affecting his pension.
- (v) Withholding of increments of pay.

“60 Procedure for imposing minor penalties:

- (1) *Subject to the provisions of Sub-regulation (3) of Regulation 59, no order imposing on an employee any of the penalties specified in clauses (i) to (iv) of Regulation 54 shall be made except after:*
 - (a) *informing the employee in writing of the proposal to take action against him and of the imputations of misconduct or misbehavior on which it is proposed to be taken, and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal;*
 - (b) *holding an inquiry in the manner laid down in Sub-regulation (3) to (23) of Regulation 58, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary.*
 - (c) *Taking the representation, if any, submitted by the employee under clause (a) and the record of inquiry, if any, held under clauses (b) into consideration;*
 - (d) *Recording a finding on each imputation of misconduct or misbehavior.*
- 2. *Notwithstanding anything contained in clauses (b) of Sub-regulation (1), if in a case it is proposed, after considering the representation, if any, made by the employee under clause (a) of the sub-regulation, to withhold increment of pay and such withholding of increments is likely to affect adversely the amount of retirement benefits payable to the employee or to withhold increments of a pay for a period exceeding 3 years or to withhold increments of pay with cumulative effect for any period, an inquiry shall be held in the manner laid down in Sub-regulation (3) to (23) of Regulation 58 before making any order imposing on the employee any such penalty.”*

Hence, from the provisions quoted hereinabove, it is very much apparent that the management of FCI was under obligation to institute a formal inquiry only when the disciplinary authority was of the opinion that such inquiry was necessary. In the case in hand, the Disciplinary Authority did not opine to conduct a formal inquiry and taken the decision in light of charge sheet and reply of the workman, therefore, warrants no interference at the end of this Tribunal. The Section 11 A of the Industrial Disputes Act, 1947 reads as under:

“11A. Powers of Labour Courts, Tribunal and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen. – Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, be its award, set aside the order of discharge or dismissal and direct re-instatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require:

Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.”

A bare reading of the section makes it clear that Section 11 A of the Industrial Disputes Act, 1947 has been enacted to empower the Labour Court to interfere with that management's decision to dismiss, discharge or

terminate the services of a workman. In respect of other punishments, it has been observed and consistently held by the Courts that the tribunal does not have power to substitute its own judgment for that of the management. Hon'ble Apex Court in *South Indian Cashew Factories Workers' Union vs. Kerala State Cashew Development Corpn. Ltd* (2006) 5 SCC 201 made the following observations:

“Section 11-A of the Act gives ample power to the Labour Court to re-appraise the evidence adduced in the enquiry and also sit in appeal over the decision of the employer in imposing punishment. Section 11-A of the Industrial Disputes Act is only applicable in the case of dismissal or discharge of a workman as clearly mentioned in the section itself.”

12. Whether similar power can be exercised by the Labour Court where the punishment award is neither dismissal, punishment or retrenchment? This issue has been considered by Hon'ble Allahabad High Court in *Allahabad Bank vs. Presiding Officer, Central Govt. Industrial Tribunal-cum- Labour Court, Kanpur & others* 2012 (133) FLR 1098; where it has been observed that:

“Section 11-A empowers the Labour Court to re-appreciate the evidence and correct the judgment, in case of discharge, dismissal and termination, while in case of other punishments, no such power is vested with the Labour Court”.

13. Therefore, in view of the facts and circumstances of the case, discussions made and case laws cited hereinabove, I come to the conclusion that the action of the management of FCI in imposing penalty of recovery on the workman is neither illegal nor unjustified; and the workman is not entitled for any relief.

14. The reference under adjudication is answered accordingly.

15. Award as above.

Let two copies of this award be sent to the Ministry for publication.

LUCKNOW.

19th November, 2020

P. K. SRIVASTAVA, Presiding Officer