



भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-सा.-20022021-225296
CG-DL-W-20022021-225296

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 06] नई दिल्ली, फरवरी 7—फरवरी 13, 2021 शनिवार/ माघ 18—माघ 24, 1942
No. 06] NEW DELHI, FEBRUARY 7—FEBRUARY 13, 2021, SATURDAY/MAGHA 18—MAGHA 24, 1942

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)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 27 जनवरी, 2021

का. आ. 106.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 20 की उप-धारा (1) के साथ पठित धारा 19 के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय स्टेट बैंक के उप-प्रबंध निदेशक श्री अश्विनी कुमार तिवारी (जन्म तिथि: 29.12.1967) को पदभार ग्रहण करने की तिथि से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, भारतीय स्टेट बैंक में प्रबंध निदेशक के पद पर नियुक्त करती है।

[फा. सं. 4/1/2020-बीओ-I]

संजय कुमार मिश्र, अवर सचिव

MINISTRY OF FINANCE**(Department of Financial Services)**

New Delhi, the 27th January, 2021

S. O. 106.—In exercise of the powers conferred by clause (b) of section 19 read with sub-section (1) of section 20 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, hereby appoints Shri Ashwini Kumar Tewari (date of birth: 29.12.1967), Deputy Managing Director, State Bank of India as Managing Director in State Bank of India for a period of three years with effect from the date of assumption of office, or until further orders, whichever is earlier.

[F. No. 4/1/2020-BO-I]

SANJAY KUMAR MISHRA, Under Secy.

नई दिल्ली, 27 जनवरी, 2021

का. आ. 107.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 20 की उप-धारा (1) के साथ पठित धारा 19 के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय स्टेट बैंक के उप-प्रबंध निदेशक श्री स्वामीनाथन जानकीरमण (जन्म तिथि: 4.2.1964) को पदभार ग्रहण करने की तिथि से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, भारतीय स्टेट बैंक में प्रबंध निदेशक के पद पर नियुक्त करती है।

[फा. सं. 4/1/2020-बीओ-I]

संजय कुमार मिश्र, अवर सचिव

New Delhi, the 27th January, 2021

S. O. 107.—In exercise of the powers conferred by clause (b) of section 19 read with sub-section (1) of section 20 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, hereby appoints Shri Swaminathan Janakiraman (date of birth: 4.2.1964), Deputy Managing Director, State Bank of India as Managing Director in State Bank of India for a period of three years with effect from the date of assumption of office, or until further orders, whichever is earlier.

[F. No. 4/1/2020-BO-I]

SANJAY KUMAR MISHRA, Under Secy.

अंतरिक्ष विभाग

बेंगलूर, 5 फरवरी, 2021

का. आ. 108.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में एतद्वारा अंतरिक्ष विभाग के निम्नलिखित कार्यालय, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

भारतीय अंतरिक्ष विज्ञान एवं प्रौद्योगिकी संस्थान (आई.आई.एस.टी.)

वलियमला,

तिरुवनंतपुरम - 695547

[फा. सं. 8/1/10/2011-हिं.]

के. वी. रमणा बाबू, अवर सचिव

DEPARTMENT OF SPACE

Bangalore, the 5th February, 2021

S. O. 108.—In pursuance of Sub-rule (4) of the Rule 10 of the Official Language (use for official purpose of the Union) Rule, 1976, the Central Government, hereby notifies the following Office of the Department of Space, whereof more than 80 percent staff have acquired the working knowledge of Hindi.

Indian Institute of Space Science and Technology (IIST)
Valiamala,
Thiruvananthapuram – 695547

[F. No. 8/1/10/2011-H.]

K. V. RAMANA BABU, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 8 फरवरी, 2021

का. आ. 109.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार के अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में और पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय, भारत सरकार के का. आ. 978 दिनांक 19 अक्टूबर, 2020, की अधिसूचना के संशोधन में उक्त अधिनियम के अधीन कर्नाटक राज्य के राज्यक्षेत्र के भीतर हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की मंगलूर-हासन-मैसूर-सोलूर एलपीजी पाइपलाइन परियोजना सक्षम अधिकारी के कार्यों का निर्वहन करने के लिए श्रीमती जीन मेरी ताऊरो (जूनियर स्केल), को प्राधिकृत करती है। यह अधिसूचना की तारीख से लागू होता है।

[फा. सं. आर-11025(15)/2/2018-ओआर-I/ई-22573]

पी. सोमाकुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 8th February, 2021

S.O. 109.—In pursuance of clause (a) of section 2 of the Petroleum Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) and in modification of Notification of the Government of India in Ministry of Petroleum and Natural Gas S.O. No. 978 dated the 19th October 2020, the Central Government hereby authorizes Mrs. Jean Marie Tauro (Junior Scale), Government of Karnataka to perform the functions of Competent Authority for HPCL's Mangalore Hassan Mysore Solur LPG Pipeline under the said Act, within the territory of Karnataka State. This is applicable from the date of notification.

[F. No. R-11025(15)/2/2018-OR-I/E-22573]

P. SOMAKUMAR, Under Secy.

विद्युत मंत्रालय

नई दिल्ली, 9 फरवरी, 2021

का.आ. 110.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में विद्युत मंत्रालय के प्रशासनिक नियंत्रणाधीन पावर ग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड के निम्नलिखित कार्यालयों जिनके 80 प्रतिशत कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है:-

1. पावर ग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड,
पूर्वी क्षेत्र पारेषण प्रणाली-1,
400/220/132 के.वी. डालटनगंज उपकेंद्र,
ग्राम-लहलहे, पोस्ट-झाबर थाना-सतबरवा,
जिला-पलमू, झारखंड-822126
2. पावर ग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड,
पूर्वी क्षेत्र-II, 400/220 केवी सुभाषग्राम उपकेंद्र,
साउथ गरिया, चंपाहाटी रोड, दक्षिण 24 परगना,
पश्चिम बंगाल, पिन-743613

[फा. सं. 11011/9/2017-हिंदी]

राज पाल, वरिष्ठ सलाहकार

MINISTRY OF POWER

New Delhi, the 9th February, 2021

S.O. 110.—In pursuance of Sub Rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976, the Central Government hereby notify the following offices of the Power Grid Corporation of India Limited under the administrative control of Ministry of Power, where 80% of the staff have acquired working knowledge of Hindi:

1. Power Grid Corporation of India Limited,
Eastern Region Transmission System-1,
400/220/132 KV. Daltonganj Su-Station,
Village-Lahlahe, PO-Jhabar, PS-Satbarwa,
District-Palamu (Jharkhand)-822126
2. Power Grid Corporation of India Limited,
Eastern Region-II,
400/220 KV. Subhashgram Sub-Station,
South Garia, At Champahati Road,
South 24 Parganas, W.B.-743613

[F. No. 11011/9/2017-Hindi]

RAJ PAL, Senior Adviser

कोयला मंत्रालय

नई दिल्ली, 12 फरवरी, 2021

का. आ. 111.—केन्द्रीय सरकार, 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 के कोयला मंत्रालय द्वारा जारी की गई अधिसूचना संख्यांक का. आ. 845, तारीख 21 सितम्बर, 2020, जो भारत के राजपत्र के भाग II, खण्ड 3, उपखण्ड (ii), तारीख 26 सितम्बर, 2020 में प्रकाशित की गई थी, उस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 422.20 हेक्टर [21.50 हेक्टेयर केवल खनन अधिकार के लिए और 400.70 हेक्टेयर सभी अधिकार के लिए] (लगभग) या 1043.258 एकड़ [53.127 एकड़ केवल खनन अधिकार के लिए और और 990.131 एकड़ सभी अधिकार के लिए] (लगभग) है, कोयले का पूर्वक्षण करने के अपने आशय की सूचना दी थी;

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

अतः, अब, केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इससे संलग्न अनुसूची में वर्णित 419.363 हेक्टर [21.50 हेक्टेयर केवल खनन अधिकार के लिए और 397.8630 हेक्टेयर सभी अधिकार के लिए] (लगभग) या 1036.246 एकड़ [53.127 एकड़ केवल खनन अधिकार के लिए और और 983.119 एकड़ सभी अधिकार के लिए] (लगभग) माप वाली भूमि में और केवल खनन अधिकार के लिए और 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 टीसी/एजी/एसयूआर/आरईवी. प्लान/ 20-21/103, तारीख 10 अक्तूबर, 2020 का निरीक्षण कलेक्टर, जिला पश्चिम बर्द्धवान, पश्चिम बंगाल के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता- 700 001 के कार्यालय में या निदेशक तकनीकी (पी एण्ड पी), ईस्टर्न कोलफील्ड्स लिमिटेड, संकतोड़िया, डाकघर दिशेरगढ़, जिला पश्चिम बर्द्धमान - 713 333, पश्चिम बंगाल 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 :-

अर्जन की बाबत आपत्तियां :

“8. (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) उपधारा (1) के अधीन प्रत्येक आपत्ति सक्षम प्राधिकारी को लिखित रूप में की जाएगी और सक्षम अधिकारी, आपत्तिकर्ता को स्वयं सुने जाने 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 अधिसूचना संख्यांक का. आ. 2520, 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 नियुक्त किया है।

रेखांक संख्यांक टीसी/एजी/एसयूआर/आरईवी. प्लान/ 20-21/103, तारीख 10 अक्तूबर, 2020]

[illegible][illegible]

सकल कुल: (खनन अधिकार : 21.50 हेक्टेयर + सभी अधिकार : 397.8630 हेक्टेयर) =
419.363 हेक्टेयर (लगभग)

या

(खनन अधिकार 53.127 एकड़ + सभी अधिकार 983.119 एकड़) =
1036.246 एकड़ (लगभग)

मौजा में अर्जित किए जाने वाले प्लॉट संख्यांक का विवरण (केवल खनन अधिकार) :

1. एल.ए. मौजा झांजरा के अंतर्गत अर्जित किए जाने वाले प्लॉट संख्यांक, जे.एल. सं. 34, पी.एस. – फरीदपुर (लाउदोहा) (खनन अधिकार) :

626, 636, 637(भाग), 638 से 642, 643(भाग), 645(भाग), 646, 647 से 650, 689(भाग), 690, 691(भाग), 695(भाग), 696 से 714, 715(भाग), 716 से 721, 722(भाग), 723(भाग), 725(भाग), 726(भाग), 727 से 731, 732(भाग), 734 से 749, 750(भाग), 751 से 760, 761(भाग), 763 से 780, 781(भाग), 787(भाग), 789(भाग), 790 से 853, 854(भाग), 855 से 861, 862(भाग), 864, 865, 866(भाग), 867(भाग), 868(भाग), 875(भाग), 876(भाग), 877(भाग), 918(भाग), 919 से 946, 947(भाग), 948(भाग), 949(भाग), 951(भाग), 952, 953(भाग), 954, 956(भाग), 958(भाग), 959(भाग), 960 से 978, 979(भाग), 980(भाग), 1034(भाग), 1035(भाग), 1036(भाग), 1037(भाग), 1038, 1039, 804/2380, 812/2495, 749/2370, 700/2455.

2. एल.ए. मौजा तिलाबोनी के अंतर्गत अर्जित किए जाने वाले प्लॉट संख्यांक, जे.एल. सं. 20, पी.एस. – फरीदपुर (लाउदोहा) (खनन अधिकार) :

267(भाग), 268 से 270, 271(भाग), 272(भाग), 273(भाग), 281(भाग), 282(भाग), 283(भाग), 285(भाग), 311(भाग), 314(भाग), 315, 317, 318(भाग), 319(भाग), 320(भाग), 465(भाग), 466 से 468, 469(भाग), 471(भाग), 472 से 504, 505(भाग), 506, 507(भाग), 508(भाग), 509, 510(भाग), 522(भाग), 523, 524(भाग), 525, 526, 528(भाग), 529, 530 से 538, 539(भाग), 544, 545, 546(भाग), 548(भाग), 578(भाग), 579(भाग), 580 से 584, 586(भाग), 596(भाग), 597(भाग), 598 से 601, 602(भाग), 603(भाग), 604(भाग), 605, 606, 607(भाग), 608(भाग), 609(भाग), 610(भाग), 611 से 627, 628(भाग), 629, 630(भाग), 631, 648(भाग), 649(भाग), 650 से 654, 655(भाग), 656(भाग), 586/870(भाग), 596/871 (भाग), 606/872, 631/873.

मौजा में अर्जित किए जाने वाले प्लॉट संख्यांक का विवरण (सभी अधिकार) :

1. एल.ए. मौजा झांजरा के अंतर्गत अर्जित किए जाने वाले प्लॉट संख्यांक, जे.एल. सं. 34, पी.एस. – फरीदपुर (लाउदोहा) (सभी अधिकार) :

175(भाग), 206(भाग), 214(भाग), 255(भाग), 256(भाग), 257 से 260, 261(भाग), 282(भाग), 283(भाग), 284, 285(भाग), 287(भाग), 288, 289, 290(भाग), 291(भाग), 293(भाग), 294 से 302, 303(भाग), 304 से 354, 356 से 507, 508(भाग), 509(भाग), 513(भाग), 514(भाग), 515(भाग), 516, 517, 518(भाग), 519 से 523, 525 से 625, 627 से 635, 637(भाग), 643(भाग), 644, 645(भाग), 651 से 688, 689(भाग), 691(भाग), 692 से 694, 695(भाग), 715(भाग), 722(भाग), 723(भाग), 724, 725(भाग), 726(भाग),

732(भाग), 733, 750(भाग), 761(भाग), 762, 781(भाग), 782 से 786, 787(भाग), 788, 789(भाग), 854(भाग), 862(भाग), 863, 866 (भाग), 867(भाग), 868 (भाग), 869, 870, 871(भाग), 872(भाग), 873, 874, 875(भाग), 876(भाग), 877(भाग), 878, 879, 880(भाग), 881(भाग), 914(भाग), 916(भाग), 917(भाग), 918(भाग), 947(भाग), 948(भाग), 949(भाग), 950, 951(भाग), 953(भाग), 955, 956(भाग), 957, 958(भाग), 959(भाग), 979(भाग), 980(भाग), 981 से 1033, 1034(भाग), 1035(भाग), 1036(भाग), 1037(भाग), 1040 से 2014, 2015(भाग), 2017(भाग), 2018, 2019(भाग), 2020, 2021, 2022(भाग), 2036(भाग), 2037, 2038(भाग), 2039, 2040, 2041, 2042(भाग), 2043(भाग), 2066(भाग), 2067, 2068, 2069, 2070(भाग), 2071(भाग), 2073(भाग), 2074 से 2086, 2087(भाग), 2088(भाग), 2089(भाग), 2090(भाग), 2091(भाग), 2092, 2093(भाग), 2094, 2095, 2096(भाग), 2102(भाग), 2119(भाग), 2120(भाग), 2121, 2122, 2123(भाग), 2124, 2125, 2126, 2127(भाग), 2128 से 2132, 2133(भाग), 2134, 2135(भाग), 2139(भाग), 2140(भाग), 2141, 2142(भाग), 2146(भाग), 2147, 2148(भाग), 2149 से 2161, 2162(भाग), 2163(भाग), 2166(भाग), 2167(भाग), 2168 से 2182, 2183(भाग), 2184(भाग), 2185(भाग), 2186, 2187, 2188, 2189(भाग), 1026/2374, 1159/2368, 1183/2375, 1208/2494, 1379/2485, 1465/2458, 1492/2376, 1610/2369, 1626/2459, 1626/2460, 1629/2461, 1687/2378, 1713/2462, 1739/2464, 1739/2465, 175/2442(भाग), 175/2498(भाग), 175/2500(भाग), 175/2501(भाग), 175/2502(भाग), 175/2504, 1753/2466, 1782/2467, 1796/2468, 1815/2469, 1822/2470, 1862/2490, 1897/2471, 1897/2472, 1933/2473, 1938/2379, 1939/2474, 1954/2475, 293/2377, 312/2390, 316/2371, 357/2447, 368/2397, 370/2396, 381/2394, 485/2395, 493/2391(भाग), 508/2382(भाग), 509/2383, 917/2492, 917/2493, 518/2381.

2. एल.ए. मौजा तिलाबोनी के अंतर्गत अर्जित किए जाने वाले प्लॉट संख्यांक, जे.एल. सं. 20, पी.एस. – फरीदपुर (लाउदोहा) (सभी अधिकार) :

273(भाग), 310(भाग), 311(भाग), 312(भाग), 313(भाग), 314(भाग), 318(भाग), 319(भाग), 320(भाग), 321, 322, 323 (भाग), 325(भाग), 326(भाग), 329(भाग), 330, 331(भाग), 349 (भाग), 350, 351(भाग), 352, 353, 354(भाग), 355(भाग), 356(भाग), 357(भाग), 358, 359, 360(भाग), 373(भाग), 374(भाग), 375(भाग), 376, 377, 378(भाग), 383(भाग), 385 से 464, 465(भाग), 469(भाग), 471(भाग), 528(भाग), 602(भाग), 603(भाग), 604(भाग), 607 (भाग), 608(भाग), 609(भाग), 610(भाग), 628(भाग), 630(भाग), 633 से 647, 648 (भाग), 649(भाग), 655(भाग), 656(भाग), 657 से 663, 665 से 685, 687 से 706, 709 से 755, 757 से 776, 778 से 839, 841 से 854, 857, 858(भाग), 859 , 860, 861, 663/874.

3. एल.ए. मौजा लाउदोहा के अंतर्गत अर्जित किए जाने वाले प्लॉट संख्यांक, जे.एल. सं. 21, पी.एस. – फरीदपुर (लाउदोहा) (सभी अधिकार) :

692(भाग), 693(भाग), 694(भाग), 695(भाग), 706(भाग), 707(भाग), 710(भाग), 716(भाग), 717(भाग), 719(भाग), 720 से 730, 731(भाग), 732 से 833, 834(भाग), 835, 845, 895.

4. एल.ए. मौजा चाक-लाउदोहा के अंतर्गत अर्जित किए जाने वाले प्लॉट संख्यांक, जे.एल. सं. 22, पी.एस. – फरीदपुर (लाउदोहा) (सभी अधिकार) :

27(भाग), 33(भाग), 35(भाग), 36 से 69, 71 से 79, 80(भाग), 82(भाग), 142(भाग), 143, 144, 146 से 150, 151(भाग), 152(भाग), 153(भाग), 154 (भाग), 180, 181(भाग), 182 (भाग), 183(भाग), 184(भाग), 186, 187, 189, 190 से 204.

5. एल.ए. मौजा जामगोरा के अंतर्गत अर्जित किए जाने वाले प्लॉट संख्यांक, जे.एल. सं. 23, पी.एस. – फरीदपुर (लाउदोहा) (सभी अधिकार) :

503(भाग), 504(भाग), 510(भाग), 511(भाग), 512 से 528, 529(भाग), 530, 531, 532, 560(भाग), 561(भाग), 562 से 608, 609(भाग), 610(भाग), 612 से 720, 721(भाग), 722(भाग), 723 से 730, 731(भाग), 732, 733(भाग), 738(भाग), 773(भाग), 774(भाग), 775 से 778, 779(भाग), 781(भाग), 782, 783, 784(भाग), 785(भाग), 796(भाग), 797(भाग), 690/1243, 5601/1246(भाग), 673/1268, 647/3412, 648/3411, 794/3381.

6. एल.ए. मौजा बंशिहा के अंतर्गत अर्जित किए जाने वाले प्लॉट संख्यांक, जे.एल. सं. 32, पी.एस. – फरीदपुर (लाउदोहा) (सभी अधिकार) :

1 से 159, 160(भाग), 161, 162, 163(भाग), 164 से 184, 185(भाग), 186 (भाग), 187(भाग), 199(भाग), 203(भाग), 204(भाग), 205, 206, 207, 208, 209(भाग), 210, 211, 212(भाग), 213 से 228, 229(भाग), 230, 231(भाग), 232, 233(भाग), 236(भाग), 249(भाग), 252(भाग), 253, 254, 255(भाग), 256(भाग), 414(भाग), 415, 416(भाग), 417(भाग), 454(भाग), 455, 456, 457(भाग), 458(भाग), 461(भाग), 463(भाग), 464, 465(भाग), 466 से 523, 524(भाग), 525, 526, 528(भाग), 530(भाग), 532(भाग), 533 से 561, 562(भाग), 563(भाग), 565(भाग), 566(भाग), 567(भाग), 568(भाग), 569, 570(भाग), 774(भाग), 775, 776(भाग), 777 से 785, 786(भाग), 787(भाग), 799(भाग), 800, 801(भाग), 802 से 813, 814(भाग), 815 से 821, 822(भाग), 831(भाग), 832, 833(भाग), 834(भाग), 1796(भाग), 10/2041, 10/2121, 10/2122, 10/2123, 139/2082, 139/2083, 139/2084, 139/2085, 139/2086, 139/2087, 139/2088, 139/2090, 139/2091, 139/2092, 139/2093, 139/2094, 139/2095, 139/2126, 19/2124, 206/2080, 206/2081, 399/2089, 456/2078, 468/2120, 520/2050, 555/2049, 556/2048, 58/2047, 64/2096, 67/2046, 814/2119, 93/2147.

7. एल.ए. मौजा भद्रपुर के अंतर्गत अर्जित किए जाने वाले प्लॉट संख्यांक, जे.एल. सं. 32, पी.एस. – फरीदपुर (लाउदोहा) (सभी अधिकार) :

173(भाग), 174(भाग), 205(भाग), 206(भाग), 207(भाग), 208(भाग), 211(भाग), 212(भाग), 213 से 218, 219(भाग), 220(भाग), 221, 222(भाग).

सीमा-विवरण: कोयला ब्लॉक की सीमा 7 (सात) मौजा से गुजरती है जो फरीदपुर-दुर्गापुर ब्लॉक के जिला पश्चिम बर्धमान के ऊपर वर्णित से गुजरती है।

1. रेखा ग-ग1-घ :- रेखा, तिलाबोनी मौजा के बिन्दु 'ग' से शुरू होती है जो कोयला ब्लॉक का उत्तर कोना है। यह रेखा दक्षिण-पश्चिम से गुजरते हुए झांजरा मौजा में बिंदु 'घ' (ब्लॉक का दक्षिण -पश्चिम कोना) तक पहुँचती है।
2. रेखा घ-ड.-ड.1-च-छ-ज-झ-ञ : रेखा, झांजरा मौजा के बिन्दु 'घ' से शुरू होती है जो कोयला ब्लॉक का दक्षिण-पश्चिम कोना है। यह रेखा दक्षिण - पूर्व दिशा में भद्रपुर मौजा से गुजरते हुए बंशिया मौजा में बिन्दु 'ज' (ब्लॉक का दक्षिण-पूर्व कोना) तक पहुँचती है।

3. रेखा ज-ज1-ट : रेखा, बंशिया मौजा के बिन्दु 'ज' से शुरू होती है जो कोयला ब्लॉक का दक्षिण-पूर्व कोना है। यह रेखा उत्तर- पूर्व दिशा से गुज़रते हुए जामगोरा मौजा में बिन्दु 'ट' (ब्लॉक का उत्तर- पूर्व कोना) तक पहुँचती है।
4. रेखा ट-ठ : रेखा, जामगोरा मौजा के बिन्दु बिंदु 'ट' से शुरू होती है जो कोयला ब्लॉक का उत्तर- पूर्वी कोना है। यह रेखा उत्तर -पश्चिम दिशा से गुज़रते हुए जामगोरा मौजा में बिन्दु 'ठ' (ब्लॉक का उत्तर पश्चिम कोना) तक पहुँचती है।
5. रेखा ठ-ड : रेखा, जामगोरा मौजा के बिन्दु 'ठ' से शुरू होती है जो कोयला ब्लॉक का उत्तर - पश्चिम कोना है। यह रेखा दक्षिण-पश्चिम दिशा से गुज़रते हुए जामगोरा मौजा में बिन्दु 'ड' (ब्लॉक का दक्षिण पश्चिम कोना) तक पहुँचती है।
6. रेखा ड-ढ-ण-त-थ-द-ध-न-प-फ-ब-भ-म-य : रेखा, जामगोरा मौजा के बिंदु 'ड' से शुरू होती है जो कोयला ब्लॉक का दक्षिण-पश्चिम कोना है। यह रेखा उत्तर-पश्चिम दिशा से गुज़रते हुए चाक-लाउदोहा मौजा में बिन्दु 'य' (ब्लॉक का उत्तर-पश्चिम कोना) तक पहुँचती है।
7. रेखा य-कक: रेखा, चाक-लाउदोहा मौजा के बिन्दु 'य' से शुरू होती है जो कोयला ब्लॉक का उत्तर-पश्चिम कोना है। यह रेखा उत्तर दिशा से गुज़रते हुए चाक-लाउदोहा मौजा में बिन्दु 'कक' (ब्लॉक का उत्तर-पश्चिम कोना) तक पहुँचती है।
8. रेखा कक-खख-गग-घघ-ङ.ङ.-चच-ग: रेखा, चाक-लाउदोहा मौजा के बिन्दु 'कक' से शुरू होती है जो कोयला ब्लॉक का उत्तर कोना है। यह रेखा पश्चिम दिशा में चाक-लाउदोहा मौजा से गुज़रते हुए तिलाबोनी मौजा में बिन्दु 'ग' (ब्लॉक का पश्चिम कोना) तक पहुँचती है।

[फा. सं. 43015/18/2020-एलए एण्ड आईआर]

राम शिरोमणि सरोज, उप सचिव

MINISTRY OF COAL

New Delhi, the 12th February, 2021

S.O. 111.—Whereas, by the notification of the Government of India in the Ministry of Coal number S.O.845, dated the 21st September, 2020 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 26th September, 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) the Central Government gave notice of its intention to prospect for coal in 422.20 hectares [21.50 hectares for only mining rights and 400.70 hectares for all rights] (approximately) or 1043.258 acres [53.127 acres for only mining rights and 990.131 acres for all rights] (approximately) of the lands in the locality specified in the Schedule appended to that notification;

And whereas the Central Government is satisfied that coal is obtainable in a part of the said land specified in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by the sub- section (1) of section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to acquire the land measuring 419.363 hectares [21.50 hectares for only mining rights and 397.8630 hectares for all rights] (approximately) or 1036.246 acres [53.127 acres for only mining rights and 983.119 acres for all rights] (approximately) and only mining rights and all rights in or over the said lands specified in the Schedule specified hereto :

Note 1 : The plan bearing number TC/AG/SUR/REV. PLAN/20-21/103, dated the 10th October, 2020 of the area covered by this notification may be inspected at the office of the Collector, District Pashchim Burdwan, West Bengal or at the office of the Coal Controller, 1, Council House Street, Kolkata- 700001 or at the office the Director Technical (P and P), Eastern Coalfields Limited, Sanctoria, P.O. Dishegarh, District- Pashchim Burdwan- 713333, West Bengal.

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

Objection to acquisition:

“8. (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 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 operation 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 the proceedings held by him, the decision of that Government.

(3) For purposes 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- 700001 has been appointed by the Central Government as the competent authority under section 3 of the said Act, *vide* notification number S.O. 2520, dated the 27th May,1983 published in the Gazette of India, part II, section 3, sub- section (ii), dated the 11th June, 1983.

SCHEDULE

Tilaboni Block and Tilaboni Extension Block

District-Pashchim Burdwan, State-West Bengal

[Plan bearing number TC/AG/SUR/REV. PLAN/20-21/103, dated the 10th October, 2020]

Mining Rights :

Sr. No.	Name of Mouza	Thana	Block	District	Area in hectares (approximately)	Remarks
1.	Jhanjra J.L-34	Faridpur (Laudoha)	Faridpur-Durgapur	PashchimBurdwan	9.50	Part
2.	Tilaboni J.L-20	Faridpur (Laudoha)	Faridpur-Durgapur	PashchimBurdwan	12.00	Part
Total :					21.50	
Total : 21.50 hectares (approximately) or 53.127 acres (approximately)						

All Rights :

Sr. No.	Name of Mouza	Thana	Block	District	Area in hectares (approximately)	Remarks
1.	Jhanjra J.L-34	Faridpur (Laudoha)	Faridpur-Durgapur	PashchimBurdwan	178.886	Part
2.	Tilaboni J.L-20	Faridpur (Laudoha)	Faridpur-Durgapur	PashchimBurdwan	60.5178	Part
3.	Laudoha J.L-21	Faridpur (Laudoha)	Faridpur-Durgapur	PashchimBurdwan	27.4301	Part
4.	Chak-Laudoha J.L-22	Faridpur (Laudoha)	Faridpur-Durgapur	PashchimBurdwan	24.5528	Part
5.	Jamgora J.L-23	Faridpur (Laudoha)	Faridpur-Durgapur	PashchimBurdwan	38.0938	Part
6.	Banshia J.L-32	Faridpur (Laudoha)	Faridpur-Durgapur	PashchimBurdwan	67.3870	Part

7.	Bhadrapur J.L-35	Faridpur (Laudoha)	Faridpur- Durgapur	PashchimBurdwan	0.9955	Part
Total :					397.8630	
Total : 397.8630 hectares (approximately) or 983.119 acres (approximately)						

Grand Total: (Mining Rights : 21.50 hectares + All Rights 397.8630)
= 419.363 hectares (approximately)

or

(Mining Rights : 53.127 acres + All Rights : 983.119 acres)
= 1036.246 acres (approximately)

Details of plot numbers to be acquired in Mouzas (Only Mining Rights) :

1. L.R. Plots to be acquired in Jhanjra Mouza, J. L. No. 34, P.S.-Faridpur (Laudoha) (Mining Rights) :

626,636,637(P), 638 to 642,643(P), 645(P), 646, 647 to 650, 689(P), 690, 691(P), 695(P), 696 to 714, 715(P), 716 to 721, 722(P), 723(P), 725(P), 726(P), 727 to 731, 732(P), 734 to 749, 750(P), 751 to 760, 761(P), 763 to 780, 781(P), 787(P), 789(P), 790 to 853, 854(P), 855 to 861, 862(P), 864, 865, 866(P), 867(P), 868(P), 875(P), 876(P), 877(P), 918(P), 919 to 946, 947(P), 948(P), 949(P), 951(P), 952, 953(P), 954, 956(P), 958(P), 959(P), 960 to 978, 979(P), 980(P), 1034(P), 1035(P), 1036(P), 1037(P), 1038, 1039, 804/2380, 812/2495, 749/2370, 700/2455.

2. L.R. Plots to be acquired in Tilaboni Mouza, J. L. No. 20, P.S.-Faridpur (Laudoha) (Mining Rights) :

267(P), 268 to 270, 271(P), 272(P), 273(P), 281(P), 282(P), 283(P), 285(P), 311(P), 314(P), 315, 317, 318(P), 319(P), 320(P), 465(P), 466 to 468, 469(P), 471(P), 472 to 504, 505(P), 506, 507(P), 508(P), 509, 510(P), 522(P), 523, 524(P), 525, 526, 528(P), 529, 530 to 538, 539(P), 544, 545, 546(P), 548(P), 578(P), 579(P), 580 to 584, 586(P), 596(P), 597(P), 598 to 601, 602(P), 603(P), 604(P), 605,606, 607(P), 608(P), 609(P), 610(P), 611 to 627, 628(P), 629, 630(P), 631, 648(P), 649(P), 650 to 654, 655(P), 656(P), 586/870(P), 596/871(P), 606/872, 631/873.

Details of plot numbers to be acquired in Mouzas (All Rights) :

1. L.R. Plots to be acquired in Jhanjra Mouza, J. L. No. 34, P. S.-Faridpur (Laudoha) (All Rights):

175(P), 206(P), 214(P), 255(P), 256(P), 257 to 260, 261(P), 282(P), 283(P), 284, 285(P), 287(P), 288, 289, 290(P), 291(P), 293(P), 294 to 302, 303(P), 304 to 354, 356 to 507, 508(P), 509(P), 513(P), 514(P), 515(P), 516, 517, 518(P), 519 to 523, 525 to 625, 627 to 635, 637(P), 643(P), 644, 645(P), 651 to 688, 689(P), 691(P), 692 to 694, 695(P), 715(P), 722(P), 723(P), 724, 725(P), 726(P), 732(P), 733, 750(P), 761(P), 762, 781(P), 782 to 786, 787(P), 788, 789(P), 854(P), 862(P), 863, 866(P), 867(P), 868(P), 869, 870, 871(P), 872(P), 873, 874, 875(P), 876(P), 877(P), 878, 879, 880(P), 881(P), 914(P), 916(P), 917(P), 918(P), 947(P), 948(P), 949(P), 950, 951(P), 953(P), 955, 956(P), 957, 958(P), 959(P), 979(P), 980(P), 981 to 1033, 1034(P), 1035(P), 1036(P), 1037(P), 1040 to 2014, 2015(P), 2017(P), 2018, 2019(P), 2020, 2021, 2022(P), 2036(P), 2037, 2038(P), 2039, 2040, 2041, 2042(P), 2043(P), 2066(P), 2067, 2068, 2069, 2070(P), 2071(P), 2073(P), 2074 to 2086, 2087(P), 2088(P), 2089(P), 2090(P), 2091(P), 2092, 2093(P), 2094, 2095, 2096(P), 2102(P), 2119(P), 2120(P), 2121, 2122, 2123(P), 2124, 2125, 2126, 2127(P), 2128 to 2132, 2133(P), 2134, 2135(P), 2139(P), 2140(P), 2141, 2142(P), 2146(P), 2147, 2148(P), 2149 to 2161, 2162(P), 2163(P), 2166(P), 2167(P), 2168 to 2182, 2183(P), 2184(P), 2185(P), 2186, 2187, 2188, 2189(P), 1026/2374, 1159/2368, 1183/2375, 1208/2494, 1379/2485, 1465/2458, 1492/2376, 1610/2369, 1626/2459, 1626/2460, 1629/2461, 1687/2378, 1713/2462, 1739/2464, 1739/2465, 175/2442(P), 175/2498(P), 175/2500(P), 175/2501(P), 175/2502(P), 175/2504, 1753/2466, 1782/2467, 1796/2468, 1815/2469, 1822/2470, 1862/2490, 1897/2471, 1897/2472, 1933/2473, 1938/2379, 1939/2474, 1954/2475, 293/2377, 312/2390, 316/2371, 357/2447, 368/2397, 370/2396, 381/2394, 485/2395, 493/2391(P), 508/2382(P), 509/2383, 917/2492, 917/2493, 518/2381.

2. L.R. Plots numbers to be acquired in Tilaboni Mouza, J. L. No. 20, P.S.-Faridpur (Laudoha) (All Rights) :

273(P), 310(P), 311(P), 312(P), 313(P), 314(P), 318(P), 319(P), 320(P), 321, 322, 323(P), 325(P), 326(P), 329(P), 330, 331(P), 349(P), 350, 351(P), 352, 353, 354(P), 355(P), 356(P), 357(P), 358, 359, 360(P), 373(P), 374(P), 375(P), 376, 377, 378(P), 383(P), 385 to 464, 465(P), 469(P), 471(P), 528(P), 602(P), 603(P), 604(P), 607(P), 608(P), 609(P), 610(P), 628(P), 630(P), 633 to 647, 648(P), 649(P), 655(P), 656(P), 657 to 663, 665 to 685, 687 to 706, 709 to 755, 757 to 776, 778 to 839, 841 to 854, 857, 858(P), 859, 860, 861, 663/874.

3. R.S. Plots numbers to be acquired in Laudoha Mouza, J. L. No. 21, P.S.-Faridpur (Laudoha) (All Rights) : 692(P), 693(P), 694(P), 695(P), 706(P), 707(P), 710(P), 716(P), 717(P), 719(P), 720 to 730, 731(P), 732 to 833, 834(P), 835, 845, 895.

4. L.R. Plots numbers to be acquired in Chak-Laudoha Mouza, J. L. No. 22, P. S.-Faridpur (Laudoha) (All Rights):

27(P), 33(P), 35(P), 36 to 69, 71 to 79, 80(P), 82(P), 142(P), 143, 144, 146 to 150, 151(P), 152(P), 153(P), 154(P), 180, 181(P), 182(P), 183(P), 184(P), 186, 187, 189, 190 to 204.

5. L.R. Plots numbers to be acquired in Jamgora Mouza, J. L. No. 23, P.S.-Faridpur (Laudoha) (All Rights):

503(P), 504(P), 510(P), 511(P), 512 to 528, 529(P), 530, 531, 532, 560(P), 561(P), 562 to 608, 609(P), 610(P), 612 to 720, 721(P), 722(P), 723 to 730, 731(P), 732, 733(P), 738(P), 773(P), 774(P), 775 to 778, 779(P), 781(P), 782, 783, 784(P), 785(P), 796(P), 797(P), 690/1243, 5601/1246(P), 673/1268, 647/3412, 648/3411, 794/3381.

6. L.R. Plots numbers to be acquired in Banshia Mouza, J. L. No. 32, P.S.-Faridpur (Laudoha) (All Rights):

1 to 159, 160(P), 161, 162, 163(P), 164 to 184, 185(P), 186(P), 187(P), 199(P), 203(P), 204(P), 205, 206, 207, 208, 209(P), 210, 211, 212(P), 213 to 228, 229(P), 230, 231(P), 232, 233(P), 236(P), 249(P), 252(P), 253, 254, 255(P), 256(P), 414(P), 415, 416(P), 417(P), 454(P), 455, 456, 457(P), 458(P), 461(P), 463(P), 464, 465(P), 466 to 523, 524(P), 525, 526, 528(P), 530(P), 532(P), 533 to 561, 562(P), 563(P), 565(P), 566(P), 567(P), 568(P), 569, 570(P), 774(P), 775, 776(P), 777 to 785, 786(P), 787(P), 799(P), 800, 801(P), 802 to 813, 814(P), 815 to 821, 822(P), 831(P), 832, 833(P), 834(P), 1796(P), 10/2041, 10/2121, 10/2122, 10/2123, 139/2082, 139/2083, 139/2084, 139/2085, 139/2086, 139/2087, 139/2088, 139/2090, 139/2091, 139/2092, 139/2093, 139/2094, 139/2095, 139/2126, 19/2124, 206/2080, 206/2081, 399/2089, 456/2078, 468/2120, 520/2050, 555/2049, 556/2048, 58/2047, 64/2096, 67/2046, 814/2119, 93/2147.

7. L.R. Plots numbers to be acquired in Bhadrapur Mouza, J. L. No. 35, P.S.-Faridpur (Laudoha) (All Rights):

173(P), 174(P), 205(P), 206(P), 207(P), 208(P), 211(P), 212(P), 213 to 218, 219(P), 220(P), 221, 222(P).

Boundary Description: The boundary of the coal block passes through the above said 7 (Seven) Mouzas of Faridpur-Durgapur block of Pashchim Burdwan district.

1. Line C-C1-D:- The line starts at point "C" in the north corner of the coal block from Tilaboni Mouza trends in South West direction reaches at point- "D" (South west corner of the block) in Jhanjra Mouza.
2. Line D-E-E1-F-G-H-I-J:- The line starts at point "D" in South West corner of the coal block from Jhanjra Mouza trends in South East direction of the coal block reaches at point "J" (South East corner of the block) in Banshia Mouza passing through Bhadrapur Mouza.
3. Line J-J1-K:- The line starts at point- "J" in South East corner of the coal block from Banshia Mouza trends in North East direction of the coal block reaches at point "K" (North East corner of the block) in Jamgora Mouza.
4. Line K-L:- The line starts at point "K" in North East corner of the coal block from Jamgora Mouza trends in North West direction of the coal block reaches at point "L" (North West corner of the block) in Jamgora Mouza.
5. Line L-M:- The line starts at point "L" in North West corner of the coal block from Jamgoara Mouza trends in South West corner of the coal block reaches at point "M" (South West corner of the block) in Jamgora Mouza.
6. Line M-N-O-P-Q-R-S-T-U-V-W-X-Y-Z:- The line starts at point "M" in South West corner of the coal block from Jamgora Mouza trends in North West direction of the coal block reaches at point "Z" (North West corner of the block) in Chak-Laudoha Mouza.
7. Line Z-AA:- The line starts at point "Z" in North West corner of the coal block from Chak-Laudoha Mouza trends in North direction of the coal block reaches at point "AA" (North corner of the block) in Chak Laudoha Mouza.
8. Line AA-BB-CC-DD-EE-FF-C:- The line starts at point "AA" in North corner of the coal block from Chak-Laudoha Mouza trends in West direction of the coal block reaches at point "C" (West corner of the block) in Tilaboni Mouza passing through Laudoha Mouza.

[F. No. 43015/18/2020-LA&IR]

RAM SHIROMANI SAROJ, Dy. Secy.

नई दिल्ली, 12 फरवरी, 2021

का.आ. 112.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उपधारा (1) के अधीन जारी, भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii), तारीख, 5 दिसम्बर, 2020 में प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का. आ. 1042, तारीख 2 दिसम्बर, 2020 के प्रकाशन पर, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) और भूमि में या उस पर के सभी अधिकार, उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्यांतिक रूप से केन्द्रीय सरकार में निहित हो गए थे;

और, केन्द्रीय सरकार को यह समाधान हो गया है कि साउथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, डाकघर संख्या 60, जिला— बिलासपुर-495006 (छत्तीसगढ़) (जिसे इसमें इसके पश्चात् उक्त सरकारी कम्पनी कहा गया है), ऐसे निबंधनों और शर्तों का जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिये तैयार है ।

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि इस प्रकार निहित उक्त 16.410 हेक्टर (लगभग) या 40.55 एकड़ (लगभग) भूमि और उस पर के सभी अधिकार, तारीख 5 दिसम्बर, 2020 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने की बजाय, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, उक्त सरकारी कम्पनी में निहित हो जाएंगे, अर्थात् :-

- (1) सरकारी कम्पनी, उक्त अधिनियम के उपबंधों और अन्य सुसंगत विधि के अधीन यथा अवधारित प्रतिकर, ब्याज, नुकसानियों आदि से संबंधित और वैसी ही मदों की बाबत सभी संदाय करेगी;
- (2) उक्त अधिनियम की धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा जिसमें सरकारी कम्पनी द्वारा शर्त (1) के अधीन, संदेय रकमों का अवधारण करने के प्रयोजनों के लिये और ऐसे किसी अधिकरण और उक्त अधिकरण की सहायता करने के लिये नियुक्त व्यक्तियों के संबंधों में उपगत सभी व्यय, उक्त सरकारी कम्पनी द्वारा वहन किये जायेंगे और इस प्रकार निहित उक्त भूमियों में या उस पर के अधिकारों के लिये या उनके संबंध में अपील आदि विधिक कार्यवाहियों की बाबत उपगत सभी व्यय भी सरकारी कम्पनी द्वारा वहन किये जायेंगे;
- (3) सरकारी कम्पनी, केन्द्रीय सरकार और उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में, क्षतिपूर्ति करेगी जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो;
- (4) सरकारी कम्पनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि और उसके अधिकार को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी ।
- (5) सरकारी कम्पनी, ऐसे निदेशों और शर्तों का, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिये दिए जाएं या अधिरोपित की जाए, पालन करेगी ।

[फा. सं. 43015/06/2019-एलए एण्ड आईआर]

राम शिरोमणि सरोज, उप सचिव

New Delhi, the 12th February, 2021

S.O. 112.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal number S.O. 1042, dated the 2nd December, 2020 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 5th December, 2020 issued under sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the lands and the all rights in or over the land described in the Schedule appended to the said notification (hereinafter referred to as the said lands) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act ;

And whereas, the Central Government is satisfied that the South Eastern Coalfields Limited, Seepat Road, P. B. No. 60, District-Bilaspur-495006, Chhattisgarh (hereinafter referred to as the Government company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that the said lands measuring 16.410 hectares (approximately) or 40.55 acres (approximately) and all rights in or over the said lands so vested shall with effect from 5th December,

2020 instead of continuing to so vest in the Central Government, shall vest in the Government company, subject to the following terms and conditions, namely:-

- (1) the Government company shall make all payments in respect of compensation, interest, damages, etc. and the like, as determined under the provisions of the said Act and other relevant law;
- (2) a Tribunal shall be constituted under section 14 of the said Act, for the purpose of determining the amounts payable by the Government company under condition (1) and all expenditure incurred in connection with any such Tribunal and persons appointed to assist the Tribunal shall be borne by the Government company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with the rights, in or over the said lands, so vested, shall also be borne by the Government company;
- (3) the Government company shall indemnify the Central Government and its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said lands so vested;
- (4) the Government company shall have no power to transfer the aforesaid rights in the said lands so vested to any other person without the prior approval of the Central Government; and
- (5) the Government company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands, as and when necessary.

[F. No. 43015/ 06/ 2019-LA&IR]

RAM SHIROMANI SAROJ, Dy. Secy.

वाणिज्य एवं उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 11 फरवरी, 2021

का.आ. 113.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) के साथ पठित, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तथा भारत सरकार के वाणिज्य मंत्रालय की शासकीय राजपत्र भाग-II, खण्ड-3, उप खण्ड (ii), में दिनांक 2 मई, 2019 की अधिसूचना सं. का.आ. 705, दिनांक 11 मई, 2020 को प्रकाशित अधिसूचना के स्थान पर, सिवाय उनके जो इस अधिक्रमण के पहले हो चुका है या होना है, मैसर्स मित्रा एस.के. प्राइवेट लिमिटेड, द्वार संख्या : 8-45-9/2/1, बी.सी. विध्या नगर कॉलोनी, चौथी गली, निकट सी बी आई (ओल्ड) डाउन विशाखापट्टनम - 530003 को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख 1 मई, 2022 तक की अवधि के लिए-

क) खनिज और अयस्क – समूह 1, अर्थात्, लौह अयस्क, मैंगनीज अयस्क, फेरोमैंगनीज तथा बाक्साइट; और

ख) खनिज और अयस्क – समूह 2, अर्थात्, क्रोम कंसन्ट्रेट सहित क्रोम अयस्क,

भारत सरकार के वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित, दिनांक 20 दिसम्बर, 1965 की अधिसूचना सं. का.आ. 3975 तथा दिनांक 20 दिसम्बर, 1965 की अधिसूचना सं. का.आ. 3978 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूचियों में विनिर्दिष्ट क्रमशः उक्त खनिज और अयस्क का विशाखापट्टनम पत्तन, गंगावरम पत्तन एवं काकीनादा पत्तन में निर्यात से पूर्व निरीक्षण करने के लिए निम्नलिखित शर्तों के अधीन एक अभिकरण के रूप में मान्यता देती है, अर्थात्:-

- (i) यह अभिकरण, खनिज और अयस्क समूह-I के निर्यात (निरीक्षण) नियम, 1965 तथा खनिज और अयस्क समूह-II के निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की

जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी; और

- (ii) यह अभिकरण, इस अधिसूचना के अधीन अपने कार्यों के पालन में निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद द्वारा समय-समय पर, लिखित रूप में, दिए गए ऐसे निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/3/2019-निर्यात निरीक्षण]

दिवाकर नाथ मिसरा, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 11th February, 2021

S.O. 113.—In exercise of the powers conferred by the sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, and in supersession of the notification of the Government of India in the Ministry of Commerce and Industry, number S. O. 705, dated the 2nd May, 2019, published in the Gazette of India, Part II, Section 3, sub section (ii), dated the 11th May, 2019, except as respects things done or omitted to be done before such supersession, the Central Government hereby recognizes M/s Mitra S.K. Private Limited, Door no. 8-45-9/2/1/B, C Vidyanagar Colony, 4th Lane, Near Old CBI Down, Visakhapatnam- 530003, as an agency (hereinafter referred to as the said agency) for a period up to the 1st May, 2022, for inspection of-

- (a) Minerals and Ores - Group I, namely the Iron Ore, Manganese Ore, Ferromanganese and Bauxite; and
- (b) Minerals and Ores - Group II, namely the Chrome Ore including Chrome Concentrate,

as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the Official Gazette *vide* number S.O. 3975 dated the 20th December, 1965, and S.O. 3978 dated the 20th December, 1965 respectively, prior to export of the said Minerals and Ores at Visakhapatnam Port, Gangavaram Port and Kakinada Port, subject to the following conditions, namely: -

- (i) the said agency shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores - Group I (Inspection) Rules, 1965 and Export of Minerals and Ores - Group II (Inspection) Rules, 1965;
- (ii) the said agency shall, in performance of its function as specified in this notification shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council, may give in writing from time to time.

[F. No. K-16014/3/2019-Export Inspection]

DIWAKAR NATH MISRA, Jt. Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 3 फरवरी, 2021

का.आ. 114.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. उड़ीसा माइनिंग कोरपोरेशन के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ सं. 04/2004) प्रकाशित करती है जो केन्द्रीय सरकार को 03.02.2021 को प्राप्त हुआ था।

[सं. एल-29011/43/2003-आईआर (एम)]

नवीन वैद्य, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 3rd February, 2021

S.O. 114.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 04/2004) 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. Orissa Mining Corporation, Bhubaneswar, and their workmen, received by the Central Government on 03.02.2021.

[No. L-29011/43/2003-IR(M)]

NAVIN VAIDYA, Dy. Director

ANNEXURE

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

Present: Shri B.C. Rath, Presiding Officer,
C.G.I.T-cum-Labour Court, Bhubaneswar

INDUSTRIAL DISPUTE CASE NO. 04 OF 2004**Dated Bhubaneswar, the 15th December, 2020****Between:**

The Managing Director,
M/s. Orissa Mining Corpn.,
OMC House, Bhubaneswar,
Orissa.

...First Party Management

(AND)

The General Secretary,
Orissa Mining Workers Federation,
C/o: OMC Ltd., OMC House,
Bhubaneswar, Orissa-751001

...Second Party Workman

Appearances:

Sri M.R. Mohanty & Associates, Advocates

...For the first party management

Sri B.C. Bastia & Associates, Advocates

...For the second party workman

AWARD

The Government of India, Ministry of Labour have referred the industrial dispute for adjudication vide its Order No. L-29011/43/2003 (IR(M)) 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) (here in after referred to as 'the Act') and the terms of reference reads as follows:

“Whether the action of the management of M/s.Orissa Mining Corporation Ltd., in relation to their South Kalipani Chromite Mines in terminating the services of Sh. Deepak Kumar Sahoo, Ex-Compressor Operator Trainee w.e.f.01.01.2001 in spite of his engagement till 30.06.2001 without following due procedure of law is legal and justified? If not, what relief the workman is entitled to?”

2. Pursuant to the above reference, the disputant has filed his statement of claim through the General Secretary of Orissa Mining Workers' Federation. The sum and substance of the case of the disputant is that w.e.f. 01.05.1993 he was appointed as Compressor Operator Trainee against a regular vacant post of Compressor Operator on Rehabilitation Assistance Scheme by the management in its Kaliapani Chromite Mines with a monthly stipend of Rs.750/-. It is contended in the claim statement that the appointment of the workman has been extended by the management from time to time on six month basis with artificial breaks. It is further contended that the workman while working as Compressor Operator Trainee, he was terminated from service w.e.f.01.01.2001. In the process he claimed to have rendered continuous service to the management for 8 years with utmost satisfaction of its authorities. The assertion of the disputant is that from the date of his appointment as he was operating the compressor machines and IR drill machines independently in as much as his appointment was against a regular vacant post of Compressor Operator, he was given the above designation. According to the disputant a trainee can remain in service only for a specified period and once he completes the training period he is to be absorbed as a regular employee. Apart from that there is no provision in the OMC Recruitment and Promotion Rules to provide/extend any training facility to an outsider with stipend except

under the Apprentice Act or the P.D.P.T Training Scheme. Besides, the Certified Standing Order of the management clearly speaks that a “Permanent” workman is a workman who has been engaged on regular basis and includes any person who has satisfactorily completed the probationary period of six months. Similarly, the Orissa Civil Services (Rehabilitation Assistance) Rules, 1990 provide that the said scheme can be made applicable to disabled employees of the public sector undertaking under the State Govt. So, it is the claim of the disputant that when he has worked under the management for a span of 8 years; his appointment was against a regular vacancy; due procedure was followed for his appointment; he had completed more than 240 days work on each calendar year from the date of his engagement and he was a beneficiary of the Rehabilitation Assistance Scheme, the management had to confer him regular status for the post of Compressor Operator. But, surprisingly, the management disengaged him from employment without notice as required under the provisions of ID Act, 1947. Hence, this case.

3. The management has contested the claim by admitting the engagement of the disputant as a Compressor Operator Trainee. But, at the same time it denied the fact that the engagement of disputant was extended from time to time on six month basis with artificial break in as much as his engagement was against a regular vacant post of Compressor Operator at Kaliapani. It is contended by the management that the disputant was never asked/allowed to perform the duties of a Compressor Operator independently as alleged by him. There is no straight jacket rule prescribing a specified time limit or time frame for anyone to be engaged or worked as a Trainee. Whatever may be, the engagement of the disputant as a Trainee for the period from 1993 to June, 2001 was made on his own consent. It is the assertion of the management that the disputant when himself had agreed to work as a Trainee Compressor Operator for a monthly stipend, he cannot raise a grievance out of it. The disputant was not appointed on Rehabilitation Scheme. Rather, his entry to OMC was a stipendiary Trainee Compressor Operator. So, the concept of probation period of six months in his case is a misnomer. Further, he was neither engaged against any regular and substantive post of Compressor Operator nor his initial entry to the post of Compressor Operator was on the basis of the provisions of Rules, 1990. Not only that the disputant has never worked under it for 240 days or more continuously in any calendar year since 1993. In addition to it, the disputant had never acquired the status of a permanent workman during his incumbency. It is asserted by the management that as per office order No.11294 dtd.01.05.1993 the disputant had no right to get regular appointment in OMC Ltd.. Hence, prayer is made for rejection of the claim of the second party workman.

4. On the pleadings of the parties following issues have been settled for adjudication of the dispute :-

ISSUES

- (i) Whether the action of the management of M/s.Orissa Mining Corporation Ltd., in relation to their South Kaliapani Chromite Mines in terminating the services of Shri Deepak Kumar Sahoo, Ex Compressor Operator Trainee w.e.f.1.1.2001 in spite of his engagement till 30.06.2001 without following due procedure of law is legal and justified?
- (ii) If not, what relief the workman is entitled to?

5. In order to substantiate his case the workman has examined himself as WW No.1 and proved documents such as the Xerox copy of letter dtd.26.08.1991 of the management, original copy of letter dtd.03.08.1992 of the management, original copy of his appointment order dtd.01.05.1993, original copy of his appointment order dtd.30.09.1997, copy of his appointment order with pay revision, copy of duty allotment order dtd.02.01.1996 issued to the workman, copy of the additional duty allotment order dtd.27.06.1996, letter for the extension of engagement of the second party workman, copy of letter of recommendation of the management for regularisation of the workman which are marked as Ext.1 to Ext.9. On the other hand, the management has examined one witness, namely Saroj Ranjan Patanaik, Manager (Legal) of OMC Ltd. as MW No.1 to refute the claim of the workman. No documentary evidence is adduced on behalf of the Management.

FINDINGS

ISSUE NO. 1

6. Coming to the issue No.1, which is very vital to the adjudication of the dispute, there is no serious dispute either in the pleadings of the parties or in the evidence of disputant-workman that the father of the disputant-workman being an employee of the first party management took voluntary retirement due to his physical incapacitation before the disputant-workman was accommodated as a Compressor Operator Trainee on 1.5.1993. It is not also disputed that the disputant-workman after being accommodated as Compressor Operator Trainee for initial period of six month, such accommodation extended six month from time to time. According to the disputant-workman he was accommodated as a Compressor Operator Trainee under Rehabilitation Assistance Scheme consequent to his father's voluntarily retirement and he was assured of being absorbed as

Compressor Operator. It is further stated by the disputant-workman that initially a consolidated amount of Rs.750/- was paid to him, whereas it is the claim of the first party management that he was provided stipend which was also enhanced from time to time. The office order showing accommodation of the disputant as a trainee issued on 01.05.1993 clearly shows that the disputant was appointed as Compressor Operator Trainee for a period of six month with monthly consolidated stipend of Rs.750/-. It is found from the exhibits filed on behalf of the disputant-workman that his appointment was extended from time to time till 1997 and thereafter, he was allowed to continue with the job of Compressor Operator Trainee for a consolidated amount till he was disengaged.

MW No.1 has categorically stated in para-5 of his affidavit evidence that the workman had consented and/or had accepted to work as a Trainee from 1993 to June, 2001. No specific document is filed or stand is taken in the written statement to claim that the appointment of the disputant-workman was for a specific period and it came to an end on expiry of such period. As such discontinuance or disengagement of the disputant-workman being an exception as enumerated in provision of section 2(o) of ID Act cannot be said a retrenchment without payment of retrenchment compensation and notice pay. Further, it is not shown by the management by filing any document in regard to appointment of disputant-workman that his engagement was for a specific period and it came to an end on 30.6.2001. Therefore, refusal or non-extension of employment in this case cannot be said to have been covered under the provision of section 2(o)(bb) of the ID Act, 1947. Rather, from the materials available on record it clearly emerges that it is a case of retrenchment as defined U/s.25-F of the Act. In the above backdrop, non-accommodation of the disputant-workman as a Compressor Operator Trainee after 30.06.2001 without compliance of the provision of notice pay and retrenchment compensation cannot be legal and justified since there is neither any pleading or evidence on the part of the management to say that the disputant-workman was provided notice pay and retrenchment compensation when he was refused extension of his engagement.

On the other hand, undisputedly he was posted as Compressor Operator Trainee and a Trainee is not expected to continue as a Trainee for more than 8 years. Be that as it may, his alleged refusal of engagement amounts to retrenchment and there being non-compliance of provision of section 25-F of ID Act the retrenchment is not justified and legal.

Issue No.1 is answered accordingly in favour of the second party.

ISSUE NO. 2

7. Coming to the issue of relief to which the disputant-workman is entitled, it is the settled position of law that wherever and whenever an employment/engagement is found to have been discontinued or retrenched in violation of provision of section 25-F of the Act, reinstatement is not automatic and the Tribunal has jurisdiction to mould the relief in shape of compensation taking into various considerations available to a particular case. It is required to consider the source of engagement, period of employment, availability of post and other mitigating circumstances. That being the settled position of law it cannot be over sighted in the case at hand that disputant-workman's father being taken voluntary retirement on ground of physical incapacitation as revealed from Exts.1 and 2 the disputant was accommodated in the first party management being appointed as Compressor Operator Trainee. He continued to work as such for 8 years and thereby he had lost opportunity to be engaged in such equivalent post by his merit in other organisation and now he must be overage to opt to other organisation. It is not disputed that the management being involved in mining activity is expected to take services of Compressor Operator in the mining operation and therefore, it may not be difficult on the part of first party management to reinstate the workman in the work of Compressor Operator in mining activity when there is nothing specific either in the pleadings or in the evidence of the management to show that it is not in a position to take additional burden to reinstate the disputant. Taking above reasons into consideration it is a fit case where reinstatement of the retrenched worker i.e. the disputant is an appropriate relief.

Therefore, the first party management is directed to reinstate the disputant-workman in the post in which he was continuing before his termination with 50% back wages since the disputant-workman has not rendered any service during the period of his discontinuance. The above direction is to be complied with within two months of the notification of this Award in official Gazette, failing which the workman is entitled to simple interest of 7% per annum on the amount to which the workman is entitled to in shape back wages (50%) and any consequential service benefits to which he is entitled to being deemed in continuance of service. Further, the workman is deemed to be continuing in service during the period of his discontinuance and thereby entitled to consequential service benefits, if any on his reinstatement.

Accordingly the reference is answered and Award is passed.

Dictated and corrected by me.

B.C. RATH, Presiding Officer

नई दिल्ली, 3 फरवरी, 2021

का.आ. 115.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एल.आई.सी. हाउसिंग फाइनेंस लिमिटेड के प्रबंधन, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ सं. 13/2012) प्रकाशित करती है जो केन्द्रीय सरकार को 03.02.2021 को प्राप्त हुआ था।

[सं. जेड-16025/4/2021-आईआर (एम)]

नवीन वैद्य, उप निदेशक

New Delhi, the 3rd February, 2021

S.O. 115.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 13/2012) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of LIC Housing Finance Limited and their workmen, received by the Central Government on 03.02.2021 .

[No. Z-16025/4/2021-IR(M)]

NAVIN VAIDYA, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**DATED : 21ST JANUARY, 2021**PRESENT :** JUSTICE SMT. RATNAKALA, Presiding Officer**ID 13/2012****I Party**

Sh. K. Sathya Murthy,
No. 56, 7th Cross, 2nd Block,
Sudhama Nagar,
Bangalore - 560027.

II Party

1. The General Manager (HR),
M/s. LIC Housing Finance Ltd.,
Corporate Office, Bombay Life Building,
2nd Floor, 45/47 Veer Nariman Road,
Mumbai - 400 001.
2. The Area Manager, Regional Office,
M/s. LIC Housing Finance Ltd.,
Canara Mutual Building, No. 4, Residency Road,
Bangalore - 560 025.

Appearance

Advocate for I Party : Smt. Vanaja Vasantha Kumari

Advocate for II Party : Mr. Rajesh Shetty

AWARD

It is a petition filed under Sec 2-A(2) of the Industrial Dispute Act, 1947 (for brevity 'the Act' hereinafter). The claim of the 1st Party workman is, he has been appointed as a Messenger by the 2nd Party on 21.04.1995. He was issued Charge Sheet dated 14.07.2003 on certain allegations: he submitted his reply to the Charge Sheet: Disciplinary proceedings were initiated by conducting Domestic Enquiry. The Enquiry Officer submitted his report on 12.12.2003: the finding of Enquiry Officer is arbitrary and perverse: without properly appreciating the oral and documentary evidence and the contents of the Enquiry Report, the Disciplinary Authority has passed the dismissal order, though there was no specific charge of misconduct against him grave penalty of dismissal from service with immediate effect is imposed on him. The appeal preferred thereon is rejected. On the same set of allegation a complaint was lodged to the jurisdictional Police against him: the police authorities filed 'B' Report: the Management has challenged the 'B' Report. He is undergoing financial crisis without employment.

2. The claim is contested. It was contended for the 2nd Party that, it is a Housing Finance Company in India incorporated on 19.06.1989 under the Companies Act, 1956. The company was promoted by LIC of India and went public in the year 1994. This Court has no jurisdiction to try the case. Proper Domestic Enquiry was conducted before imposing punishment on the workman. He participated in the enquiry and utilised all opportunity to defend the enquiry: Disciplinary Authority as well as Appellate Authority after examining the Enquiry Report and also representation of the 1st Party has passed speaking order, dismissing him from service which is in accordance with law etc.

3. On the rival pleading my learned predecessor framed issues, first issue being the Preliminary Issue pertaining to the fairness of the Domestic Enquiry.

4. 2nd Party subsequently filed an application under Order XIV Rule 5 read with Sec 151 of the Code of Civil Procedure, 1908 requesting to frame additional issue regarding the jurisdiction of this Tribunal to entertain the dispute. The 1st Party workman filed his objection statement to the said application, but thereafter remained continuously absent. Learned counsel for the 2nd Party submitted his argument on the jurisdiction question, despite several opportunities being given, 1st Party has not appeared to ascertain the jurisdiction of this Tribunal to adjudicate his claim. In the given circumstance vide order dated 07.12.2020 following issue was framed:

Whether this Tribunal has jurisdiction to entertain the Industrial Dispute raised by the former employee of LIC Housing Finance Limited?

Vide considered order dated 07.12.2020 it was held that, this Tribunal has no jurisdiction to entertain the Industrial Dispute raised by the former employee (1st Party workman) of the LIC Housing Finance Limited.

5. In the backdrop of the above all, the dispute raised by the 1st Party workman before the ALC (C), Bangalore / Conciliation Officer was not maintainable since Central Government is not the appropriate Government in respect of the 2nd Party. Consequently this Tribunal has no jurisdiction to adjudicate the present petition filed under Sec 2-A(2) of 'the Act'.

AWARD

The petition filed by Sh. K Sathya Murthy against the 2nd Party i.e. M/s. LIC Housing Finance limited and another is rejected for want of jurisdiction.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 21st January, 2021)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 3 फरवरी, 2021

का.आ. 116.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार न्यू इंडिया इंशोरेंस कम्पनी लिमिटेड के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ सं. 05/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.02.2021 को प्राप्त हुआ था।

[सं. जेड-16025/4/2021-आईआर (एम)]

नवीन वैद्य, उप निदेशक

New Delhi, the 3rd February, 2021

S.O. 116.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 05/2015) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of New India Assurance Company Limited and their workmen, received by the Central Government on 03.02.2021.

[No. Z-16025/4/2021-IR(M)]

NAVIN VAIDYA, Dy. Director

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

DATED : 21ST JANUARY, 2021

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

ID 05/2015

I Party

Sh. S. N. Harnal,
 S/o Late Ningappa Harnal,
 Residing at C/o Basavaraj Patil,
 Plot No. 3, Post Rajapur,
 Nrupatunga Colony,
 Shahabad Road,
 Gulbarga - 585 105.

II Party

The New India Assurance Company Limited,
 Represented Regional Manager and
 Competent Authority,
 Regional Office : 2-B, Unity Building,
 Annexe, P. Kalinga Rao Road,
 (Mission Road)
 Bangalore 560 027.

Appearance

Advocate for I Party : Mr. Muralidhara

Advocate for II Party : Mr. Pradeep S. Sawkar

AWARD

The petition is filed under Sec 2-A(2) and (3) of the Industrial Disputes (Amendment) Act, 2010 (for brevity 'the Act') by the 1st Party workman/former employee of the New India Assurance Company Limited who is dismissed from service vide order dated 31.12.2013 by the 2nd Party since Jurisdictional Deputy Commissioner and Chairman, the District Caste Verification Committee cancelled the Caste Certificate issued to him.

2. In his claim petition the 1st Party claims that, he is appointed as Assistant by the 2nd Party on 15.12.1984 and promoted as Senior Assistant in the year 1990: at the time of joining service 1st Party has submitted his caste certificate which was issued by the Tahsildar Gulbarga certifying that he was a member of Koli-Dhor. His caste certificate was sent for verification and for inquiry to the Committee. He was issued a Memorandum dated 27.11.2002 alleging that he has produced bogus caste certificate, he belongs to Kobbaliga Community: Domestic Enquiry was initiated: he denied the charges. Farce of enquiry was held: there was inordinate delay of 20 years in holding the enquiry. He was due to retire on 31.12.2013, he was served with the order of the Committee dated 26.12.2013 on 30.12.2013. It was stated in the order that Authorities have commenced proceedings and the District Caste verification Committee, Gulbarga have sent their letter dated 10.12.2013 to Tahsildar, Gulbarga for scrutiny of his caste certificate. But he did not remain the employee of the 2nd Party on the date of receipt of the order dated 31.12.2013, therefore, the alleged order of dismissal is non-est in the eye of law. He requested the 2nd Party to extend the benefit of Government Order No. SWD713 SAD93, Bangalore dated 11.03.2002. But the 2nd Party slept over the matter stating that they have referred the Caste Certificate to the Committee Constituted for verifying the caste status vide letter dated 10.12.2013. The 2nd Party deliberately has passed the order without giving opportunity for his say. Hence, the order is passed in violation of principles of natural justice. He was not issued any show cause notice calling upon his explanation but straight away dismissed him from service. The action of the 2nd Party in dismissing him from service stinks of victimization and unfair labour practice: he is put to severe economic death because of the illegal action.

3. The claim is countered by the 2nd Party on following lines : the 1st Party is not entitled for the relief of setting aside the Dismissal order dated 31.12.2013 with a direction for reinstatement into original post with continuity of service. He has to challenge the order dated 30.12.2013 of District Caste Verification Committee which cancelled his False Caste Certificate. This Tribunal has no jurisdiction over the matter. He was not in employment of the 2nd Party as on 31.12.2013 and cannot be reinstated. He joined the services of the 2nd Party on the basis of order of Appointment dated 03.12.1984 against a vacancy reserved for the member of Scheduled Tribe: he submitted the Caste Certificate dated 18.01.1978 said to have been issued by the Tahsildar, Gulbarga, that he belong to the caste 'Koli-Dhor'. In fact, his caste is shown by him as Hindu Lingayath in his college records. The Competent Authority found that he is a Hindu Koli which is not a Scheduled Tribe. He was promoted in the reserved category of Scheduled Tribe Group: his very appointment on the basis of bogus caste certificate is void. He was issued charge sheet dated 27.11.2002 in this connection on the allegations of

commission, omission and contravention of provisions of General Insurance (Conduct Discipline and Appeal) Rules, 1975 as amended and also for committing the misconduct under Rule 3(1)(i)(iii), 4(4), (5) of General Insurance (Conduct Discipline and Appeal) Rules, 1975. Enquiry was initiated: during the enquiry on 01.12.2004 he gave statement that he will surrender the Caste Certificate to the Issuing Authority for cancellation as per the Government Order dated 11.03.2002 and sent the copy of acknowledgment to the Enquiry Officer. On the basis of the letter of Tahsildar of Gulbarga dated 17.01.2012 mentioning that 1st Party belongs to Kabbli Caste, on verification and on inquiry the Deputy Commissioner and Chairman and The District Caste Verification Committee cancelled the Caste Certificate after conducting inquiry proceedings against him: once the Caste Certificate is cancelled by The Deputy Commissioner and Chairman and The District Caste Verification Committee there is no question of surrendering the same by the 1st Party. It was not mandate for the 2nd Party to initiate the Departmental Enquiry before dismissal of the 1st Party. He tried to take advantage of the order issued by Government of Karnataka vide No. SWD.713SAD.93 Bangalore dated 11.03.2002 by giving certain concessions to the State Government Employees to treat them as General Merit candidate, if they surrender the false caste certificates. But 1st Party is not the employee of the State Government or State Government Undertaking, he is an employee of the wholly owned Central Government Establishment to which the concession made by the State Government is not applicable (as held by the Apex Court in Special Leave to Appeal (Civil) No. 138/2013 dated 28.01.2013 in the matter of Shobha Lakshmi Vs. Divisional Commissioner and others). After the Authorities found that his Caste Certificate is false, it was not necessary to issue fresh notice to him under the Rules. The principles of natural justice and audi alteram partem is not attracted to his case. He is not entitled to raise the plea of delay since his very appointment is void ab inito. The 2nd Party had written to the Superintendent of Police, Directorate of Civil Rights Enforcement Cell, Gulbarga on 19.05.1999 to verify the Caste Certificate and on that basis authorities investigated the matter. All India General Insurance Scheduled Caste/Scheduled Tribes Employees Welfare Association had also complained on 28.07.1988 about his false Caste Certificate for obtaining the appointment which is reserved for Scheduled Tribe. After due enquiry, the Tahsildar, Gulbarga was directed to initiate needful action vide letter dated 30.09.2013. The District Social Welfare Officer sent letter dated 30.12.2013 to the 2nd Party to take further action in pursuance of the decision of District Level Caste Verification Committee. His dismissal from service is neither illegal nor unsustainable. The Verification of Caste Certificates and Caste Status of an employee is within the Authority of Caste Scrutiny Committee constituted under the Act and as per the guidelines laid by Hon'ble Supreme Court in the case of Kumari Madhuri Patil and others Vs Director, Tribal Welfare and others. As and when the employer receives such order from the Authority cancelling the Caste Certificate of an employee, it is mandatory on the part of the employer to terminate such employee's service, if he was recruited for a post reserved for SC/ST on producing false Caste Certificate. The Dismissal Order dated 31.12.2013 is issued to the 1st Party as per the order of cancellation passed by Deputy Commissioner and the Chairman and the District Caste Verification Committee, Gulbarga District, Gulbarga dated 30.12.2013 which was received by the 2nd Party on the same date, cancellation is done following the mandate of the above referred Act and Hon'ble Supreme Court's Guidelines.

4. Having regard to the nature of the dispute, recording of evidence was dispensed. Both parties have addressed their arguments: list of authorities is submitted by Sh. PSS for the 2nd Party.

5. It is the submission of Sh. MD for 1st Party that,

the 1st Party workman had surrendered his Caste Certificate to the jurisdictional Tahsildar for cancellation of the Caste Certificate and got the acknowledgment on his copy dated 10.12.2004. The Domestic Enquiry initiated by the 2nd Party on the allegation, that he has procured employment in the vacancy reserved for SC / ST category etc., was not concluded. He was to retire on 31.12.2013: without relieving him from service on superannuation the 2nd Party dismissed him by placing reliance on the order passed by Deputy Commissioner and the Chairman and the District Caste Verification Committee, Gulbarga District, Gulbarga dated 30.12.2013, without providing him opportunity to have a say on the above order. Having served the 2nd Party for 29 years he is entitled for all his terminal benefits and the dismissal order has snatched his monetary benefits abruptly. Hence, the dismissal order which is passed without providing opportunity is liable to be set aside for violating the principles of natural justice and his terminal benefits may be ordered to be released.

6. The recitals in the Dismissal Order passed by Regional Manager and Competent Authority of the 2nd Party it is to the effect that, 1st Party procured instant employment by producing false Caste Certificate, same was referred to Committee constituted for verifying the caste status: said Committee vide order dated 30.12.2013 cancelled his caste certificate and held that he has obtained false certificate as Koli-Dhor (S.T) though he belong to Hindu Koli – he misrepresented the facts relating to his Caste to claim a post reserved for Scheduled Tribe to which community he did not belong and thus played fraud on the system to secure employment in the 2nd Party. Under the guidelines laid down by the Apex Court in the case of Kumari Madhuri

Patil Vs. Additional Commissioner, Tribal Development, Thane and in the case of Smt. Shobha Lakshmi Vs. Divisional Commissioner, his service is dismissed.

7. Now comes the question, whether the 2nd Party could have accepted the order of the District Committee for verifying the caste status without convincing itself about the validity of the order of the District Committee dated 30.12.2013.

8. In the matter of Shoba Lakshmi Vs. The Divisional Commissioner (Supra) referred by the Disciplinary Authority, the Division Bench of our Hon'ble High Court (Writ Appeal No. 530/2007 GM-CC) DD 31.07.2012 held that, the order of the State Government dated 11.03.2002 cannot be extended to the Central Government Employees in the light of the judgment of the Hon'ble Supreme Court in Additional General Manager – Human Resource, Bharat Heavy Electricals Ltd., Vs. Suresh Ramkrishna Burde [(2007) 5 SCC 336]. By virtue of the order of the State Government dated 11.03.2002, certain persons belonging to “Parivara, Talawara, Maaleru, Kuruba, Besta and Koli” communities who had obtained Scheduled Tribe Certificate claiming as “Nayaka, Maaleru, Kadu Kuruba, Jenu Kuruba, Gond, Rajgond, Kolidhor, Tokrekoli” could surrender such certificates to the issuing authority for cancellation and those persons were not liable for penal actions.

The other judgment cited in the Dismissal Order is that of Kumari Maduri Patil Vs. Additional Commissioner Tribal Development reported in 1995 AIR 94, 1994 SCC (6) 241, wherein the Apex Court laid down the following guidelines in the matter of fake and false caste certificates:

1. The application for grant of social status certificate shall be made to the Revenue Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such officer rather than at the Officer, Taluk or Mandal level.
2. The parent, guardian or the candidate, as the case may be, shall file an affidavit duly sworn and attested by a competent gazetted officer or non-gazetted officer with particulars of castes and sub-castes, tribe, tribal community, parts or groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the Directorate concerned.
3. Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission into educational institution or an appointment to a post.
4. All the State Governments shall constitute a Committee of three officers, namely, (1) an Additional or Joint Secretary or any officer higher in rank of the Director of the department concerned, (11) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and (III) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificates. In the case of the Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities.
5. Each Directorate should constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in over-all charge and such number of Police Inspectors to investigate into the social status claims. The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from. The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate or the parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the pro forma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the castes or tribes or tribal communities concerned etc.
6. The Director concerned, on receipt of the report from the vigilance officer if he found the claim for social status to be "not genuine" or 'doubtful' or spurious or falsely or wrongly claimed, the Director concerned should issue show-cause notice supplying a copy of the report of the vigilance officer to the candidate by a registered post with acknowledgement due or through the head of the educational institution concerned in which the candidate is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case on request not more than 30 days

from the date of the receipt of the notice. In case, the candidate seeks for an opportunity of hearing and claims an inquiry to be made in that behalf, the Director on receipt of such representation/reply shall convene the committee and the Joint/Additional Secretary as Chairperson who shall give reasonable opportunity to the candidate/parent/guardian to adduce all evidence in support of their claim. A public notice by beat of drum or any other convenient mode may be published in the village or locality and if any person or association opposes such a claim, an opportunity to adduce evidence may be given to him/it. After giving such opportunity either in person or through counsel, the Committee may make such inquiry as it deems expedient and consider the claims vis-a-vis the objections raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.

7. In case the report is in favour of the candidate and found to be genuine and true, no further action need be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained and in the latter event the same procedure as is envisaged in para 6 be followed.
8. Notice contemplated in para 6 should be issued to the parents/guardian also in case candidate is minor to appear before the Committee with all evidence in his or their support of the claim for the social status certificates.
9. The inquiry should be completed as expeditiously as possible preferably by day-to-day proceedings within such period not exceeding two months. If after inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and confiscate the same. It should communicate within one month from the date of the conclusion of the proceedings the result of enquiry to the parent/guardian and the applicant.
10. In case of any delay in finalising the proceedings, and in the meanwhile the last date for admission into an educational institution or appointment to an officer post, is getting expired, the candidate be admitted by the Principal or such other authority competent in that behalf or appointed on the basis of the social status certificate already issued or an affidavit duly sworn by the parent/guardian/candidate before the competent officer or non-official and such admission or appointment should be only provisional, subject to the result of the inquiry by the Scrutiny Committee.
11. The order passed by the Committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution.
12. No suit or other proceedings before any other authority should lie.
13. The High Court would dispose of these cases as expeditiously as possible within a period of three months. In case, as per its procedure, the writ petition/miscellaneous petition/matter is disposed of by a Single Judge, then no further appeal would lie against that order to the Division Bench but subject to special leave under Article 136.
14. In case, the certificate obtained or social status claimed is found to be false, the parent/guardian/the candidate should be prosecuted for making false claim. If the prosecution ends in a conviction and sentence of the accused, it could be regarded as an offence involving moral turpitude, disqualification for elective posts or offices under the State or the Union or elections to any local body, legislature or Parliament.
15. As soon as the finding is recorded by the Scrutiny Committee holding that the certificate obtained was false, on its cancellation and confiscation simultaneously, it should be communicated to the educational institution concerned or the appointing authority by registered post with acknowledgement due with a request to cancel the admission or the appointment. The Principal etc. of the educational institution responsible for making the admission or the appointing authority, should cancel the admission/appointment without any further notice to the candidate and debar the candidate from further study or continue in office in a post.

9. In view of the above, the Disciplinary Authority was under no liability to issue notice to the 1st Party workman, so as to provide opportunity to him to have a say on the order passed by Caste Verification Committee dated 30.12.2013.

10. The Dismissal Order is not the consequence of a punishment imposed by the Disciplinary Authority for any misconduct, he is dismissed from service under the guidelines of the Apex Court. The Order of the Caste Verification Committee is not open for review before this Forum. If the 1st Party were to challenge the said order the Forum for him is elsewhere but not under the premise of Sec 10/2-A of the Industrial Dispute Act.

11. It is not an Industrial Dispute within the meaning of Sec 2(k) of 'the Act', since Dismissal Order is not a consequence of any difference or dispute between the workman and the employer.

AWARD

The petition filed by 1st Party workman Sh. S N Harnal under Sec 2-A(2) and (3) of the Industrial Dispute Act, 2010 is dismissed. He is not entitled for any relief.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 21st January, 2021)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 3 फरवरी, 2021

का.आ. 117.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैं. हुट्टी गोल्ड माइन्स लिमिटेड के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलोर के पंचाट (संदर्भ सं. 16/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.02.2021 को प्राप्त हुआ था।

[सं. एल-43012/1/2017-आईआर (एम)]

नवीन वैद्य, उप निदेशक

New Delhi, the 3rd February, 2021

S.O. 117.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2017) 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. Hutti Gold Mines Limited, and their workmen, received by the Central Government on 03.02.2021.

[No. L-43012/1/2017-IR(M)]

NAVIN VAIDYA, Dy. Director

ANNEXURE

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

DATED : 22ND JANUARY, 2021

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

ID 16/2017

I Party

Sh. Khasim Basha,
S/o. Hussain Sab,
Kaka Nagar, Hutti,
RAICHUR – 584 115,
Karnataka.

II Party

The General Manager,
M/s. Hutti Gold Mines Ltd.,
Hutti Post,
RAICHUR – 584 115,
Karnataka.

Appearance

Advocate for I Party : Mr. Muralidhara

Advocate for II Party : Mr. M.R.C. Ravi

AWARD

The Central Government vide Order No. L-43012/1/2017-IR(M) dated 01.06.2017 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the action of the management of M/s. Hutti Gold Mines Ltd., Hutti, Raichur, Karnataka, in terminating the services of Sh. Khasim Basha, Badge No. 1484, for being absent from duties, is proper, legal and justified. If not, what relief Sh. Khasim Basha is entitled to?”

The 1st Party is the former employee of the 2nd Party, who is terminated from service as a measure of punishment for his unauthorised absence. His claim is,

he joined the service of the 2nd Party on 30.08.2002 on compassionate ground on the VRS of his father. Due to psychiatric problem, he remained absent from work. The Management issued charge sheet dated 15.02.2007 for his unauthorised absence of 93 days intermittently between 26.10.2006 to 15.02.2007. That was followed by initiation of Domestic Enquiry by appointing Enquiry Officer and Presenting Officer. During the Enquiry, he admitted that he remained absent due to ill health and submitted his written statement enclosing his medical records. On conclusion of Enquiry, the Enquiry Officer submitted his report that the charge of absenteeism is established. He submitted his response to the Enquiry Officer's Report and pleaded to consider the medical records submitted by him. However, the 2nd Party passed the final order dated 23.05.2008 imposing the punishment of dismissal from service. His appeal against the punishment order is not disposed off. His absence was not wanton or wilful. The enquiry finding is perverse. The punishment order is shockingly disproportionate to the alleged act of misconduct. He was undergoing treatment for his prolonged illness coupled with acute financial difficulty, which prevented him from raising the dispute immediately after his dismissal. On his dismissal, he has no other means of income to maintain himself and his dependents.

2. The claim is contested. In the counter statement, it is contended that after receipt of the enquiry report the show cause notice dated 23.07.2007 was issued to the 1st Party and he submitted reply vide his letter dated 07.08.2007 requesting for a personal hearing. Thereafter considering his request, 2nd Party gave him one more opportunity to improve his attendance vide letter dated 30.08.2007, but he continued to remain absent for more than a year from 01.02.2007 to 30.04.2008 for a period of 363 days. In this regard, a final show cause notice dated 31.10.2007 was issued to his home address. He replied to the show cause notice stating that due to his ill health he has not attended duty. Thereafter, the termination order was passed on 23.05.2008. After a lapse of eight years, he submitted his appeal on 06.06.2016, which is barred by limitation. Hence, same is not considered by the Appellate Authority. His treatment for prolonged illness for 8 years is not within the knowledge of the 2nd Party.

3. A preliminary issue was raised on the pleadings of both parties touching the fairness of the Domestic Enquiry. The Enquiry Records produced by the 2nd Party are marked with the consent of the 1st Party. At that stage, learned Counsel for the 1st Party submitted that he concedes the fairness of the Domestic Enquiry. In that view of the matter, preliminary issue was answered in the affirmative upholding the fairness of the Domestic Enquiry.

4. The 1st Party workman adduced evidence stating that after his marriage, he underwent unexpected and acute psychiatric problems and he was in a state of disturbed mind: he started gradually losing his mental balance that made him to remain absent from work intermittently for 93 days between 26.10.2006 to 15.02.2007. In the meantime, the 2nd Party issued charge sheet and proceeded with Enquiry and passed the order of dismissal of 1st Party from service w.e.f 23.05.2008. Now he has recovered from his mental illness and is capable of discharging his duties.

Ex W-1 is a certificate dated 19.02.2015 from KIMS Hospital, Hubli to the effect that 1st Party can resume his routine work from 20.02.2015.

Ex W-2 is a certificate of 14.6.2007 to the effect that he is suffering 'K/C/O Acute Psychiatric Paranoid Delusion, Behaviour Disorganisation'. He is on treatment and requires rest from 14.06.2007 till recovery.

Ex W3 is a Medical Certificate / Fitness Certificate of 03.11.2020 issued by Government Hospital, Lingasugur, according to which he is suffering from viral fever and psychological disorders w.e.f 02.08.2020 to 02.11.2020. He is fit to report to duty from 03.11.2020.

During his cross examination, he admits that till date he has not produced fitness certificates to the 2nd Party, until 2016, he had not given representation to the 2nd Party: he had not produced any document to demonstrate that from 2008, he was suffering from mental issues.

Both learned Advocates addressed Arguments.

5. First attack on the claim is delay in raising the dispute. The 1st Party claims to have raised this dispute after recovering from the prolonged illness so that now he can carry out his duty efficiently without any let up. The position of law in respect of the delay in raising the dispute is settled: when the workman is offering a valid

explanation for the delay, he cannot be non-suited at the threshold itself. The delay is a factor, which needs to be counted upon in the event of moulding relief under the reference. (2011-I-LLJ-615 (SC), Kuldeep Singh vs. G.M., Instrument Design Development and Facilities Centre and Another).

6. The allegation against the 1st Party in the charge sheet dated 15.02.2007 is, he remained unauthorisedly/ intermittently absent between 26.10.2006 to 15.02.2007 for 93 days. During the Enquiry, the 1st Party is said to have submitted medical certificate from KIMS hospital, Hubli which is taken as Ex D2 to D5. Unfortunately, those documents are not made part of the enquiry records. The Enquiry Officer in his report records that the 1st Party appears to be disturbed and doubts about 1st Party attending his duty. He suspects the genuineness of fitness certificate placed before him. His enquiry report does not reflect, whether any evidence was produced by the prosecution in support of the charges or not. Since, the workman did not dispute his absence, the Enquiry Officer submitted in his report that he remained absence from 26.10.2006. In his response to enquiry report, the workman pleaded for leniency and requested the Management to refer him to higher centre from the company Hospital and get him treated. He had annexed Photostat copies of 2 prescription slips dated 14.06.2002 and 13.07.2002 (whether the year is 2002 or 2007, is not clear). In the show cause notice dated 23.07.2007, it was stated by the 2nd Party that he was denied annual increment for 1 year: he has not reported to duty from 06.04.2007 onwards and he is a habitual absentee. Vide order dated 30.08.2007, the 2nd Party gave him further 6 months so that he may improve his attendance. But, even before the expiry of 6 months from 30.08.2007, he was issued a final notice dated 31.10.2007 to show cause why he should not be relieved from the service of the company. The 1st Party pleaded for indulgence of the 2nd Party to refer him through the company Hospital to higher centre for treatment. Ultimately, he was removed from service from 23.05.2008.

7. It is evident from the materials on record that ever since his absence from 26.10.2006 till his termination vide order that 23.05.2008, the 1st Party was under disability to defend himself because of his mental ailments. He has been prosecuted during his disability period that itself vitiates the punishment order. He has raised the dispute after his recovery and claims that he is physically and mentally fit to resume duty. Though, his absence period is not disputed, the reasons for his absence ought to have been counted upon by the 2nd Party while imposing the punishment. Over and again, he was pleading to refer him to a higher centre for treatment through the company Hospital, which 2nd party did not oblige. Imposing the punishment order during his disability period is neither legal nor justified.

AWARD

The Reference is accepted.

The action of the Management of M/s. Hutti Gold Mines Ltd., Hutti, Raichur, Karnataka, in terminating the service of 1st Party workman Sh. Khasim Basha, Badge No. 1484, for his absence from duty is not proper, not legal and not justified.

2nd Party is directed to reinstate him to his original post if he reports to duty within 40 days of publication of this Award, if he is found physically and mentally fit and suitable to discharge his duties.

He shall be reinstated with continuity of service without Back Wages.

(Dictated to LDC, transcribed by him, corrected and signed by me on 22nd January, 2021)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 3 फरवरी, 2021

का.आ. 118.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कुद्रीमुख आयरन ओर कम्पनी लि. के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलोर के पंचाट (संदर्भ सं. 09/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.02.2021 को प्राप्त हुआ था।

[सं. एल-30011/20/2014-आईआर (एम)]

नवीन वैद्य, उप निदेशक

New Delhi, the 3rd February, 2021

S.O. 118.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 09/2015) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of Kudremukh Iron Ore Company Ltd. and their workmen, received by the Central Government on 03.02.2021.

[No. L-30011/20/2014-IR(M)]

NAVIN VAIDYA, Dy. Director

ANNEXURE

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

DATED : 22ND JANUARY, 2021

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

ID 09/2015

I Party

The General Secretary,
Kudremukh Shram
Shakthi Sanghatan (HMS)
B-64, KIOCL Quarters, Kavour,
MANGALORE – 575 015.

II Party

The Chairman & Managing Director,
Kudremukh Iron Ore Company Ltd.,
Registered, II Block, Koramangala,
BANGALORE – 560 034.

Appearance

Advocate for I Party : Mr. Muralidhara

Advocate for II Party : Mr. Ramesh Upadhyaya

AWARD

The Central Government vide Order No. L-30011/20/2014-IR(M) dated 19.02.2015 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the claim of Kudremukh Shram Shakthi Sanghatan alleging wage anomalies of non-executive employees of KIOCL Ltd., arising out of the Wage Settlement Agreement is legal and justified. If not, to what relief the non-executive employees are entitled?”

The claim of the 1st Party is, as a recognised Trade union, it held negotiations with the 2nd Party regarding their charter of demands which ended with a settlement dated 31.08.2010 for a period of five years from 01.01.2007 to 31.12.2011. The settlement, inter alia, provides that pay anomalies, if any, which may arise in the corrected wage structure, will be referred to Bipartite Committee, if brought to it's notice within 6 months from the date of signing the settlement, vide Clause 15.4 of the settlement dated 31.08.2010. A Bipartite Committee was constituted to look into pay anomaly cases of Non-Executives consequent to the revision of scales of pay, vide Office Order no. 198/2010. Six representatives from the Management and seven representatives from the Union were the members of the said Committee. In the 1st meeting of 30.11.2010, it was brought to the notice of the committee that there is an anomaly, whereby junior employees are getting more pay than the senior employees who are promoted after 01.01.2007. The senior employees are getting less pay than those promoted prior to 01.01.2007. The Anomaly Committee decided to advise the affected employees to submit their representations to the Management. In the next meeting of Anomaly Committee, held on 28.12.2010, the grievances of the workman were categorised into 3 types.

- i. The cases of employees where the pay fixation is as per the wage settlement as on 01.01.2007. However, due to two incremental months, i.e., March and September, few junior employees are drawing higher pay than the seniors.
- ii. The cases of employees subsequent to pay revision of 01.01.2007, where few junior employees in promotion cases are drawing more pay than their seniors.
- iii. Few cases of junior employees drawing more basic than the seniors as on 01.01.2007.

The Anomaly Committee recognised that the anomalies had arisen consequent to the settlement dated 31.08.2010 and decided to send the proposal to the Management. But the Management has not taken any

positive action on the recommendations of the Anomaly Committee. In the bilateral meeting on 19.07.2013, the 2nd Party informed that where junior is drawing more pay on account of two different increment dates in a year, those cases could not be treated as anomaly. They rejected all the 429 cases of anomaly, excepting 87 cases where anomaly was not rectified fully. The action of the Management is arbitrary, unjust and illegal. The anomaly is required to be rectified by stepping up of the pay of the senior employees on par with the junior employees from the date junior got higher pay and allowances.

2. The claim is contested by the 2nd Party on the following lines,

the 1st Party is not a recognised Union or sole collective bargaining agent for and on behalf of the workmen as on the date of filing the claim statement. As the present recognized Union has not raised any objection for the prevailing wage settlement, present dispute should not be considered as industrial dispute. As the present recognised Union is not made party to present dispute, reference is to be rejected for non-joinder of necessary parties. As on 01.01.2007 Pay fixation in the revised scales, none of the junior employees has drawn higher pay than seniors. There was no anomaly as on 01.01.2007 after implementing the wage revision. The Management has perused the proposal of the Anomaly Committee only in respect of differential of wages, where junior is drawing more than the senior is, on promotion. The recognised Union / Kudremukh Shram Shakthi Sanghatan (KSSS Union) at the relevant point of time has requested for rectification of certain anomaly cases arising out of wage revision / promotions after implementation of the settlement. These cases were examined by a committee and 87 cases in respect of promotion cases, where anomaly existed have been rectified. The Union was informed that minimum guaranteed pay as provided under the settlement has been ensured in the pay fixation of employees: any consideration as to existence of anomaly merely due to two increment's dates in a year cannot be treated as anomaly and it amounts to paying more than the minimum guaranteed benefits and is a burden on the company. As per Clause 22 (i) (a) (1) of the Fundamental Rules and Supplementary Rules, if the difference of pay is not more than 6 months in a year, the same cannot be treated as anomaly. The claim of the 1st Party has no merit.

3. On completion of the pleading, the case was posted for evidence of the 1st Party. At that stage, I noticed that the disputed issue does not warrant evidence. Hence, the parties were called upon to produce the documents, which they rely upon and argue the case. Accordingly, the 1st Party produced 14 documents which were taken on record as Ex W-1 to W-14. Both parties have submitted their Oral and Written argument.

4. No new factor is introduced at the stage of argument. Ex W-1 to W-12 produced by the 1st Party are - Memorandum of Settlement dated 31.08.2010, the representations of the Union regarding wage anomalies, constitution of Bipartite Committee regarding non-executives pay anomalies consequent to wage revision w.e.f 01.01.2007, Minutes of the meeting of the Anomaly Committee, reports of conciliation proceedings etc. Vide Annexure W-13, they have produced the statement showing month-wise difference in Basic Pay from January 2007 to July 2011. Vide Annexure W-14, they have given a statement of anomaly amount for the period 01.01.2007 to 31.07.2011.

5. Undisputably, the pay anomaly pops up and subsides intermittently because of two incremental dates in a year. The only remedy to rectify the anomaly as contended by the 1st Party is by stepping up the date of increment of the senior employees to that of junior employees at the time of pay fixation in the revised wage case. The 2nd Party in its Written argument has given a Table contrasting the pay of the junior employee who draws Rs. 9,800/- per month at January to that of the senior employee who draws Rs. 10,000/- per month at January. Because of his eligibility for the increment, in the month of March, the pay of the junior employee reaches Rs. 10,100/-, whereas the senior employee is continuing to draw salary at Rs. 10,000/- per month. When the senior employee becomes eligible for the increment in the month of September, his salary is hiked to Rs. 10,300/- whereas, the junior employee's salary continues at Rs. 10,100/- per month. Thus, by the end of the year, i.e. in December, the senior is drawing more than his junior is, in same cadre. Undisputably, an employee on the date of his entry into service gets the increment that is applicable to him as on that day. The 2nd Party contends that the difference of increment, if any, will be adjusted on the next wage settlement with a proper discussion with the concerned unions.

The 1st Party has relied on the judgement of our Hon'ble High Court in Writ Appeal no. 2145 of 1994 DD 17.04.1997, in which case the Hon'ble High Court observed "*...it is harsh and arbitrary that the senior is receiving a salary which is less than that of his junior... whatever may be the reasons of the anomaly, it has to be removed... accordingly, we direct the State government to look into the matter and consider ways and means to remove the anomaly that exists in the service of the employees...*" The petitioner in the above case was the S.D.A. of the High Court of the Karnataka who suffered pay anomaly by drawing a salary of Rs. 535/-, whereas his junior was drawing the salary of Rs. 550/- per month. The Hon'ble High Court did not grant relief to the writ petitioner directly but has referred the matter to the State Government *...to consider ways and means to remove the anomaly that exists in the service of their employees...* Of course the 1st Party is fortified by the

observation made by the Hon'ble High Court in the above judgment that junior employee drawing higher pay than the senior employee amounts to anomaly. The 2nd Party has pointed out that any consideration of the claim amounts to paying more than the minimum guaranteed benefits and burdens the company: as per the Clause 22(i)(a)(1) of Fundamental Rules and Supplementary Rules, if the difference of pay is not more than 6 months a year, same cannot be treated as anomaly. It is not the case of the 1st Party that the anomaly was due to any mistaken fact or notion. The anomaly pointed out by the 1st Party is sure to occur in service matters because of the difference in the wage structure, date of annual increment etc. The 1st Party cannot contend that they had not foreseen the consequences of pay fixation under the settlement of 31.08.2010. It is Bipartite Settlement and as per the provisions of the settlement, and the parties are bound over by the same. The Bipartite Committee / Anomaly Committee sending its proposal to crease out the anomaly does not, in any way, give rise to a cause of action to the 1st Party to demand stepping up of pay of the senior employees who are suffering the pay anomaly. The 2nd Party in their argument has submitted that "the difference of increment, if any, will be adjusted on the next wage settlement with a proper discussion with the concerned unions." Thus, they are still agreeable for discussion with respect of the subject matter under the reference. Hence, in my considered opinion, the dispute raised by the 1st Party beyond the terms and conditions of the settlement of 31.08.2010 is not justified.

AWARD

The reference is rejected.

(Dictated to LDC, transcribed by him, corrected and signed by me on 22nd January, 2021)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 3 फरवरी, 2021

का.आ. 119.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार में. एन.एम.डी.सी. लिमिटेड के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलोर के पंचाट (संदर्भ सं. 03/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.02.2021 को प्राप्त हुआ था।

[सं. एल-43012/3/2012-आईआर (एम)]

नवीन वैद्य, उप निदेशक

New Delhi, the 3rd February, 2021

S.O. 119.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03/2013) 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. NMDC Limited and their workmen, received by the Central Government on 03.02.2021.

[No. L-43012/3/2012-IR(M)]

NAVIN VAIDYA, Dy. Director

ANNEXURE

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

DATED : 19ND JANUARY, 2021

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

ID 03/2013

I Party

Sh. K. Eshappa,
S/o K.Tipanna,
H No. 767, NB,
North Block, NMDC Colony,
Donimalai, Sandur Taluk,
Bellary District – 583 221.

II Party

The General Manager,
M/s. NMDC Ltd.,
Donimalai Township,
Sandur Taluk,
Bellary District – 583 221.

Appearance

Advocate for I Party : Mr. Muralidhara

Advocate for II Party : Mr. Pradeep S. Sawkar

AWARD

The Central Government vide Order No. L-43012/3/2012-IR(M) dated 31.01.2013 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the action of the management of NMDC Limited Sandur in removing the services of workman Shri K. Eshappa S/o K. Tippanna vide Order dated 10.02.2009, is legal and justified? What relief the workman is entitled to?”

The 1st Party workman was a former employee of the 2nd Party and he is dismissed from service when certain allegations made against him came to be proved during a Domestic Enquiry conducted against him.

The claim of the 1st Party is he joined the service of the 2nd Party on 24.07.1993 and his services were confirmed. Vide Officer Order dated 29.02.2008, he was kept under suspension pending Departmental Enquiry that was followed by charge sheet dated 15.03.2008. He has submitted his reply denying the charges, Domestic Enquiry was held in violation of principles of natural justice and the provisions of the Regulations governing the enquiry procedures. The Enquiry Officer submitted his report holding that the charges of misconduct made against him is proved. The Disciplinary Authority accepted the enquiry report and proposed to impose the punishment of “removal from service which does not disqualify for future employment.” Even before he could submit his reply to the said proposal, 2nd Party issued the final order dated 10.02.2009 imposing the punishment of “removal of service which does not disqualify for future employment” with immediate effect. His appeal is also rejected. The Enquiry findings are devoid of reasons and justification. The 2nd Party agreed with the Enquiry findings without looking into the evidence of record, facts and circumstances of the case. Before proposing extreme punishment of removal from service, his blemish-less past record is not looked into: the punishment imposed is discriminatory, unjust, arbitrary and illegal and offends Art 14 and 21 of Constitution of India. On the very same set of allegations on which Domestic Enquiry was initiated, 2nd Party had filed complaint against him before the Jurisdictional Police and he was charge sheeted vide order dated 30.07.2011. He is acquitted of charges by the Criminal Court. He requested the 2nd Party to reconsider the punishment order in the light of the judgment of the Criminal Court. But the 2nd Party has not responded so far. The punishment order is excessive and is far disproportionate to the gravity of misconduct alleged against him. He is the sole bread-winner of the family. Now he has no other source of livelihood and is not gainfully employed anywhere.

2. The claim is contested. The claim statement targeting enquiry report, legality of punishment order etc. is all denied and the action taken against the workman is sought to be justified.

On the basis of the rival contention touching the fairness of the terms, a preliminary issue was raised: after a full-fledged Enquiry, vide order dated 01.03.2019, the issue is answered in the negative holding that the Enquiry is in violation of principle of natural justice.

The 1st Party workman filed an application seeking interim relief of Rs. 12,862/- per month. 2nd Party filed objection to the said application and also cross examined the 1st Party on the basis of this affidavit annexed to his application seeking interim relief. 2nd Party has also examined 5 witnesses in support of the charges. 1st Party has given his rebuttal evidence. Argument is addressed, both on the interim reliefs sought, and also on the merits of the case.

Sh. PSS for 2nd Party has also submitted his Written briefs.

3. In the back ground of the above, following points arise for my consideration

- a) Whether the 1st Party workman is entitled to seek interim relief from the date of his application till the date of closure of the present proceedings?
- b) Whether the 2nd Party proves that on 29.02.2008 at 4:15pm 1st Party, along with Sh. Khader Basha, entered the office of Sh. K. Jawaharlal, then Manager (P), voluntarily abused him in filthy language and slapped him with his chappal in the presence of other executives?
- c) If proved, to what punishment? What is the effect of the judgment of the Criminal Court in acquitting the 1st Party from charges of the offence punishable under section 323, 353, 355, 504, 506, 109, read with 34 of IPC?

- d) Whether the punishment already passed against him thereby, removing him from service without disqualifying him for his future employment with immediate effect needs any further modification?

4. The summary of the allegation against the workman as per the charge sheet dated 15.03.2008 was CSE on 29.02.2008 at 4:15 pm entered into the office of Sh. K Jawaharlal, Manager (P) along with Sh. M. Khadar Basha, a co-employee to enquire about the tender action initiated by the Management in respect of Torangallu Railway Station pickup vehicle. This issue was not related to his employment. Sh. K Jawaharlal informed him that the matter was under TSC. So, whatever recommendations would be there, that would be known later. Sh. K Jawaharlal explained the status of tender action initiated by the Management. After listening to the briefings of Sh. K Jawaharlal, CSE was agitated, removed his chappal and slapped Sh. Jawaharlal, Manager (P) on his left cheek in the presence of other executives. The above act is misconduct under clause no. 28(2) (vii) of the Certified Standing Orders applicable to workman of the 2nd Party.

Secondly, on the above date, place and time, CSE abused him in filthy language and slapped him with his chappal in the presence of other executives, which amounts to misconduct under clause no. 28 (2) (xii) of the Certified Standing Orders.

Thirdly, in the above date, place and time, he physically assaulted and abused Sh. K. Jawaharlal, Manager (Pers) while he was discharging his duties in his office which amounts to misconduct under clause no. 28 (2) (xxv) of the Certified Standing Orders.

The 1st witness (MW2) examined in support of the charges was, the victim of the incident, Sh. K Jawaharlal, who is now retired from service. In his affidavit evidence, he has corroborated the charge sheet allegations and stated that there was no reason for Sh. Khadar Basha to bring Sh. Ishappa to his room and question him as to why his contract will not be awarded to the relative of Sh. Ishappa since his is the lowest in bid. When the witness told him that whatever recommendations are made, that would be known later, under the promptness of Khadar Basha, CSE got agitated, abused him in filthy language in Kannada and slapped him with his chappal in the presence of Sh. M. Khadar Basha, MCO, Sh. Arunal Raj, Junior Manager (P), Sh. Shashi Prakash Singh, Junior Manager (P), Sh. Kedar Das, Deputy Manager (Mechanical) (AG), Sh. G. Ganapath who was on visit to DIOM to join duty as Dy. Mgr (Per), Sh. E Siven Nair, Manager (Per) who is no more. Ex M3 is his complaint.

During the cross examination of the witness, it emerged that at the relevant point of time, 1st Party and Sh. Khadar Basha were the General Secretary and treasurer of the Trade Union operating in the 2nd Party. The witness denied the suggestion that both of them had come to fix a meeting involving the witness regarding workman issue: during those days, there was urgency regarding commutation from Toranagal Railway station to Donimalai. The witness present over there and Sh. Khadar Basha took the 1st Party workman immediately from his chamber. In the criminal case also, he has given evidence.

The 2nd witness for the Management (MW3) was Sh. Arunal Raja, Senior Manager (Personnel) in NMDC. As per his affidavit averment, he is an eye witness to the incident. During cross-examination, it surfaced that as on the date of the application, he was in probation and Jawaharlal was above him in hierarchy.

The 3rd witness was Sh. Shashi Prakash Singh (MW4), Jr. Manager, (P). He is also an eye witness for the incident. He also corroborated the charge sheet allegation. During the cross-examination, it was elicited from him that Sh. Jawaharlal was his superior officer. He is also examined as a witness in the criminal case.

The 4th witness was G. Ganapath (MW5), who is presently the Deputy General Manager (Per) of the 2nd Party. He is also an eye witness to the incident. During the cross examination, it surfaced that he joined 2nd Party on 31.05.2008. Jawaharlal is his superior officer. He was the witness in the criminal case also. His explanation for his presence in the chambers of the Jawaharlal as on 29.02.2008 was to check his Role, Pay Scale as Manager.

The 5th witness was Sh. P.K. Choudhary (MW6), presently Assistant General Manager of the 2nd Party. During his cross examination, he has stated that he has not conversed personally with Khadar Pasha on that day.

The 6th witness (MW7) - the Assistant General Manager has deposed about untoward incident of 04.10.2004 involving the 1st Party K. Eshappa. His statement is that on 04.10.2004 at 8.30 am, when he was engaged in work distribution at water supply office, CSE came in and asked about his transfer. The witness replied that same was not in his hand, it would be decided by the higher authorities. On that, 1st Party used unparliamentary words, broke the table glass by his fist and thereafter slapped him. At that time, 6 other officials (Names and details are mentioned in the affidavit evidence) were present there. On 07.10.2004, a memorandum was issued by the Manager (Civil) proposing to hold an Enquiry against the CSE in respect of the above

incident: the Project Head for CSE warned CSE not to repeat the same, and repetition of misconduct will be dealt seriously. The witness respected the decision of the Project Head. The witness has further stated that on 23.04.2002, Assistant Manager (Pers) passed an order that Mr. Eshappa should have taken prior permission of competent authority before acquiring house property at Bellary. The witness has produced the following documents-

Ex M-14 - the memorandum of charges issued to CSE with respect of incident of 04.10.2004.

Ex M-15 - reply by CSE to Ex M-14.

Ex M-16 - the warning memo issued to him in response to Ex M-15.

Ex M-17 - the Office Order about 1st Party purchasing a property without the prior permission of the Management.

During his cross examination, MW7 was not contradicted in respect of the incident of 04.10.2004. The only suggestion was Ex M14 to M17 was not served on the 1st Party which he denied.

The CSE gave his rebuttal evidence, denying allegations. He does not dispute his presence in the chambers of Sh. Jawaharlal on 29.02.2008. His explanation is being an executive committee member of the trade union, he along with Khadar Pasha had been to the chambers of Sh. Jawaharlal to enquire about the tender called for the transport facility and to dispose of the same at the earliest. Sh. Jawaharlal was mean to him and shouted against him to get out: when he and Khadar Pasha attempted to explain him, he assaulted the witness. Being mentally hurt, he also had to shout against Sh. Jawaharlal but he has not assaulted him. The allegation of assaulting Jawaharlal with chappal is all false...

During cross-examination, WW1 was confronted with the Photostat copy of written statement filed by him to the memorandum dated 15.03.2008 issued to him. He identified the said document (which is marked before this Tribunal as Ex M-5 during the trial on preliminary issue).

He admits that he underwent training in Agricultural Department for 1 year in the year 1985-86 and identifies the Photostat copy of the certificate issued by Agricultural Department as Ex M-18, further admits that he did not bring to the notice of the 2nd Party about the said training. He identifies his signature on Ex M-15 (a) (It is a letter seeking excuse in respect of the memo issued to him about not informing about his training in Agricultural Department.)

He has filed separate affidavit evidence in respect of his payer for interim relief. During the cross-examination, it was brought forth that he continues to reside in the quarter allotted by the 2nd Party. He denies applying for tender published by the 2nd Party calling for 4 wheeler vehicle. He had also denied the contents of Ex M-5 which is a reply submitted by him to the charge sheet.

5. As per Ex M-5, he had stated to the effect that he responded to the Tender notification issued by the Management in respect of Torangallu railway station pickup vehicle in the name of his wife etc. In that connection, he met Jawaharlal on 29.02.2008 at 4:15 pm... Jawaharlal insulted him in a very heinous way which affected his self... Jawaharlal immediately raised his hand and slapped him across his face... *thus, Sh. K Jawaharlal first hit me and then I also retaliated for the same...* Thus, on his own showing, the 1st Party admits his presence in the chamber of Sh. Jawaharlal on 29.02.2008 at 4:15 pm and assaulting his superior officer MW2 / Jawaharlal.

Interestingly, he has not disputed the evidence adduced by Sh. P.K. Choudhary (Assistant General Manager) about the incidence on 04.10.2004. His contention that documents M Ex-14 to M Ex-17 were not served on him, does not appease to the common sense. Why the Management would keep the memos / punishment orders in their pocket without serving the same on the erring employee?

6. That probablises the fact that the 1st Party had approached Sh. Jawaharlal to enquire about the tender notification in respect of which he was personally interested. On 04.10.2004 during the working hours, he fiercely raised his voice against MW7 / Sh. P.K. Choudhary and abused him with unparliamentarily words and also broke the table glass by his fist and thereafter slapped him. At Ex M-5, he admits his mistake and assures to not repeat the same in future. This version is more in the nature of apology. If really the incident had happened in a spur of the moment due to rude behaviour of Sh. Jawaharlal, same should have been brought on record during the rebuttal evidence of 1st Party. But, that is not his story. That leads to the inference that 1st Party workman is a man of riotous nature and is given to exhibit violence against his own superior officers. Viewed from that angle, it is also likely that he had gone to the chamber of Sh. Jawaharlal on 29.02.2008 to enquire about the tender notification in which he had personal interest. For not getting positive response from Sh. Jawaharlal, he abused him in filthy language and slapped him with the chappal.

Sh. MD, learned advocate for the 1st Party, took me through the judgment of criminal court marked as Ex W-1 before this Court. The charges were identical to that of the Domestic Enquiry with only difference in the instrument used to assault Jawaharlal. It was alleged that he assaulted Jawaharlal with a shoe on his head.

The 1st Party workman was arrayed as A1 and Sh. M Khadar Basha as A2: they were charged in respect to the offence punishable under 323, 353, 355, 504, 506, 109, read with 34 of IPC. While acquitting the accused persons, the shoe (MO1) was ordered to be destroyed. Sh. MD for the 1st Party points out that the very same Jawaharlal had given complaint to the jurisdictional police stating that he was assaulted with shoe on his head, and also adduced evidences before the Criminal Court that he was assaulted with shoe to the left side of the head. But, the charge in this case is slapping with chappal on his left cheek. That being so, there is material contradiction between his complaint to the 2nd Party and to the jurisdictional police which was filed after much delay i.e. on 01.03.2008. Thus, the evidence of Sh. Jawaharlal is not trustworthy and the charge is not proved by the 2nd Party before this Tribunal.

7. Falsus – Uno, Falsus – omnibus is not the universal formula in the Indian scenario as observed by the Higher Courts. Whether the instrument used for assault of Sh. Jawaharlal was a shoe or a chappal, it does not matter much for our purpose. When Jawaharlal was in the witness box during the cross examination, there was no cross-examination about the discrepancy in respect of material used for assault and the portion of the body which was assaulted. That drives me to hold that the workman has voluntarily entered the chambers of Sh. Jawaharlal on 29.02.2008, abused him filthily, became violent and slapped him with his chappal in the presence of other executives. It is also argued for the 1st Party that the witnesses since do not know Kannada language, it is his imagination to say that he filthily abused Sh. Jawaharlal. I cannot subscribe to this contention also, as when a person is throwing temper tantrums violently, it cannot be imagined he is praising his victim.

8. As per the Certified Standing Orders of the 2nd Party, fighting, riotous, disorderly or indecent behaviour within the premises of Management amounts to misconduct under clause 28 (2) (vii) : Further, assaulting threatening, intimidation of any workman or officer of the Management within the mine / feasibility / premises / boundaries is a misconduct under sub clause (2) (xii) of clause 28. Any act subversive of discipline is a misconduct under sub clause (2) (xxv) of clause 28.

9. Now comes the question, what is the effect of his acquittal from the criminal charges. 1st Party has relied on following judgments:

- a) 1963 – II LLJ page 396 SC, Associated Cement Companies Ltd vs. their workmen and another.
- b) 1968 – I LLJ page 45 High Court of Allahabad, Sharda Prasad Viswakarma vs. State of Uttar Pradesh and others.

But, both these judgments do not come in his aid. No rule of thumb is laid down in the above cases that on acquittal from a criminal case on the identical charges, Charge Sheeted Employee has to be reinstated though he is found guilty of misconduct in a Domestic Enquiry held by the Management. The recent judgment of the Apex Court reported in (2018 1 SCC 285) Management of Bharat Heavy Electricals Ltd vs. M Mani, rules contrarily. In the said case, the Departmental Enquiry was held in accordance with law independently of criminal case and the charge against the delinquent employees was proved. The Apex Court in the given circumstances stated “*this Court has consistently held that in a case where the Enquiry has been held independently of Criminal proceedings, Acquittal of criminal court is of no avail....*”

That being the law reigning the field, I endorse the order of dismissal passed by the 2nd Party against the workman on 10.02.2009. Since they have successfully proved the charges against the workman before this Court, reference is rejected. The application filed by the 1st Party for interim relief also stands disposed off as it is observed that even now he is residing in the quarters owned by the 2nd Party. He is not entitled for any relief in the present reference.

AWARD

The Reference is rejected.

(Dictated to LDC, transcribed by him, corrected and signed by me on 19th January, 2021)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 4 फरवरी, 2021

का.आ. 120.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पूर्व रेलवे प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 52/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.02.2021 प्राप्त हुआ था।

[सं. एल-41012/20/2015-आईआर (बी-1)]

डी. गुहा, अवर सचिव

New Delhi, the 4th February, 2021

S.O. 120.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 52/2015) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Eastern Railway and their workmen, received by the Central Government on 04.02.2021.

[No. L-41012/20/2015-IR(B-1)]

D. GUHA, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUCKNOW

PRESENT : P. K. SRIVASTAVA, HJS (Retd.)

I.D. No. 52/2015

Ref. No. L-41012/20/2015-IR(B-I) dated 18.06.2015

BETWEEN :

Durbal, Gateman
North Eastern Railway
Aishbagh, Lucknow

Vs

1. The Sr. Divisional Personnel Officer
Northern Eastern Railway
DRM Office, Ashok Marg, Lucknow.
2. The Sr. Divisional Operational Manager
Northern Eastern Railway
DRM Office, Ashok Marg, Lucknow.

AWARD

1. By order No. L-41012/20/2015-IR(B-I) dated 18.06.2015 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 between Durbal, Gateman, North Eastern Railway, Aishbagh, Lucknow and the Sr. Divisional Personnel Officer, Northern Eastern Railway, DRM Office, Ashok Marg, Lucknow & the Sr. Divisional Operational Manager, Northern Eastern Railway, DRM Office, Ashok Marg, Lucknow for adjudication.

2. The reference under adjudication is:

“KYA PURVOTTAR RAILWAY PRABADHAN DWARA S.R.R.S. KE ANTARGAT SHRI DURBAL, GATEMAN KE ASHRIT PUTRA JITENDRA SINGH KO NIYUKTI NA DENA NYAYOCHIT EVAM VAIDH HAI? YADI NAHI TO VAADI KIS RAAHAT KO PAANE KA HAQDAAR HAI?”

3. The case of the workman, in brief, is that the workman, Durbal was working on the post of Gateman in NER, Aishbagh, Lucknow. His date of appointment was 06.03.1981 and his age was 01.01.1954; accordingly, he had completed 30 years of service as on 01.01.2011 and he was about to retire on 31.12.2013. It has been submitted by the workman that he applied for appointment of his son in accordance with Railway Board's circular No. 131/2010 dated 11.09.2010 relating to Safety Related Retirement Scheme; in pursuance to his application, his son, Jitendra Singh had been fit after medical examination; but his son was not given appointment, which amounts to unfair labour practice in accordance to the provisions of Industrial Disputes Act,

1947. The workman has alleged that he submitted number of representation in this respect but the management did not pay any heed to his request; accordingly, he has prayed that his son be given appointment in accordance with provisions of the Safety Related Retirement Scheme.

4. The management of the railways has filed its written statement; wherein it has disputed the claim of the workman with submission that the Railway Board vide their letter dated 29.03.2011 issued guidelines regarding Safety Related Retirement Scheme; wherein it was mentioned that retirement/recruitment may be started from July, 2011 for the current calendar year 2011 and in pursuance to the Railway Board's letter dated 29.03.2011, the DRM (P), NER, Lucknow issued a notification dated 28.01.2011 for appointment against Group 'D' posts under Safety Related Retirement Scheme, later called LARSGESS Scheme and the cut of date was fixed as 28.02.2011 for receipt of applications. It has been mentioned by the management that the edibility criteria was age between 50 to 57 years with qualified services from 20 to 33 years as on cut of date i.e. 28.02.2011. The management has submitted that on verification of the application of the workman it was found that the age of the workman, on the cut of date, was 57 years 01 months 27 days i.e. more than prescribed maximum age, therefore, his dependent was not given appointment under the Scheme. The management has also stated that since the workman has retired from service on 31.12.2014 after attaining age of 60 years and has received all retiral benefits, therefore, he cannot claim for appointment of his son under Scheme; and accordingly, the management has prayed that the claim of the workman be rejected being devoid of any merit.

5. The workman has filed its rejoinder; wherein apart from reiterating the averments already made in the statement of claim he has submitted that he was liable to be given benefit of circular dated 01.09.2010 according to which workman's age as on 01.01.2011 was 57 years, therefore, he was entitled for benefits of the Scheme.

6. The parties filed documents in support of their respective case and adduced oral evidence. The workman examined himself; whereas the management examined Sri Sanat Jain, Asstt. Personnel Officer, DRM Office, NER, Lucknow in support of its case. The parties availed opportunity to cross-examine the witnesses of each other apart from forwarding oral arguments in support of their respective cases.

7. Heard learned authorized representatives of the parties at length; and perused entire evidence on record.

8. The learned authorized representative of the workman has submitted that the date of birth of the workman is 01.01.1954 and he was appointed in the service of railway on 06.03.1981; accordingly, on the cut of date i.e. 01.01.2011 his age was 57 years and he had completed 30 years of service, therefore, he was eligible for giving benefit of Scheme. He has relied upon:

(i) 2009 (123) FLR 853 Alok Dey Roy vs Union of India & others.

9. In rebuttal, the learned counsel for the management has argued that the workman's application for appointment of his son under the Scheme was not entertained for the reasons that the workman had become over age as on the cut of date i.e. 28.02.2011 and had attained age of 57 years 01 month and 27 days. Moreover, the management has also argued that since the workman has retired after attaining the age of superannuation and been extended all retiral benefits, therefore, he cannot claim appointment of his son under the Scheme as he has enjoined entire service period and its benefits. He has relied upon:

(i) (1997) 9 SCC 31 State of Punjab & others vs Krishan Niwas.

10. I have given my thoughtful consideration to the rival contentions of the parties, in support of their respective stand, and scanned the entire evidence available on record in light thereto.

11. In nutshell, the workman has come up with a case that the workman who was appointed in the services of railways on 06.03.1981 with date of birth 01.01.1954 was eligible for giving benefit of the Scheme as he fulfilled the requirements of the Scheme on the cut of date i.e. 01.01.2011. Per contra, the case of the management is that the workman had attained more age than the age limit provided in the Scheme on the cut of date i.e. 28.02.2011, therefore, the workman was denied of the benefits of the Scheme.

12. The parties have repeatedly referred Railway Board's various letter/circular(s) dated 02.01.2004, 11.09.2010 & 29.03.2011 and DRM, NER, Lucknow's letter/circular dated 28.01.2011; accordingly, they are reproduced hereunder:

“भारत सरकार GOVERNMENT OF INDIA

रेल मंत्रालय MINISTRY OF RAILWAYS

(रेलवे बोर्ड RAILWAY BOARD)

RBE No. 4/2004

No. E (P&A)I-2001/RT-2(KW)

New Delhi.Dated 02.01.2004

The GM/CAOs/OSDs

All Indian Railways & Production Units etc (As per mailing list)

Sub: Safety Related Retirement Scheme – Drivers and Gangmen

Arising out of deliberation in the Workshop on Safety on Indian Railways conducted on 12th and 13th of July, 2003 the Ministry of Railways have decided to introduce a Safety Related Retirement Scheme for the categories of Gangmen and Drivers.

2. The main features of the Scheme are as follows:-

(i) *The Scheme may be called Safety Related Retirement Scheme. The Scheme will cover two safety categories viz. Drivers (excluding shunters) and Gangmen whose working has a critical bearing on safety of train operations and track maintenance. The scheme has been framed on the consideration that with advancing age, the physical fitness and reflexes of staff of these categories deteriorate, thereby causing a safety hazard.*

- *Drivers: This category is directly responsible for the running of trains. Running duties demand continued attention and alertness. The element of stress combined with uncertain hours of work entailed in the performance of running duties over long period of time tend to have a deleterious psychosomatic effect on their health. There is a slowing down of reflexes with the passage of time making them vulnerable to operation lapses.*
- *Gangmen: This category is responsible for the proper maintenance of tracks. Their duties involve heavy manual labour in the laying of tracks, repair of tracks, patrolling etc. Unlike workshops/loco-sheds, all this labour is performed in the open environment, they are subjected to the vagaries of extreme weather conditions, non-availability of fork lifts, EOT cranes, wheel barrow etc. As a result the infirmities associated with the aging processes and spinal and back problems catches up quite early in life.*

These categories, work in conditions, in which fatigue sets in earlier, than in the case of staff who work indoor or within station limits or in depots and workshops. Although the other categories nomenclatured as safety categories also have a vital role to play in ensuring operational safety, the nature of their duties is less arduous. Therefore, no other category other than Gangmen and Drivers is included in the Scheme. For the same reason, shunters who perform less strenuous, shift wise, duties within station yards, will also not be included in the scheme.

- (ii) *Under the Scheme, Drivers and Gangmen in the age group of 50 to 57 years may seek retirement.*
- (iii) *Employment to a suitable ward of the employee, whose application for retirement under the scheme is accepted, will be considered.*
- (iv) *The employee should have completed 33 years of qualifying service in order to be eligible for seeking retirement under this scheme.*
- (v) *The request for retirement will be on a voluntary basis and there will be no element of compulsion on the part of the Administration.*
- (vi) *The ward will be considered for appointment only in the lowest recruitment grade of the respective category from which the employee seeks retirement, depending upon his/her eligibility and suitability, but not in any other category.*

- (vii) Applications from those who propose to retire under this scheme will be taken once in a year. The cut off date for reckoning the eligibility of employees for seeking retirement under this scheme will be 30th June of the respective year. All conditions of appointment for the ward of such retirees such as age limits, educational qualifications etc will also be determined with reference to that date.
- (viii) The last date for submission of requests for retirement and consideration of a ward for appointment under the scheme, will be the 31st of July of the respective year.
- (ix) Employees who desire to withdraw their requests for retirement may be allowed to do so, not later than 30th September of the respective year. No request for withdrawal of request will be entertained thereafter.
- (x) The discretion to accept the request for retirement will vest with the administration depending upon the shortage of staff, physical fitness and suitability of the ward for appointment in the category of Driver/Gangmen as the case may be.
- (xi) Those who have completed 33 years of qualifying service and are in the age group of 55 to 57 years would be considered in the first phase of the scheme to be followed by those in the age group of 53 years onwards but less than 55 years.
- (xii) The condition of eligibility, in the case of wards, being considered for appointment would be the same as prescribed for direct recruitment from the open market.
- (xiii) Suitability of the wards be assessed in the same manner as is being done in the case of direct recruitment. The assessment will be done through respective Railway Recruitment Boards. The request of the employee for retirement under this scheme would be considered only if the ward is considered suitable for appointment in all respects, including medical fitness.
- (xiv) Since the Safety Related Retirement Scheme is a package having no nexuses with any of the existing schemes, no weightage towards qualifying service will be admissible to the employee who seeks retirement under this scheme. The wards appointed under this scheme will not be allowed to change their category, except as is being allowed under the already existing rules.
- (xv) For the purpose of reckoning eligibility for residential accommodation, wards appointed under this scheme will be treated at par, with those appointed through direct recruitment, from the open market; the terms of regularization of accommodation as applicable to the wards of employees appointed on compassionate basis, will not be applicable in their case.

3. After the successful implementation of the first phase of the scheme, the implementation of the second phase conveying employees will less than 33 years of qualifying service would be considered for clearance by the Railway Board.

4. The Scheme will come into force from the date of issue of this letter.

5. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

6. Please acknowledge receipt.

-sd-

(NADIRA RAZAK)

JOINT DIRECTOR, ESTT. (P&A)

RAILWAY BOARD

भारत सरकार GOVERNMENT OF INDIA**रेल मंत्रालय MINISTRY OF RAILWAYS****(रेलवे बोर्ड RAILWAY BOARD)****RBE No. 131/2010****No. E (P&A)I-2010/RT-2**

New Delhi. Dated 11.09.2010

The General Managers,

All Indian Railways

Sub: Safety Related Retirement Scheme covering safety categories with Grade Pay of Rs.1800/-.

Please refer to Board's letter No. E (P&A)I-2001/RT-2(KW) dated 02.01.2004 regarding introduction of Safety related Retirement Scheme (SRRS) for Drivers and Gangmen.

2. It has now been decided to extend the benefit of Scheme to other safety categories of staff with a grade pay of Rs. 1800/- p.m. The qualifying service has been reduced from 33 years to 20 years and the eligibility age group from 55 – 57 years to 50 – 57 years for seeking retirement under the Scheme in the case of Safety categories with Grade Pay of Rs. 1800/- The list of Safety categories covered under the Scheme is enclosed as Annexure.

2.1 It has also been decided to modify the nomenclature of the Scheme as Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS) with Grade Pay of Rs. 1800. However, the employment under the Scheme would be guaranteed only to those found eligible/suitable and finally selected as per procedure.

3. The condition of qualifying service (i.e. 33 years) and age group (i.e. 55/57) for Drivers will remain unchanged.

4. It is also reiterated that the retirement of the employee be considered only if the ward is found suitable in all respects. Retirement of the employee and appointment of the ward should take place simultaneously.

5. The other terms and conditions of the Scheme will remain unchanged.

6. This issued with the concurrence of the Finance Directorate of the Ministry of Railways.

7. Kindly acknowledge receipt.

8. Hindi version will follow.

-sd-

(Dharam Pal)

Deputy Director Estt. (P&A) II

Railway Board

**भारत सरकार
रेल मंत्रालय (रेलवे बोर्ड)**

आर.बी.ई.सं। 42/2011

सं.ई (पी एंड ए) I-2010/आरटी-2

नई दिल्ली, दिनांक: 29.03.2001

महाप्रबन्धक,

सभी भारतीय रेलें।

विषय: ड्राईवर, गैंगमैन तथा ₹1800/- की ग्रेड पे वाली अन्य संरक्षा कोटियों पर लागू संरक्षा संबद्ध सेवानिवृत्ति योजना।

संदर्भ: बोर्ड के दिनांक 11.09.2010 तथा 24.09.2010 के समसंख्यांक पत्र।

कर्मचारी संघों द्वारा उठाई गई मांगें जैसे मंडलों पर निम्नतर स्तर की मूल्यांकन समिति का गठन, संरक्षा कर्मचारियों के लिए गारंटीशुदा रोजगार के लिए उदारीकृत सक्रिय सेवानिवृत्ति योजना (एलआरएसजीईएसएस) के अंतर्गत सेवानिवृत्ति/भर्ती मामलों की प्रक्रिया वर्ष में एक बार से अधिक बार करना आदि कुछ समय से बोर्ड के विचाराधीन रहे हैं। या विनिश्चय किया गया है कि गैंगमैन सहित 1800/- प्रतिमाह ग्रेड पे में सभी संरक्षा कोटियों की तथा ड्राईवरों/लोको पायलटों की एल.आर.एस.जी.ई.एस.एस. के अंतर्गत सेवानिवृत्ति/भर्ती प्रक्रिया संलग्न समय अनुसूची के अनुसार वर्ष में दो बार की जाय। इस योजना के अंतर्गत भर्ती के लिए आश्रितों की उपयुक्तता का आकलन नीचे दर्शायी गई मूल्यांकन समिति (Assessment Committee) द्वारा किया जाए:-

- (i) ₹ 1800/- प्रतिमाह ग्रेड पे में सभी संरक्षा कोटि के पद पर भर्ती के लिए आश्रितों की उपयुक्तता के बारे में निर्णय मण्डल स्टार पर 3 कनिष्ठ प्रशासनिक ग्रेड के अधिकारियों की निर्धारण समिति द्वारा, और
 - (ii) ड्राईवरों/लोको पायलटों के आश्रितों की उपयुक्तता का आकलन मुख्यालय स्टार पर 3 वरिष्ठ प्रशासनिक ग्रेड के अधिकारियों की मूल्यांकन समिति द्वारा किया जाना जारी रहेगा।
3. चालू कलेंडर वर्ष 2011 के लिए सेवानिवृत्ति/भर्ती की प्रक्रिया जुलाई, 2011 से शुरू की जाए।
 4. योजना के अन्य नियम एवं शर्तें अपरवर्तित रहेंगी।
 5. इसे रेल मंत्रालय के वित्त निदेशालय की सहमति से जारी किया जा रहा है।
 5. कृपया पावती दें।

-ह-

(धर्म पाल)

उप निदेशक स्था. (वेतन एवं भत्ता) II
रेलवे बोर्ड

अनुबंध

समय अनुसूची

(क) पहली छमाही – जनवरी - जून

(i) कर्मचारी तथा उसके आश्रित की पात्रता के लिए निर्धारित तारीख : 1 जनवरी

(ii) आवेदन प्राप्त करने की अंतिम तारीख : 31 जनवरी

(iii)	आवेदनों की संवीक्षा	:	1 फरवरी से 28/29 फरवरी
(iv)	आवेदन वापस लेने की अंतिम तिथि	:	28/29 फरवरी
(v)	शारीरिक परीक्षा/लिखित परीक्षा आदि आयोजित करना	:	1 मार्च से 30 अप्रैल
(vi)	पहली बार में लिखित परीक्षा में असफल हो जाने वालों को 20-30 दिन के अंतराल में दूसरा अवसर देना	:	31 मई तक
(vii)	चिकित्सा जांच, सेवानिवृत्ति स्वीकार करना/आश्रितों द्वारा नौकरी का कार्यभार संभालना	:	1 से 30 जून
(ख)	दूसरी छमाही – जुलाई – दिसम्बर		
(i)	कर्मचारी तथा उसके आश्रित की पात्रता के लिए निर्धारित तारीख	:	1 जुलाई
(ii)	आवेदन प्राप्त करने की अंतिम तारीख	:	31 जुलाई
(iii)	आवेदनों की संवीक्षा	:	1 से 31 अगस्त
(iv)	आवेदन वापस लेने की अंतिम तिथि	:	31 अगस्त
(v)	शारीरिक परीक्षा/लिखित परीक्षा आदि आयोजित करना	:	1 सितम्बर से 31 अक्टूबर
(vi)	पहली बार में लिखित परीक्षा में असफल हो जाने वालों को 20-30 दिन के अंतराल में दूसरा अवसर देना	:	30 नवम्बर तक
(vii)	चिकित्सा जांच, सेवानिवृत्ति स्वीकार करना/आश्रितों द्वारा नौकरी का कार्यभार संभालना	:	1 से 31 दिसंबर

पूर्वोत्तर रेलवे

कार्यालय
मण्डल रेल प्रबन्धक (का.)
लखनऊ

सं. ई/11/पालिसी/प्रगति/मिस/2010

दिनांक 28.1.2011

सभी शाखाधिकारी
सभी सहायक मण्डल इंजी/लखनऊ मण्डल
सभी स्टेशन प्रबन्धक/अधीक्षक, लखनऊ मण्डल
सभी डिपो/समाडि/लॉबी, लखनऊ मण्डल
सभी सीसेड/सिग्नल एवं दूरसंचार/विधुत, लखनऊ मण्डल।

विषय :- “सेफ्टी रिलेटेड रिटायरमेंट स्कीम” के अंतर्गत ग्रुप डी पदों पर नियुक्ति।

संदर्भ:- इस कार्यालय के समसंख्यक पत्र दिनांक 24.12.2010

उपरोक्त विषयक मामले किन संदर्भित पत्र के द्वारा सेफ्टी रिलेटेड रिटायरमेंट स्कीम के अंतर्गत आवेदन निर्धारित प्रारूप में प्राप्त नहीं हो रही है। कृपया इस पत्र के साथ संलग्न आवेदन प्रारूप के आधार पर ही कर्मचारियों के दो प्रतियों में आवेदन इस कार्यालय को सूचीबद्ध करते हुए भिजवायें।

आवेदन पत्र को अग्रसारित करने के पूर्व निम्न निर्देशों की जांच व कार्यवाही सुनिश्चित करना आवश्यक है –

1. यह स्कीम केवल ग्रुप 'डी' के परिचालन, इंजीनियरिंग, सिग्नल एवं दूरसंचार, विधुत एवं यांत्रिक विभाग में कार्यरत कर्मचारियों के लिए है।
2. इस स्कीम में वे ही कर्मचारी आवेदन कर सकते हैं जिनकी आयु 50 वर्ष से 57 वर्ष के बीच है एवं अर्हक सेवा 20 वर्ष से 33 वर्ष है।
3. इस स्कीम में वे ग्रुप 'डी' कर्मचारी भी आवेदन कर सकते हैं जिन्हें एमएसीपीएस में ग्रेड पे (1900, 2000, 24000) प्राप्त हो गए हैं।
4. इस स्कीम में केवल उन्ही आश्रितों को नियुक्ति की जा सकेगी जो सभी मापदण्डों में उपयुक्त पाये जाएंगे।
5. न्यूनतम शैक्षिक योग्यता कक्षा 10 पास या समकक्ष एवं आयु सीमा ग्रुप 'डी' में नियुक्ति के आधार पर ही मान्य होगी।
6. आवेदन पत्र पूर्ण रूप से भरे जाएंगे अधूरे आवेदन पत्र मान्य नहीं होंगे।
7. समस्त आवेदन पत्र 28.2.11 तक निश्चित रूप में मण्डल कार्यालय को प्राप्त करा दिये जायें। उपरोक्त विषय के अंतर्गत आवेदन का प्रारूप संलग्न है।

-ह-

(पी. बी. प्रसाद)

मकाधि/लखनऊ”

13. For apt appreciation of the facts, it would be necessary to discuss certain provisions of the Scheme under question. It apparent on the face of record that the scheme had initially been introduced vide railway board's circular dated 02.01.2004 for two safety categories viz. Driver and Gangmen. Under the scheme, one of ward of the employee was to be given appointment on opting pre-mature retirement of the railway employee and this scheme was available to only those employees who were the age group of 55-57 and had completed 33 years of service on the cut of date which was initially 30th June of the respective year. Subsequently the benefits of the scheme was extended to other categories also with Grade Pay 1800/- and the qualifying service was reduced from 33 years to 20 years and eligible age group was reduced from 55-57 to 50-57; however, subsequently it was decided to make retirement/recruitment process twice in a year vide railway board's circular dated 29.03.2011; wherein it has been provided two six monthly schedule i.e. first, from January to June and second, from July to December; and the cut of date was fixed to be 1st January and 1st July respectively with last date of receipt of applications on 31st January and 31st July respectively.

Here in the instant case, from perusal of the documents relied upon by the workman it is clear that the workman made his application for retirement/recruitment under the Scheme on 28.12.2010, therefore, his case shall fall within first six monthly schedule provided vide circular dated 29.3.2011 of the Railway Board, with cut of date 01.01.2011; hence on reckoning the age of the workman evident from service records, his age comes to be 57 years on 01.01.2011; however, the management denies the same with submission that it is the DRM Office when it circulates any scheme than it becomes enforceable, therefore, the cut of date be taken as 28.02.2011 as provided in para 07 of the circular dated 28.01.2011, issued by office of the DRM (P), NER, Lucknow. In this regard it is noteworthy to mention here that the workman has come up with a clear cut case that it applied in pursuance of the railway board's circular dated 11.09.2010 and the same was further modified vide circular dated 29.03.2011 where two six monthly plan was formulated, therefore, the cut of date, which is to be taken into account is 01.01.2011 not 28.02.2011. Also, the date 28.02.2011, as mentioned in the circular dated 28.01.2011, claimed to be cut of date by the management is actually last date of receipt of application and there is no mention of cut of date in said circular, therefore, the cut of date shall be same as provided in the Railway Board's letter dated 29.03.2011 and in present case 01.01.2011. Also, the arguments of the learned counsel for the management is not acceptable that any scheme formulated by the Railway board shall be enforceable in the field office only after circulation of the same by the field office.

14. Accordingly, from the facts and circumstance of the case, it is proved that the workman was eligible for consideration under the scheme as he attained 57 years' age on the cut of date under the Scheme i.e. on

01.01.2011 and the action of the management in denying appointment to the son of the workman under the Scheme is held illegal.

15. Further, it is also admitted that the workman completed his entire service and got retire on attaining the age superannuation; however, had his application been process properly and his son been given appointment he would have got retire on the same day, therefore, in the present factual back drop the son of the workman is held entitled for appointment from the date, other candidates whose case was processed with the workman, were given appointment, but without back wages. As regard workman Durbal, his pension shall be re-fixed accordingly, treating him retired from the same date; and also the workman, Durbal, shall be liable to refund the excess of the retiral benefits, if any, paid to him.

16. The reference under adjudication is answered accordingly.

17. Award as above.

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

LUCKNOW

18th January, 2021

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 4 फरवरी, 2021

का.आ. 121.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बँगलोर के पंचाट (संदर्भ संख्या 08/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.02.2021 को प्राप्त हुआ था।

[सं. एल-12025/01/2021-आईआर (बी-1)]

डी. गुहा, अवर सचिव

New Delhi, the 4th February, 2021

S.O. 121.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 08/2012) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore 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 04.02.2021.

[No. L-12025/01/2021-IR(B-1)]

D. GUHA, Under Secy.

ANNEXURE

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

DATED : 21ST JANUARY, 2021

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

ID 08/2012

I Party

Sh. M. S. Raja,
S/o late M G Shanmugam,
D. No. 908, Anglo Indian Colony,
Robertsonpet,
KGF - 563122.

II Party

The Deputy General Manager
& Disciplinary Authority,
State Bank of India,
Budikote Branch,
Kolar

Appearance

Advocate for I Party : Mr. R. Nagendra Naik

Advocate for II Party : Mr. N. Venkatesh

AWARD

This petition is filed under Sec 2-A (2) of the Industrial Dispute Act, 1947 (for brevity 'the Act'). The 1st Party workman herein is the former employee of erstwhile State Bank of Mysore presently State Bank of India who was Compulsorily Retired from service by the order of the Disciplinary Authority dated 24.06.2011, since he was found guilty of misconduct on certain charges came to be proved during the Domestic Enquiry.

2. The undisputed facts is -

1st Party workman joined the service of State Bank of Mysore on 08.10.1977 as Sub staff; in the year 1983 he was promoted to CGK on 01.06.1983 again he was selected as HC for Sulikunte Branch w.e.f 01.11.1986. While working as Head Cashier at Budikote Branch he was kept under suspension vide order dated 27.07.2010 pending Disciplinary Action: he was issued memo dated 21.08.2010 calling for explanation in respect of the irregularities, omission / commission committed by him during his duty. He submitted his reply to the memo denying the charges: not convinced by his reply he was served with the Charge Sheet dated 12.11.2010. Enquiry was held, the Enquiry Officer after a full-fledged enquiry held that out of 8 charges 6 charges are proved. The 1st Party submitted his response to the Enquiry Report: the Disciplinary Authority issued a show cause notice proposing the punishment of Compulsory Retirement with superannuation benefits. The 1st Party submitted his response to the proposed punishment, sought for pardon and reinstatement. Vide order dated 18.04.2011 the Disciplinary Authority confirmed the punishment order as already proposed: on appeal the Appellate Authority set aside the punishment order, remanded the matter to the Disciplinary Authority with a direction to reopen the Disciplinary proceedings from the stage of providing personal hearing to the workman and thereafter pass fresh orders. Accordingly, he was afforded personal hearing, thereafter punishment order dated 24.06.2011 was passed confirming the proposed punishment of compulsory retirement with superannuation benefits. This time his appeal did not succeed.

3. In his claim petition the 1st Party alleges that,

he was denied reasonable opportunity to defend during the Domestic Enquiry the Enquiry Findings are biased, contains no reasons to substantiate Enquiry Officer's finding...the Disciplinary Authority accepted Enquiry Officer's finding without any basis, the conclusion arrived by Disciplinary Authority is illegal and liable to be set aside....order of Appellate Authority suffers from non-application of mind.

His further grievance is, the punishment imposed is totally disproportionate: at this age he is not in a position to secure alternate employment.

4. The claim is contested by the 2nd Party. The allegations against the Procedure of Enquiry, Enquiry Report are denied. It was contended that the punishment imposed commensurates with the gravity of misconduct proved during the Enquiry.

5. On the rival pleadings of the parties touching the procedure of Enquiry, a Preliminary Issue was raised in this regard. After a full-fledged enquiry, vide order dated 16.07.2019 the issue was answered in the affirmative in favour of the Management. Thus, the Enquiry Procedure is endorsed.

6. The 1st Party workman thereafter adduced evidence in respect of his unemployment subsequent to his Compulsory Retirement.

During the cross examination he admits that previously he is imposed minor punishment vide order dated 14.02.2009, said order was marked as Ex R-56.

7. Both parties have submitted their respective written arguments.

8. Following was the charges against the workman in the charge sheet dated 12.11.2010 –

- i) on 19.07.2010 he removed all the electrical connections of his computer causing inconvenience to the customers
- ii) On 19.07.2010 he refused to make payment to a valued customer of the Branch, though the Branch Manager authorised the payment. He redirected the customers to the Branch Manager to make the payments.
- iii) On 19.07.2010 cash remittance of Rs. 8,00,000/- was brought to the Branch by Computer Operator accompanied by the Head Peon from the Bangarpet Branch of 2nd Party at 11.30 a.m. Until 4.30 p.m he did not accept the cash remittance. Thus, cash was kept in an open space exposing the Bank to greater risk.
- iv) He did not withdraw cash from the vault on 19.07.2010, despite the advice by Joint Custodian.

- v) He is not signing Transit Voucher book sent to him by the Passing Officials for having received the cheques / withdrawal forms for payments.
- vi) He tore off a withdrawal slip for Rs. 788/- presented by customer Smt. Venkatamma - SB A/c. No. 54047681392 and refused payment to her.
- vii) On 21.06.2010 he misbehaved with two customers namely Smt. Vijayalakshmi and Sh. Narayanaswamy, shouted at them at high tone using singular words.
- viii) His frequent misbehaviour with the Customers resulted in 'DHARANA' and 'PROTEST' in front of the branch premises which was reported in the local newspapers, thus tarnishing the image of the Bank in the eyes of general public.

Thus, he has committed 'Gross Misconduct' in terms of clause 5(c),(e) and (j) of the Memorandum of Settlement / Staff Circular No. 56/2002-2003 dated 22.08.2002.

9. During the Domestic Enquiry the CSE had the assistance of a defence Representative: on behalf of the Management 10 witnesses were examined, out of them seven were customers of the Bank. 14 documents were marked for the prosecution as BEX-1 to BEX-14.

Though no witness was examined for the defence, 11 documents were marked as DEX-1 to DEX-11.

10. The first witness / MW-1 was the Branch Manager, he deposed about the complaints of three customers against the CSE. He identified BEX-2 the work order given to the CSE on 04.03.2010: BEX-3 is his report to the AGM with regard to the CSE removing connections of the Computer on his own and screaming towards the public stating that system is not working and he cannot make payments: the Manager checked the system and reassembled the connection. BEX-4 is the complaint received by him from the customer Sh. L. Srinivasa Reddy, same was forwarded to the AGM along with BEX-3. BEX-6 is the IBIT debit note of 19.07.2010 for Rs. 8,00,000/-: BEX-7 is the letter of Vikram Yadav K / Computer Operator who had presented Rs. 8,00,000/- for remittance at 11.30 a.m, CSE refused to take the cash by assigning some non-sense reason. The complainant had to wait in the Branch till 4.30 pm with the cash of Rs. 8,00,000/- in his hand, CSE accepted the cash at 4.30 pm. BEX-9 is the Complaint dated 19.07.2010 against the CSE by customers: BEX-10 is the news item in the newspaper against the CSE: BEX-11 is the Complaint of the Customer Sh. M. Narayanaswamy dated 21.06.2010 against the CSE: BEX-12 is another Complaint by another Customer Smt. Vijayalakshmi: BEX-13 is the report of the Branch Manager / witness to the AGM while forwarding the Complaints: BEX-14 is the Minutes of Customer Service Committee held on 15.07.2010 wherein the members requested to transfer the CSE for the problems he is creating.

During the cross examination he admits that there was frequent problem in the Head Cashier's CPU since 12.07.2010 and was repaired on 17.07.2010. He cannot produce report given by the mechanic after rectifying the CPU, he admitted that he had not personally witnessed the CSE removing the connection of his computer. However, on being informed, he personally went and checked that the data cable wire was disconnected and then he connected.

The further tone of cross examination to the witness was, even after rectification electronic systems cannot be predicted, it may go out of order thereafter also and the payments cannot be made without looking into the accounts in case of system failure. The cheque in respect of the customer L. Srinivasa Murthy was from Bangarpet Branch, the CSE had posted the cheque and paid the cash on that day i.e. 19.07.2010, he had entertained 75 receipt voucher and 61 payment vouchers. The inconvenience caused to the customers on that day was due to malfunction on the system and also other correlated incidence that had taken place during the business hours. Loose leaf was wrongly issued to M. Srinivas (regarding charge No. 2) instead of Account Holder Sulochana and was inadvertently paid. After the matter was reported to the Manager the customer was contacted and enquired. It was found that Smt. Sulochana was the wife of Srinivasa and she acknowledged the receipt of the cash, thereafter the cheque was issued to the Account Holder, presented across the counter and paid as evinced by Tellers Scroll dated 19.07.2010 / DEX-1 admitted by the witness. Thus, payment was made after rectification. The Branch had not maintained Transit Voucher Register till 19.07.2010. Voucher Register is not maintained as per Head Office guideline: payment pertaining to the cheque of Venkatamma was not possible for non-availability of balance: though the DD was presented at the Branch same had not been posted. The witness had not personally seen CSE taking the withdrawal slip. There was no Dharna, the customers shouted at the banking hall: as on 19.07.2010 CSE discharged the duties of SWO and Head Cashier.

11. MW-3 was the Computer Operator / Sh. Vikram Yadav, he identified BEX-6 the IBIT voucher from which he brought cash remittance of Rs. 8,00,000/-. He narrated in detail the incident wherein the CSE did not accept the cash on 19.07.2010.

MW-4 was the Peon who accompanied the witness MW-3 to bring the cash to the counter, however he did not corroborate the statement of MW-3.

12. The Enquiry Officer in his Report with regard to charge No. 1 (incident pertaining to 19.07.2010) entertains the suspension that, if CSE's computer system was not functioning how he was able to post 126 post vouchers in his ID on 19.07.2010 and held this charge proved.

Regarding Charge No. 2 it was held that, though the Branch Manager had initialled the Cheque CSE had refused to make payment – he has failed to discharge the duties assigned by Branch Manager through the office order BEX-2 thus, this charge was held proved.

Regarding Charge No. 3 the finding was - being aware of the risk of cash being kept outside unaccounted immediately he should have accepted and safeguarded the interest of all concerned which he has failed. Thus, this charge was held proved.

Regarding Charge No. 6 - though the Manager had not witnessed CSE tearing the voucher, the aggrieved customer with the torn withdrawal had approached the Branch Manager and had complained that the CSE tore the withdrawal slip. The observation was that CSE should have behaved in a humane manner and assured the customer to wait for a while instead of tearing and returning the withdrawal to the customer. Thus, this charge was held proved.

Regarding Charge No. 7 - the evidence of aggrieved customers was appreciated and this charge was held proved.

Regarding Charge No. 8 - from the documents and depositions of the witnesses, the Enquiry Officer finds that certainly there was some commotion in the branch leading to protest by the customers which was corroborated by the newspaper clippings, thus the bad publicity by customers and newspaper had damaged the reputation and image of the Bank

Charge No. 4 and 5 were held not proved.

On an examination of the Enquiry Report I am convinced that the finding of the Enquiry Officer is entirely based on the undisputed material brought in by the evidence of the witnesses. The finding is not hypothetical or perverse.

13. Before this Tribunal during the enquiry on Preliminary Issue a previous punishment order imposed on the 1st Party is marked as Ex R-56. The allegation against him was exhibiting irresponsible behaviour and negligent attitude towards Bank's work and given responsibility, which would have exposed the Bank to sizeable loss. His basic pay was brought down by one stage for a period of 1 year as a measure of punishment.

14. As far as punishment imposed on the basis of the charges proved is considered, I am constrained to express that the punishment order was disproportionate and exorbitant having regard to the nature of the misconduct proved. The misconduct alleged had no direct financial implication on the business of the 2nd Party, it is possible that the newspaper clipping and the annoyance of the customers would have brought damage to the image of the 2nd Party which could result in loss of business to the Branch. There was no allegation against the 1st Party on his integrity and honesty or efficiency, the image of the Branch could have been saved by merely shifting the official from the Bank. It occurs to me that the CSE exhibited temper tantrums in handling the situations during his duty hours. The misconduct proved during the enquiry by any stretch of imagination would not give rise to doubt his efficiency and capability as a Head Cashier. He was performing the duties of the Head Cashier on Single Window Concept and also as SWO. The allegation against him in the present or past disciplinary proceedings is not that of moral turpitude. By the impugned order he has lost 7 years of service. Since he has crossed the border of superannuation there is no question of reinstatement, however the injustice suffered by him can be redressed by awarding monetary compensation. Treating him as on duty till the date of his superannuation and awarding 40% of the back wages would do complete justice in the matter.

AWARD**The petition is allowed.**

The punishment order imposed by the Disciplinary Authority vide order dated 24.06.2011 in No. AGMII/BZ II/DPD/002710 thereby inflicting the punishment of 'Be Compulsorily Retired with Superannuation benefits' is set aside.

The 2nd Party is directed to treat him as on duty till the date of his superannuation and release monetary benefits equivalent to 40% of his back wages within 40 days from the date of publication of the Award otherwise the amount shall carry future interest at 6% per annum till the date of recovery.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 21st January, 2021)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 4 फरवरी, 2021

का.आ. 122.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण पश्चिम रेलवे प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बैंगलोर के पंचाट (संदर्भ संख्या 37/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.02.2021 प्राप्त हुआ था।

[सं. एल-41012/39/2012-आईआर (बी-1)]

डी. गुहा, अवर सचिव

New Delhi, the 4th February, 2021

S.O. 122.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2012) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of South Western Railway and their workmen, received by the Central Government on 04.02.2021.

[No. L-41012/39/2012-IR(B-1)]

D. GUHA, Under Secy.

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

DATED : 19ST JANUARY, 2021

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

ID 37/2012**I Party**

Sh. D. A. Mulla,
Mantur Road, 1st Cross,
Sheela Colony,
Hubli.

Appearance

Advocate for I Party : Mr. R. S. Shettar

Advocate for II Party : Mr. Ramesh Upadhayaya

II Party

The Divisional Railway Manager,
South Western Railway,
Divisional Office,
Hubli - 580020.

AWARD

The Central Government vide Order No. L-41012/39/2012-IR(B-I) dated 05.09.2012 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the demand of Sh. D A Mulla, Ex-Khalasi for quashing the order dated 28.03.1983, vide which he was removed from the service, issued by the management of South Western Railway, Hubli, is legal and justified? To what relief the workman is entitled?”

The claim of the 1st Party workman is that, he joined the Railway Workshop, Hulbi in Loco-Shed Branch as Khalasi on 01.02.1974: due to family problems he remained absent for 260 days in the year 1981-1982. He received the dismissal order dated 23.08.1983 No. H/P-2278/IV/6094 from the Divisional Officer, Personnel Branch, Hubli. The order is passed by Incompetent Authority: his appeal against the said order is not responded. His representations have gone in vain, hence the prayer for reinstatement etc.

2. The claim is contested on the following line: the claim is barred by limitation: no cogent reason is given by the 1st Party for filing the claim almost after 28 years of removal of his service. He was removed from service w.e.f 30.08.1983 for his unauthorised absence of 260 days from January 1981 to December 1982 on cumulative basis and also for remaining unauthorisedly absent from 01.01.1983 till 23.08.1983 without sanction of leave from the Competent Authority. The punishment was imposed w.e.f. 30.08.1983 as per Clause 3(1)(ii) of Railway Servants (Conduct) Rules, 1966 by following proper procedure. The documents pertaining to his appeal are not available with the 2nd Party: he filed his claim for compassionate allowances vide application dated 18.08.2009. Then only the 2nd Party came to know about the case. He never approached the administration at any point of time until 2009, he suddenly came up with a representation dated 18.08.2009, with an intention to create a fresh cause of action and release the issue from limitation. His termination for his unauthorised absence for more than a year is well within the frame of the Rules by which the Railway Employees are governed. Remaining absent is considered to be a serious misconduct as per the judgments of the Higher Courts.

3. 1st Party workman gave his evidence reiterating his claim statement and produced documents Ex W-1 to Ex W-10.

Rebuttal evidence is adduced by Chief Staff and Welfare Inspector of the 2nd Party stating that South Western Railway / 2nd Party came into existence in the year 2003: 1st Party was never appointed by South Western Railway, since claim is made after a long gap of 28 years no documents are available with the 2nd Party to show that 1st Party was appointed on 01.02.1974 and worked as Loco Khalasi / Hubli till he was removed from service w.e.f. 30.08.1983. Further the witness denied the veracity of the Photostat copy of the dismissal order produced during the evidence of the 1st Party. To a question by the Court the witness stated that the Service Records of the retired / dismissed employees are preserved in a Record Room; somewhere in the year 1983-84 there was a fire accident in the record room and all the files were lost in the fire mishap: they called upon the concerned employees to produce the personal file in their custody and on the basis of the same reconstructed the file, but they could not trace the file pertaining to Sh. D A Mulla. They have not made search for the ex-employee D A Mulla.

4. Ex W-1 is the Photostat copy of the termination order dated 23.08.1983. Going by this document before imposing Punishment, Inquiry Officer was appointed to inquiry into the charges and the Inquiry Report is submitted holding that the charge is proved. On that the Disciplinary Authority decided that *Sh D A Mulla is not a fit person to be retained in service and so imposes on him the penalty of removal from Service with effect from 31.08.1983 (AN) for having unauthorisedly remained absent from duty for 260 days on cumulative basis during the period between Jan 1981 and December 1982 and again remained absent since 01.01.1983...*

The dispute having been raised after 28 years, is vitiated by latches and delay. As observed by the Apex Court in *Nedungadi Bank Ltd. vs K P Madhavankutty and others*, reported in 2000 AIR SCW 397, it is a stale dispute.

5. Even it is not established that the 1st Party was ever appointed as Khalasi / Hubli on 01.02.1974 at Railway Workshop of Hubli: the genuineness of the punishment order at Ex W-1 is questioned by the 2nd Party. The issue referred for adjudication presupposes that the punishment order was issued by South Western Railway, Hubli but South Western Railway is of subsequent origin and was not at all in existence as on the date of alleged removal of the 1st Party on 23.08.1983. More interestingly, Ex W-1 is not issued by 2nd Party South Western Railway but by South Central Railway. In the absence of any documentary proof that 1st Party was appointed by the 2nd Party or the erstwhile employer on 01.02.1974 subsequently, removed from service on 23.08.1983, this Court cannot quash the removal order as sought.

AWARD**The Reference is rejected.**(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 19th January, 2021)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 4 फरवरी, 2021

का.आ. 123.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स यू.के. साहू (I.D. No. 10/2008, F.No. L-29012/27/2008) मैसर्स के. सी. डोरा (I.D.No. 12/2008, F. No. L-29012/29/2008), एवं मैसर्स पी. एन. प्रधान (I.D. No. 13/2008, F.No. L-29012/30/2008), कन्ट्रेक्टर्स आफ डूगरी लाइमस्टोन क्वैरी आफ मैसर्स ए.सी.सी. लिमिटेड के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (10/2008, 12/2008 एवं 13/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 04.02.2021 को प्राप्त हुआ था।

[सं. एल-29012 / 27 / 2008-आईआर (एम),

एल-29012 / 29 / 2008-आईआर (एम),

एल-29012 / 30 / 2008-आईआर (एम)]

नवीन वैद्य, उप निदेशक

New Delhi, the 4th February, 2021

S.O. 123.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2008, 12/2008 and 13/2008) 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. U.K. Sahu (I.D. No. (10/2008, F.No. L-29012/27/2008), M/s. K.C. Dora (I.D.No. (12/2008, F.No. L-29012/29/2008) and M/s. P.N. Pradhan (I.D. No. (13/2008, F. No. L-29012/30/2008), Contractors of Dungri Limestone Quarry of M/s. ACC Limited and their workmen, received by the Central Government on 04.02.2021.

[No. L-29012/27/2008-IR(M),

L-29012/29/2008-IR(M),

L-29012/30/2008-IR(M)]

NAVIN VAIDYA, Dy. Director

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

Present: Shri B.C. Rath, Presiding Officer,
C.G.I.T-cum-Labour Court, Bhubaneswar

INDUSTRIAL DISPUTE CASE NOS.10, 12 and 13 OF 2008**Dated Bhubaneswar, the 18th December, 2020****ID Case No. 10 of 2008****Between:**

The Proprietor,
M/s. U.K. Sahu Contractor,
Dungri Lime Stone Quarry
of M/s. ACC Ltd., Bargarh
Cement Works,
At/PO: Dungri, Bargarh,
Bargarh-768052.

...First Party Management

(AND)

The General Secretary,
Dungri Khani Mazdoor Sangh,
At/PO: Dungri, Dist.: Bargarh

...Second Party Workman

ID Case No.12 of 2008**Between:**

Shri Krushna Chandra Dora, Contractor,
Dungri Limestone Quarry of ACC Ltd.,
Bargarh Cement Works,
At/PO: Dungri, Bargarh-768052.

...First Party Management

(AND)

The General Secretary,
Dungri Khani Mazdoor Sangh,
At/PO: Dungri, Dist.: Bargarh.

... Second Party Workman

ID Case No. 13 of 2008**Between:**

M/s. P.N. Pradhan, Contractor of
Dungri Limestone Quarry of M/s.ACC Ltd.,
Bargarh Cement Works,
At/PO: Dungri, Dist.:Bargarh-768052

...First Party Management.

(AND)

The General Secretary,
Dungri Khani Mazdoor Sangh,
At/PO: Dungri, Dist.: Bargarh.

...Second Party Workman

Appearances:

Sri U. K. Sahu : For the First party Managemnt
No. 1 himself and for the rest of the managements.

Sri Benudhar Bhoi,
Authorised Representative : For the second party workmen

AWARD

The above noted reference ID Cases are disposed of by this common Award since facts and issues involved in the above cases are identical and the alleged termination in the references are outcome of a common/joint departmental proceeding held on behalf of the employers-contractors and there was an order on the consent of the parties that the cases would be adjudicated and disposed of analogously with a common set of evidence.

The Government of India, Ministry of Labour have referred the industrial disputes for adjudication vide its Order Nos. L-29012/27/2008 (IR(M)), L-29012/29/2008(IR(M)), and L-29012/30/2008(IR(M)), 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) (here in after referred to as 'the Act') and the terms of reference in the cases are as under :

(i) In ID Case No.10 of 2008 the reference is:-

“whether the action of the management of M/s.U.K.Sahu, Contractor of Dungri Limestone Quarry of M/s.ACC Ltd. to dismiss the workmen viz S/Sh. Panchanan Pradhan, Sanatan Biswal, Sukadeb Biswal, Arjun Biswal, Binaya Pradhan w.e.f.29.06.2007 for the alleged serious misconduct is justified? If not, what relief the workmen are entitled to?”

(ii) In ID Case No.12 of 2008 the reference is:-

“whether the action of the management of M/s. K.C.Dora, Contractor of Dungri Limestone Quarry of M/s.ACC Ltd. to dismiss the workmen viz S/Shri Sarabshri Balakrushna Bhoi, Santosh Dora, Bharat Sa, Satyananda Naik, Chaturbhuj Mahananda, Debanand Pradhan, Hrudanand Mahanand, Jausingh Naik, Padman Pradhan, Surendra Kailahari, Chhabila Mahanand, Dasarath Biswal, Manoj Sahu, Saroj Dora w.e.f. 29.06.2007 for the alleged serious misconduct is justified? If not, what relief the workmen are entitled to?”

(iii) In ID Case No.13 of 2008 the reference is:-

“whether the action of the management of M/s. P.N. Pradhan, Contractor of Dungri Limestone Quarry of M/s. ACC Ltd. to dismiss the workmen viz S/Shri Pyari Sa, Rohit Gouda, Balaram Negi, Bodharam Seth for the alleged serious misconduct is justified? If not, what relief the workmen are entitled to?”

2. As it emerges during the adjudication process and the statement of claims preferred by the Union in all three cases that Dungri Limestone Quarry being the principal employer and managed by M/s.ACC Ltd., Bargarh engaged employers-contractors namely, M/s. U.K. Sahu, M/s. K.C. Dora and M/s.P.N.Pradhan (who are the first party managements in the cases noted above respectively) for mining operations in Dungri Limestone Quarry. The first party managements-contractors engaged labourers including the disputants-workmen in the limestone quarry for different nature of jobs/works to extract and transport limestone. On 22.4.2006 at around 10 PM one Soleman Kolliary, engaged by the contractor-first party management M/s.K.C. Dora met with an accident and died while performing duty in the shunting work of railway siding in the premises of Dungri Limestone Quarry. Knowing about the accident employees of different contractors engaged in mining activities gathered at the spot. Being led by the disputants-workmen and some others they raised provoking slogans. The disputants and some others raised provoking speeches and thereafter, they led the mob to the office of the principal employer. The said mob being led by the disputants and others abused and manhandled the officials of M/s.ACC Ltd. The mob started damaging the office property. Vehicles and equipments were burnt; the office of the Mines Manager was ransacked; computers were damaged; Officers and employees of the principal employer were assaulted and abused in filthy language. A police case was also registered for such unruly behaviour and rioting incident. Since the disputants and some others were taking active part in such rioting incident they were departmentally proceed with by their respective employer-contractor. It is alleged by the second party Union, who is the common second party in all the cases, that though the disputants-workmen were employed under different contractors namely, M/s. U.K. Sahu, M/s. K.C. Dora and M/s.P.N.Pradhan, a joint/common departmental enquiry was conducted and one Sri R.N.Rout, Advocate of Orissa Bar Association was appointed as Enquiring Officer. According to the second party Union, such joint enquiry is itself illegal when the employers of disputants are different. Charge sheet was not specific as to misconduct on the part of the each disputant and their role in the riot. The persons named in the FIR in the criminal case were either found innocent in the departmental enquiry or they were not proceeded with the enquiry, whereas the disputants without having any active participation in the alleged incidents were held guilty of misconduct. The enquiry was not held in a fair and proper manner. The disputants were not provided documents on the basis of which they had been charge sheeted but the Disciplinary Authority relied upon such documents to prove the misconduct. Reasonable opportunity was not afforded to the disputants to defend themselves. It is the claim of the Union that the disputants had no involvement in the alleged rioting for which some of them being charge sheeted in criminal case are acquitted. The finding of the Enquiring Officer was not in accordance with the materials/evidence laid before him and the same is perverse. The enquiry not being fair and held in violation of principles of natural justice, the departmental proceedings are to be vitiated and the order of dismissal of the disputants should be set aside. Prayer has been made for reinstatement of the disputants with back wages and other consequential service benefits.

It is to be noted here that being aggrieved with such dismissal order the disputants-workmen belonging to different contractors raised separate dispute before the labour machinery. As conciliations between the parties were failed the references are made as stated earlier.

3. The contractors-employers filed their written statements separately in each above noted cases taking a common stand that due to death of Soleman Kolliary in an accident during his discharging duty in railway siding the disputants and some others namely, Sukadeb Biswal and Panchanan Pradhan led a mob to the working office of M/s.ACC Ltd. situated in Dungri Limestone Quarry premises and damaged office properties like computer etc. Vehicle and equipments were burnt. As the disputants were playing leading role in the alleged incident they were charge sheeted and common departmental enquiry was held headed by one Sri R.N.Rout, Advocate, Orissa Bar Association. According to the managements the disputants were provided with necessary documents and given all opportunities to defend themselves in the departmental enquiry. They engaged a lawyer to defend themselves in the enquiry. Evidences of witnesses were recorded in their presence and the witnesses were cross-examined by the advocate of the disputants. They were also allowed to adduce evidence in their defence. The enquiry was held in conformity to principles of natural justice and rules. On being found guilty of misconduct by the Enquiring Officer the disputants were furnished with copies of enquiry report along with second show cause notice. They being found guilty of misconducts of serious nature like damaging office properties and manhandling the officers they were dismissed from service. Their dismissal is justified. Hence, prayer is made for rejection of statement of claims.

4. On the above pleadings of the parties the issues as settled in different cases are as under :

ID Case No. 10 of 2008

- (i) Whether the domestic enquiry conducted by the first party management M/s.U.K. Sahu, Contractors of Dungri Limestone Quarry of ACC Ltd. against Panchanan Pradhan, Sanatan Biswal, Sukadeb Biswal, Arjun Biswal, & Binaya Pradhan is fair and proper?

- (ii) Whether the action of the management of M/s.U.K.Sahu, Contractor of Dungri Limestone Quarry of M/s. ACC Ltd., to dismiss the workmen viz. S/Sh. Panchanan Pradhan, Sanatan Biswal, Sukadeb Biswal, Arjun Biswal, Binaya Pradhan w.e.f.29.06.2007 for the alleged serious misconduct is justified?
- (iii) If not, what relief the workmen are entitled to?
- (iv) Whether the dispute between the first party management and the second party workman Shri Sanatan Biswal has been compromised and settlement has been arrived at as alleged in para-18 of the written statement?

ID Case No. 12 of 2008

- (i) Whether the domestic enquiry conducted by the first party management M/s. K.C. Dora, Contractors of Dungri Limestone of ACC Ltd. against Balakrushna Bhoi, Santosh Dora, Bharat Sa, Satyananda Naik, Chatrubhaja Mahanad, Debananda Pradhan, Hrudanand Mahanad, Jaisingh Naik, Padman Pradhan, Surendra Kailahari, Chhabila Mahanand, Dasarath Biswal, Manoj Sahu and Saroj Dora is fair and proper?
- (ii) Whether the action of the management of M/s.K.C.Dora, Contractor of Dungri Limestone Quarry of M/s.ACC Ltd., to dismiss the workmen viz. S/Sh. Balakrushna Bhoi, Santosh Dora, Bharat Sa, Satyananda Naik, Chaturbhaja Mahanand, Debananda Pradha, Hrudanand Mahanand, Jaisingh Naik, Padman Pradhan, Surendra Kailahari, Chhabila Mahanand, Dasarath Biswal, Manoj Sahu, Saroj Dora w.e.f.29.06.2007 for the alleged serious misconduct is justified?
- (iii) Whether no dispute award should be passed in respect of Hrudananda Mahanand & Saroj Dora as the dispute in respect of those workmen has already been compromised?
- (iv) If not, what relief the workmen are entitled to?

ID Case No. 13 of 2008

- (i) Whether the domestic enquiry conducted by the first party management M/s. P.N. Pradhan, Contractors of Dungri Limestone Quarry of AC Ltd. against Pyari Sa, Rohit Gouda, Balaram Negio and Badharam Seth is fair and proper?
- (ii) Whether the action of the management of M/s. U.K. Sahu, P.N.Pradhan, Contractor of Dungri Limestone Quarry of M/s. ACC Ltd., to dismiss the workmen viz. S/Sh. Pyari Sa, Rohit Gouda, Balaram Ngi, Bodharam Seth for alleged serious misconduct is justified?
- (iii) If not, what relief the workmen are entitled to?

5. It is noteworthy to mention that during pendency of the reference disputants workmen namely, Sri Sukadeb Biswal and Sri Panchanan Pradhan working under the contractor-employer M/s. U.K. Sahu entered into a settlement with their employer contractor and received one time compensation of Rs.1,50,000/- in lieu of the dispute and relief claimed by them. Similarly, disputants namely, Saroj Dora and Hrudananda Mahananda have settled their disputes with their employer and have received compensation amounting to Rs.60,000/-. The rest of the disputants-workmen have preferred to contest the dispute.

6. It is not out of context to mention here that the fairness of the departmental proceeding was to be heard as a preliminary issue before taking other issues to consider for adjudication of the dispute. Accordingly, the managements filed affidavit evidence of two witnesses towards their examination-in-chief in support of their stand in the preliminary issues. But, the affidavit evidence of MW No.2, namely, Sri Upendra Kumar Sahu (contractor-employer) was expunged when he did not turn up for his cross-examination in spite of affording him several adjournments for his attendance. The managements did not take any step after cross-examination of MW No.1. When the managements failed to participate in the adjudication after repeated and several adjournments the second party Union was called for to adduce its evidence presuming the evidence of the employers-contractors being declined. None of the contractors also took part in the adjudication after cross-examination of MW No.1. Therefore, on the submission of the second party Union for final and simultaneous disposal all the issues were taken up consideration. The secretary of the Union is examined as WW No.1 to substantiate the claim of the disputants and filed the Xerox copy of judgement dtd.28.12.2013 passed in Criminal Appeal No.26 of 2011 and the copy of complaint letter of the second party Union dtd.19.12.2007 addressed to the Deputy Chief Labour Commissioner, (Central), Bhubaneswar which are marked as Ext.1 and 2 respectively. No documentary evidence is adduced on behalf of the management.

FINDINGS

7. All the issues are taken up simultaneously for consideration keeping in view the fact that they are interlinked with each other. Though MW No.1 being an employee of M/s.ACC Ltd. has adduced oral evidence in regard to the misconduct on the part of the disputants, it is elicited from his cross-examination that he was not present at the time of the alleged incident. According to him his oral testimony is based on official records. It seems from his evidence that he was not in any way connected to the departmental enquiry/proceeding. Therefore, he is not competent to say whether established procedure and principles of natural justice were followed while holding the enquiry in which the disputants are found to have been guilty of misconduct. On the other hand, it is stated by WW No1 on oath that the principles of natural justice is not followed in the department proceeding and reasonable opportunity was not given to the disputants. His evidence being unchallenged and uncontroverted cannot be discarded out rightly. Further, the managements have failed to bring the enquiry proceeding file as a piece of evidence to establish that the enquiry was held in a fair and proper manner.

Undisputedly, the disputants-workmen in the above noted three cases were employed under three different contractors (first party managements). When there are three set of employers having separate identities, it is strange to hold a common enquiry for the misconducts of the employees of three different managements. That apart when there is unchallenged and uncontroverted evidence of the second party Union that reasonable opportunity was not given to the disputants in the departmental enquiry, there is no alternative than to hold that the enquiry was not conducted in a fair manner.

Law is well settled that burden lies on the employer to establish that department proceeding/enquiry was held in a fair and proper manner by leading unimpeachable evidence. He is to establish that (i) the employee proceeded against had been informed clearly of the charges levelled against him; (ii) the witnesses in the departmental enquiry were examined in his presence in respect of the charges; (iii) the employee was given a fair opportunity to cross-examine his witnesses; (iv) the employee was given fair opportunity to examine his witnesses in his defence; and (v) the Enquiring Officer recorded his findings with reasons for the same in his report and the report was not perverse or contrary to the materials laid before him. When none of the above requirements is led on behalf of the managements in the adjudication, it is hard/difficult to hold that the departmental enquiry was conducted in a fair manner. That apart the alleged enquiry is inherently defective on account of the same being a common one for three different employers. At the same time the copy of the judgment in Criminal Appeal No.26 of 2011 reveals that some of the disputants as parties to the criminal proceeding are found acquitted.

In the above facts and circumstances it is to be held that dismissal/removal of the disputants w.e.f.29.6.2007 is illegal and unjustified. Therefore, they need to be reinstated. At the same time it cannot be over sighted that in the mean while the disputants are found to have attained the age of superannuation. They were engaged as casual labourers under three different contractors who were entrusted for mining activities of extracting limestone from the quarry and for its transportation to the factory of the principal employer M/s.ACC Ltd.. No evidence is available if the managements-contractors are still entrusted with such extraction work. In the above backdrops any order of reinstatement of the disputants in the event of their dismissal being found illegal and unjustified may not be beneficial to them. Further, it is on record that four of their co-workers have already settled their disputes by receiving compensation from their respective employers. As the rest of the disputants did not agree to such settlement, perhaps for the reason that the amount was not adequate, the present proceeding continued. Having regard to the above facts and circumstances it would be just and appropriate in the case to direct the first party managements (contractors) to pay compensation of Rs.4,00,000/-(Rupees four lakh) to each of the disputants in lieu of their reinstatement and back wages. The amount as mentioned above is to be paid to the disputants within two months of the notification of this Award, failing which the disputants are entitled to simple interest of 7% per annum on the amount till its realisation.

Accordingly the references are answered and Award is passed.

Dictated and corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 4 फरवरी, 2021

का.आ. 124.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोल इंडिया लिमिटेड के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह-श्रम न्यायालय, कोलकता के पंचाट (संदर्भ संख्या 18/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.01.2021 को प्राप्त हुआ था।

[सं. एल-20012/40/2012-आईआर (सीएम-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 4th February, 2021

S.O. 124.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 18/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Kolkata, as shown in the Annexure, in the industrial dispute between the Management of Coal India Limited and their workmen, received by the Central Government on 29.01.2021.

[No. L-20012/40/2012-IR(CM-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 18 of 2013

Parties: Employers in relation to the management of Coal India Limited

AND

Their workmen

Present: Justice Ravindra Nath Mishra, Presiding Officer

Appearance:

On behalf of the Management : Mr. N.K. Roy, Learned Counsel for Coal India Ltd.,
Western Coalfields Ltd., BCCL and NCL.

On behalf of the Workmen : None
State: West Bengal.

Industry: Coal.

Dated: 30th July, 2020.

AWARD

By Order No.L-20012/40/2012-IR(CM-I) dated 07.05.2013 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the demand of the union for applicability of the National Coal Wage Agreement to all the coal workers either engaged by the Coal Companies directly or engaged through any contractor or engaged by the Private Sector or engaged by any company whom the Govt. has allotted coal blocks and the said company is doing mining activities either directly or through outsourcing, is proper and justified? To what relief are the concerned workmen entitled to?”

2. When the case was taken up today for hearing, none appeared on behalf of the union though the learned counsel for Coal India Ltd, Western Coalfields Ltd., BCCL and NCL is present. It appears from the record that after the reference, notices were issued to the parties and in response to which they have appeared, but inspite of several opportunities the union failed to file its statement of claim. None is appearing for the union since 28.08.2019, i.e. three consecutive dates to pursue its case.

3. On consideration of the facts and circumstances of the case, it appears that the union has no grievance at present in respect of the demand as mentioned in the order of reference. Therefore, there exists no dispute for adjudication.

4. Therefore, the reference is disposed of accordingly.

Dated, Kolkata,
The 30th July, 2020.

Justice RAVINDRA NATH MISHRA, Presiding Officer

नई दिल्ली, 5 फरवरी, 2021

का.आ. 125.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स एस.ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण — सह-श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 95/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.02.2021 को प्राप्त हुआ था।

[सं. एल-22012/138/2018-आईआर (सीएम-2)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 5th February, 2021

S.O. 125.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 95/2018) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the Management of M/s. S.E.C.L and their workmen, received by the Central Government on 01.02.2021.

[No. L-22012/138/2018-IR(CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/95/2018****Present:** P.K. Srivastava, H.J.S..(Retd)

The General Secretary
Vice President
Koyla Shramik Sabha (HMS),
1864, Wight Town
Jabalpur-482002

...Workman

Versus

The General Manager
Hedeo Area of SECL,
PO-South Jhagrakhan Colliery,
District Korea (CG)-497335.

The Director (P)
South Eastern Coal Fields Ltd.
Seepat Road, Bilaspur (CG)-174001

The Sub Area Manager,
Kurja Sub Area of SECL
PO-Bijuri, District Anuppur (CG)

...Management

AWARD**(Passed on this 1st day of December 2020)**

1. As per letter dated 26-11-2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/138/2018-IR(CM-II) The dispute under reference relates to:

“Whether the action of the management of SECL in retiring Shri Budhram S/o Damoha on 30-11-2017 in spite of availability of his correct date of birth i.e. 21 years as on 4-3-1983 in almost all the official records of the Management, is justified? If not, what relief Shri Budhram S/o Damoha is entitled to? .”

After registering the case on the basis of reference, notices were sent to the parties.

1. The Management filed application for passing Award in terms of settlement reached for between the Management and the Workman. According to this settlement filed with affidavit and documents, the

Management has accepted the case of workman relating to his date of birth and has granted the relief sought. Hence the reference is answered in terms of settlement as indexed in case filed from page No. 6 to Page No.8. The copy of terms of settlement is part of this Award.

3. Accordingly the Award is passed on the basis of Terms of settlement filed by the Management along with an affidavit.

4. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

DATE: 1-12-2020

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 8 फरवरी, 2021

का.आ. 126.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. द माइन्स एंड मेटल ट्रेडिंग कोरपोरेशन आफ इंडिया लिमिटेड के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलोर के पंचाट (संदर्भ सं. 28/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 08.02.2021 को प्राप्त हुआ था।

[सं. जेड-16025/4/2021-आईआर (एम)]

नवीन वैद्य, उप निदेशक

New Delhi, the 8th February, 2021

S.O. 126.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 28/2013) 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. The Miners and Metals Trading Corporation of India Limited and their workmen, received by the Central Government on 08.02.2021.

[No. Z-16025/4/2021-IR(M)]

NAVIN VAIDYA, Dy. Director

ANNEXURE

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

DATED : 31ST DECEMBER, 2020

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

ID 28/2013

I Party

Smt. Gowramma,
W/o Siddeswara,
No. 1, 7th Cross,
7th Main, S. R. Nagar,
Bangalore - 560 027.

II Party

1. The Managing Director,
M/s. The Miners and Metals Trading,
Corporation of India Ltd.,
'Scope Complex' Core,
No. 7, Lodi Road,
New Delhi - 110 003.
2. The Divisional Manager,
M/s. Minerals & Metals Trading,
Corporation of India,
Regional Office,
Shikshak Sadan,
Ground Floor, K.G. Road,
Bangalore - 560 002.

Appearance

Advocate for I Party : Mr. Muralidhara

Advocate for II Party : Mr. Ashwin Patil

AWARD

This is a Petition filed under Sec 2-A of the Industrial Dispute Act, 2010 (for brevity 'the Act' hereinafter). The claim of the Petitioner / 1st Party is, she was appointed on 06.01.1984 on daily wages in the 2nd Party Management Regional Office as a Cleaner / Attendant: she has worked continuously throughout the year from the beginning by doing the regular and permanent nature of work in the 2nd Party Management: she has worked in the office as an Attender apart from cleaning the office: she was orally refused employment from 07.08.2011 without any reason and without notice / notice pay / compensation. The 2nd Party has not complied the provisions of Sec 25-N and Sec 25-F of 'the Act' before retrenching her from service. She has worked continuously from 06.01.1984 and was entitled for conferment of permanent status as per the policy of Government issued in 1989 and also 1993. When she was terminated she was getting a Salary of Rs. 4,650/-; she had given representation dated 19.09.2011 requesting for payment of compensation which is not responded. She was not issued any notice nor any enquiry was conducted against her. She is without any source of income: her termination is in violation of principles of natural justice and contravene to Sec 2(oo) of 'the Act'. Hence, the prayer for reinstatement with consequential reliefs.

2. Claim is contested by the 2nd Party. It is stated in the objection statement that, the services of the 1st Party was utilised whenever required on daily rate basis: wages was paid in cash once in 10 days and no salary slip was issued to her; she was not regularly attending the menial jobs in the office: she would remain absent from duty at times: there was no contract of employment between the parties: she never worked for 240 days in calendar year or six days a week or for 180 days in a year for five days a week to be considered for temporary status: she was caught red handed by the Security while carrying a stolen pantry ware in the garbage bag on 03.07.2011: after heated argument with the Security, she left the garbage bag and left the premises. It was a Sunday and same was informed to the Senior Manager (Administration) the next day by the Security. Then onwards she did not come for work for a fortnight: 2nd Party was constrained to appoint another domestic help: Police Complaint was not lodged against her as the stolen article was recovered and also with an intention that work carried out by her in other places may not be affected. She was not on the Muster Roll of the MMTC limited: she used to attend Cleaning and Sweeping Work and other Miscellaneous Services like serving tea and coffee in the office of the 2nd Party for about 2 hours per working day: she was irregular in her attendance: her attendance record was not maintained: for regular employees biometric system of Electronic punching of time recording system applies: whereas same system was not applicable to the 1st Party. Her work timing was highly inconsistent and irregular, her total working hours was not more than 5 to 12 hours per week on the irregular basis: there are only 10 to 12 employees in the Sub-Regional office: she used to remain absent for days together without intimation to the 2nd Party. Provisions of Sec 25-N and 25-F of 'the Act' is not applicable in respect of the 1st Party. In her absence the job done by her was done by other daily wage workers. 'The letter dated 21.06.1989 produced by her allegedly issued by the then DGM of MMTC' is seriously disputed. Her averment that, she was getting a salary of Rs. 4,650/- is false.

3. Both parties have adduced evidence. The 1st Party examined herself as WW-1 and produced documents Ex W-1 to Ex W-8. Rebuttal evidence was adduced through MW-1 and document Ex M-1 is marked.

Both learned advocates have submitted their oral and written arguments with authorities.

4. The 1st Party has produced a letter dated 21.06.1989 / Ex W-1 allegedly issued by the then Divisional Manager stating that she is attending to office sweeper work for the last five years on contract basis from 06.01.1984 Rs. 100/- to 06.01.1989 Rs. 150/-. She has produced copies of her representations as Ex W-2, Ex W-3, Ex W-7 and Ex W-8. Ex W-4 is the Photostat copy of the office note enhancing the cleaning charge by 10% thereby from Rs. 2178/- to Rs. 2,395.80 per month. Ex W-5 is the Photostat copy of the Bank debit voucher dated 13.05.2002 debiting and crediting Rs. 726/- in respect of the period 01/05/2002 to 10.05.2002. Ex W-6 is the Photostat copy of the Payment Register extract of 28.09.1998.

5. In her affidavit evidence, 1st Party workman alleged that while working at the 2nd Party No. 2 office, she fell ill and was suffering from fever and could not attend the duty for 3 days: she had informed the matter to her official superiors. After recovery she went to the office to report to work on 07.08.2011. The General Manager did not permit her to report for duty, she was not given any reason for denying work to her. Her cross examination evidence turned out to be denial of the suggestions put to her by the 2nd Party.

Rebuttal evidence was given by the Manager (Administration) of the 2nd Party. Apart from reiterating the counter statement averments in his affidavit evidence he has emphasised on Ex P-1 (Ex W-1) that it is tampered by her, alleging that she is a habitual offender in committing theft: she has stolen the internal office correspondence and is guilty of offenses which are criminal in nature. During the cross examination the witness admits that he has no personal knowledge: he denied the suggestion that based on Ex W-4 and Ex W-5 wages

was paid to the 1st Party by obtaining her signature on voucher. However, he admits that she was doing the catering and also sweeping work in the office. He produced a document Ex M-1 from the owner of the Building of the 2nd Party stating that the office area is 4,600 sq ft.

6. From the pleadings and the cross examination evidence what is not disputed is, 1st Party has worked in the office of the 2nd Party for cleaning, sweeping and other miscellaneous services like serving tea and coffee till 03.07.2011. Though the case of the 1st Party is, she was refused employment without any reason w.e.f 07.08.2011. The date 03.07.2011 according to 2nd Party is the day on which she was caught red handed on a Sunday by the Security Personnel and then onwards she did not report to work.

Per contra according to the 1st Party she remained absent for 3 days since she was indisposition and when she reported to work on 07.08.2011 she was refused employment. Thus, the parties are at variance in respect of the last day of her in the premises of the 2nd Party. The above admission by the 2nd Party confirms one thing that they are not disputing the identity of the workman. When it is contended by the 2nd Party that she was attending cleaning, sweeping work and other miscellaneous services like serving tea and coffee with the 2nd Party that goes without saying that cleaning and sweeping work must have been carried out before and after the office hours and beverage serving must be during the business / office hours. Though they have stated that she has worked about 2 hours per working day, it cannot be imagined that coffee serving hours was limited to any particular time during the course of the office hours. Even if she was a part time employee Sec 2(s) of 'the Act' does not oust a part time worker from the definition of *workman* as envisaged by Sec 2(s) 'the Act'. Thus, she falls under the category of 'workman' and entitled to raise the Industrial Dispute to challenge the legality of the Refusal of employment.

7. Whether it was a Voluntary Abandonment or Refusal of Employment? To find an answer again we have to understand the plight of the workman as on 03.07.2011 (the date on which she was lastly seen in the premises)

8. It was a Sunday, she is caught with stolen article by the Security: no action is taken against her on the same day. The matter is informed to the Senior Manager (Administration) on the following day: no Police Compliant is lodged against her by the 2nd Party with a magnanimous view that her work in other places is not affected. She is also not given any show cause notice about the alleged incident. Except the self serving statement of the 2nd Party in their pleading and affidavit evidence there is no proof of such untoward incident of 03.07.2011. There are no eye witnesses, no seizer mahazar is drawn in respect of the stolen article, the logical conclusion flowing from the above is, the incident of 03.07.2001 put an end to the work of the 1st Party with the 2nd Party.

9. It is not the case of the 2nd Party that they called her to resume work, she was carrying on. They have not given any call notice to her subsequent to 03.07.2011. Even now they are not offering the work which she was doing earlier to Refusal of Employment. Interestingly, the 2nd Party do not dispute the documentary evidence Ex W-1 to Ex W-8 as concocted or fabricated documents. In the written argument they have contended that Ex W-1 the letter of the Divisional Manager was not confronted to MW-1. While arguing so, they shall not forget that in the affidavit evidence MW-1 has stated that Ex P-1 is tampered, she is a habitual offender in committing theft as she has stolen the internal office correspondence. These averments go to suggest that they are not disputing the authenticity of Ex W-1 or the Photostat copies of the inter office communications produced by the 1st Party workman as Ex W-4 to Ex W-6. As could be noticed Ex W-1 is a typed material: the words appearing in between "Office" and "work" as "sweeper" is hand written and that to over written after applying whitener, perhaps to suppress the earlier typed matter, thus, certifying that she is attending to office work. When this letter was viewed keenly under fluorescent tube light it probabalises after applying whitener on the word "Cleaner" the word "Sweeper" is overwritten which has enabled the 2nd Party to contend that Ex W-1 is tampered. Even otherwise in the claim statement also the contention of the 1st Party was that she was working as a Cleaner. Because the word sweeper is overwritten on the typed word cleaner it cannot be assumed that 1st Party is responsible for the overwriting. It is also possible that the author of the letter has substituted the word "sweeper" on his own for the word "cleaner". MW-1 never disputed that Ex W-1 is not in the Letter Head of the 2nd Party: it is not their case that the author of Ex W-1 was not the Divisional Manger as on 21.06.1989 or the signature of the author is not that of the then Divisional Manager. That probabalises the story of the workman that, the Divisional Manager has given her the certificate as per Ex W-1 and she has worked from 21.06.1989 onwards also till the date of Refusal of Employment. That leads to presumption that she is refused employment by the 2nd Party without prior notice.

10. The question that follows is whether the 1st Party had worked continuously as Sweeper / Cleaner from 06.01.1984 till the date of Refusal of Employment. Except the self serving statement of WW-1 there is no documentary proof in this regard from her side. Ex W-4 is said to be the sanction order of April 2003 while

enhancing the wages for 10 days from Rs. 798.60 to Rs. 800/-. The very allegation made by the 2nd Party that the office documents are stolen by her would indicate that it is the Photostat copy of the Official document maintained in the office of the 2nd Party.

On their own showing during her absence they have engaged other daily wage workers. That drives a inference that 1st Party continued to work until the date of Refusal of Employment though intermittently she remained absent. The 2nd Party is unable to produce the details of the days on which she remained absent or she worked. The very fact that she continued to be engaged until Refusal of Employment would go to suggest that her intermittent absence did not come in the way of her continuous service for 240 days in a Calendar year. Before this Tribunal she filed an application calling for Wage Register and Attendance Register for the period January 1984 to August 2011. Those documents are not produced by the 2nd Party stating that no such documents are maintained.

11. It is their own case that she used to be paid in cash for 10 days on daily wage rate basis. If that is so they must be in the possession of cash vouchers / receipts raised by her while paying cash to the 1st Party. 1st Party seeks to draw adverse inference against the 2nd Party for suppressing such documents: to reciprocate said contention 2nd Party has taken shelter under the judgment of the Apex Court reported in Appeal (civil) 1851 of 2002 in Municipal Corporation, Faridabad vs Siri Niwas DD 06/09/2004 case, wherein it is held that, *“Presumption as to adverse inference for non-production of evidence is always optional and one of the factors which is required to be taken into consideration in the background of facts involved in the lis. The presumption, thus, is not obligatory because notwithstanding the intentional non-production, other circumstances may exist upon which such intentional non-production may be found to be justifiable on some reasonable grounds. In the instant case, the Industrial Tribunal did not draw any adverse inference against the Appellant. It was within its jurisdiction to do so particularly having regard to the nature of the evidence adduced by the Respondent..... Furthermore a party in order to get benefit of the provisions contained in Section 114(f) of the Indian Evidence Act must place some evidence in support of his case. Here the Respondent failed to do so.”*

The 2nd Party cannot take the benefit of the above ruling because the 1st Party has produced the best possible evidence available with her.

12. In view of the partial admission of the case of the 1st Party, the onus shifts to the 2nd Party to disprove her contention of continuous service. In the absence of any evidence to that effect, I am inclined to hold that the 1st Party worked with the 2nd Party as a Cleaner / Sweeper continuously from 06.01.1984 onwards. For the sake of convenience I will determine the date as 03.07.2011. Though the 2nd Party pleaded that it was on a Sunday, on verification with the Calendar it emerges that 03.07.2011 was Monday. Hence, I assume that the Refusal of Employment was on 03.07.2011.

In view of the discussion supra, the logical inference is, 1st Party being a workman as defined under Sec 2(s) of ‘the Act’ has continuously rendered service with the 2nd Party as defined under Sec 25-B of ‘the Act’ and could not have been terminated / refused employment unless and until the mandate of Sec 25-F of ‘the Act’ was complied. It is not the case of 2nd Party that any prior notice / notice pay or compensation was given to her before refusing employment, that makes a case of illegal retrenchment.

13. Having held so, now comes the question of moulding appropriate relief. 1st Party has not worked in any sanctioned post. Probably she has crossed the age of superannuation and reinstatement is not the solution. In the given circumstances, the appropriate relief for her is by way of monetary compensation. 2nd Party has to calculate the retrenchment compensation in accordance with law, counting her service from 06.01.1984 to 03.07.2011. If records are not available in the office of the 2nd Party about the payments made to her, the provisions of Karnataka Minimum Wages Act, 1948 shall be the guiding principle. The said compensation shall be paid along with interest at 12% per annum.

A WARD

The petition is allowed.

The 2nd Party is directed to pay monetary compensation to the 1st Party workman by working out her retrenchment compensation as enumerated by Sec 25-F of ‘the Act’, in respect of service rendered by her from 06.01.1984 to 03.07.2011 along with interest at 12% per annum.

The calculation shall be as per the rates contemplated for the respective period by Karnataka Minimum Wages Act, 1948.

The order shall be complied within 30 days of publication of this Award.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 31st December, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 8 फरवरी, 2021

का.आ. 127—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलोर के पंचाट (संदर्भ सं. 16/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 08.02.2021 को प्राप्त हुआ था।

[सं. एल-39025/01/2021आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 8th February, 2021

S.O. 127.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen, received by the Central Government on 08.02.2021.

[No. L-39025/01/2021-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

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

DATED : 21ST JANUARY, 2021

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

ID 16/2013

I Party

Sh. S. Kumar,
S/o Late N K Shankara,
No. 21, 'Jayagowri',
6th Main, 8th Cross, N R Colony,
Bangalore - 560 019.

II Party

The Management of Canara Bank,
Circle Office Rural, Bangalore Metro,
No. 86, 3rd Floor,
Spencer's Towers,
M.G. Road,
Bangalore - 560 001.

Appearance

Advocate for I Party : Mr. Muralidhara

Advocate for II Party : Mr. P. Udayashankar Rai

AWARD

This is a petition filed under Sec 2-A of the Industrial Dispute Act, 1947 (for brevity 'the Act') by the former employee of the 2nd Party Canara Bank, challenging the order dated 30.11.2005 imposing the punishment of Compulsory Retirement on certain charges having been proved against him during the enquiry.

2. The claim is contested by the 2nd Party.

3. On the rival pleadings my learned predecessor framed issues and ordered the first issue pertaining to fairness of Domestic Enquiry to be heard as Preliminary Issue. Accordingly, the Preliminary Issue is adjudicated on 02.07.2019 affirming the fairness of the Domestic Enquiry.

4. When the matter was set down for argument on merit 1st Party filed a memo on 21.12.2020 stating that in respect of the very same Industrial Dispute raised by the 1st Party workman consequent upon failure of conciliation the matter is referred for adjudication to this Tribunal, which is pending in CR No. 19/2015: the 1st

Party does not want to pursue the present I.D No. 16/2013 and requests to dispose of the petition as not maintainable.

2nd Party is notified.

5. In view of the above circumstance,

AWARD

The petition filed by the 1st Party workman Sh. S. Kumar under Sec 2-A of the Industrial Dispute Act, is rejected without prejudice to his right to prosecute CR No. 19/2015.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 21st January, 2021)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 8 फरवरी, 2021

का.आ. 128.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलोर के पंचाट (संदर्भ सं. 04/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 08.02.2021 को प्राप्त हुआ था।

[सं. एल-39025/01/2021-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 8th February, 2021

S.O. 128.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 04/2015) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen, received by the Central Government on 08.02.2021.

[No. L-39025/01/2021-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

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

DATED : 20ST JANUARY, 2021

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

ID 04/2015

I Party

K. Subramani
C/o, Sri K. Ranganathan
No. 12/30, Rajamma Nilaya,
I Main Road, New Madiwala Extension,
Maruthi Nagar,
Bangalore – 560 068

II Party

The Assistant Manager,
Canara Bank,
Industrial Relations Section,
Human Resources Wing,
Head Office, No. 112, JC Road,
Bangalore – 560 002

Appearance

Advocate for I Party : Mr. Muralidhara

Advocate for II Party : Mr. T.R.K. Prasad

AWARD

1. It is a petition filed by the former employee of the 2nd Party / Canara Bank under section 2A of the Industrial Dispute Act 1947 (for brevity 'the Act'), aggrieved by the order of the Disciplinary Authority whereby he is deemed to have voluntarily vacated his employment w.e.f 07.06.2013.

2. The claim of the 1st Party is that he joined the service of the 2nd Party on 21.07.1976. He was hospitalised for five weeks since he suffered fracture in an accident on 21.06.2012. He resumed his duty from

06.08.2012, though he was feeling severe discomfort. Up to 01.11.2012, he performed his duties but due to severe health problems, he could not attend his duties w.e.f 02.11.2012 and was treated for his Post Traumatic Stress Disorder. As a consequence of the accident in June 2012, he was treated at Mallya Hospital until November 2012. Since, he was living alone and was under constant medication, he could not contact the Bank. All the while, he was undergoing treatment. He was granted fitness certificate w.e.f 01.07.2013. His absence from 02.11.2012 to 30.06.2013 was not wilful but for the reasons beyond his control. He sought to report for duty on 01.07.2013 at his work place but was informed that he is no more in the employment of the Bank on the ground of voluntary cessation of employment. The action of the 2nd Party recording 'Cessation of his service from the Bank by way of voluntary abandonment w.e.f 07.06.2013' is unjust and arbitrary. He is not issued notices and no paper publication was given by the 2nd Party. He has no record of unauthorised absenteeism. He had enough privilege leave, sick leave, Additional sick leave and casual sick leave (369 days in all) in his credit. His absence was for 7 months only. He had brought to the notice of the 2nd Party his medical history and summary. The 2nd Party had power to review its decision but they did not consider his request. He had maintained unblemished record of 36 years of service. 2nd Party had option to consider his absence as an act of misconduct. In similar cases of absenteeism, the Bank has taken lenient view. In the fag-end of his service, 2nd Party has resorted to voluntary cessation against him. He is not gain fully employed elsewhere since cessation of his service from the 2nd Party.

3. 2nd Party counters the claim in the written statement, thus, the service conditions of the workman employees including the 1st Party are governed by Canara Bank Service Code, which is in consonance with various Bipartite Settlements under section 2 (P) of 'the Act', entered at Industry level between Indian Banks' Association and various Trade Unions at national level. He joined the services of the 2nd Party on 21.07.1976 as Clerk and was re-designated as SWO-A: while working, he remained absent since 02.11.2012 without any intimation to the 2nd Party by invoking the provision of Clause 33 of VIIIth Bipartite Settlement dated 02.06.2005 (Provisions regarding voluntary cessation of employment). Notices dated 08.02.2013 and 14.03.2013 were given to his residential address through RPAD calling him to report to duty. He was given final notice vide RPAD letter dated 22.04.2013 to report to duty on or before 31.05.2013. There was no reply / inclination to join duty from his side. On that, the Bank finally recorded his voluntary cessation of his services w.e.f. 07.06.2013. He has already attained the age of superannuation on 31.08.2015 itself. After his exit from service, the 2nd Party has settled all his eligible terminal benefits towards Staff Provident Fund, Gratuity, Commutation of pension and Pension Arrears. As a pension optee, he is drawing a monthly pension also. His monthly pension from August 2016 is Rs. 22,808/-.

4. Both parties adduced evidence / rebuttal evidence. Documents Ex W-1 to Ex W-5 are marked for the 1st Party and Ex M-1 to Ex M-11 are marked for the 2nd Party. Argument is addressed by both learned Advocates.

5. On behalf of the 2nd Party, the Officer, Industrial Relation Section, Human Resources Wing, was examined, who produced 2 Call Notices and the final Call Notices which returned undelivered as Ex M2 to M5. He has also produced attested copy of the service card of the 1st Party showing his permanent address as

*'Sri. Subramani K.
Sree Rama Nilaya, 7/1, 15th Cross (upstairs)
Sampangiramanagar – Bangalore 560027'*

Same is marked as Ex M1. But, the returned cover of the Call Notices Ex M-2(a), Ex M-3(a) and Ex M-4(a) bear the address:

*Sri K Subramani,
No. 1, JUL Sreerama nilaya
15th Cross,
Sampangiramnagar,
Bangalore – 560027*

That by itself explains why the notices are not served on the 1st Party, for no mistake on his part. Admittedly, after return of the Call Notices, 2nd Party have not taken any further steps by way of paper publication. MW1 during cross-examination admits that as on 02.11.2012, 1st Party had 196 days of privilege leave, 180 days of sick leave and 90 days of additional sick leave to his credit: up to 02.11.2012, his service was without any blemish. After the accident, he was on leave and reported to duty on 06.08.2012: he is a bachelor as per his Service Records. During his rebuttal evidence, the 1st Party reiterated his claim and produced copies of his representations submitted by him to the 2nd Party, Ex W1 to W3 seeking permission to report to duty and to sanction appropriate category of leave. Copies of his hospital records are Ex W4 and W5.

It is the submission of Sh. TRKP, supported by the affidavit evidence of MW1 that the 2nd Party recorded the address from the 1st Party in his service record / Ex M1, and had issued notices to this very same address: except for one word i.e. JUL which was inadvertently mentioned; mentioning of JUL in his address is of inconsequential nature, since all other details of his address as recorded in his Service Record were correctly mentioned on the notices, letters and returned postal covers: during the cross examination, 1st Party has falsely stated his address as *K. Subramani, Srirama Nilaya, 14th cross, Sampangiramanagara, Bangalore - 560027.*

Having issued the notices to the very same address furnished by him / recorded in his Service Record, the 2nd Party has complied with the procedure contemplated by Para 33 of the Bipartite Settlement. Hence, there is a deemed service of notice on him. Since, he did not report to duty even after completion of 30 days of issue of final call notice, the 2nd Party proceeded to issue final call notice Ex M-4 dated 22.04.2013. On 07.06.2013, the Assistant General Manager recorded that *“...he would be deemed to have voluntarily vacated his employment with the Bank w.e.f 07.06.2013 after office hours in terms of HO circular No. 157/2005 dated 20.6.2005 and has thus ceased to be in the services of the Bank w.e.f 07.06.2013 after office hours... his absence from 2.11.2012 to 07.06.2013 for a period of 218 days be treated as absence without leave and on loss of pay..”*

In the back drop of above all, I have gone through Documentary evidence, the copy of memorandum of settlement dated 02.06.2005 is marked in evidence as Ex M-11. Para 33 of the settlement on “voluntary cessation of employment”. Sub-clause (i) reads thus...

“When an employee absents himself/herself from work for a period of 90 or more consecutive days without prior sanction from the Competent Authority or beyond the period of leave sanctioned originally including any extension thereof or when there is satisfactory evidence that he/she has taken up employment in India or outside, the management at any time hereafter may give a notice to the employee at his/her last known address as recorded with Bank calling upon him/her to report for work within 30 days of the date of notice. Unless the employee reports for work within 30 days of the notice or gives an explanation for his/her absence within the period of 30 days satisfying the management inter alia that he/she has not taken up another employment or vocation, the employee shall be given a further notice to report for work within 30 days of the notice failing which the employee will be deemed to have voluntarily vacated his/her employment on the expiry of the said notice and advised accordingly by registered post.

In the event of the employee submitting a satisfactory reply, he/she shall be permitted to report for work thereafter within 30 days from the date of expiry of the aforesaid notice without prejudice to the Bank's right to take any action under the law or rules/conditions of service.

If the employee fails to report for work within this 30 days period, then he/she shall be given a final notice to report for work within 30 days of the notice failing which the employee will be deemed to have voluntarily vacated his/her employment on the expiry of the said notice and advised accordingly by registered post.”

Further, the mode of communication of the notice is envisaged at sub-clause (iii), thus,

“Any notice under this clause shall be in a language understood by the employee concerned. The notice shall be sent to him/her by registered post with acknowledgement due. Where the notice under the clause is sent to the employee by registered post acknowledgement due at the last recorded address communicated in writing by the employee and acknowledged by the Bank, the same shall be deemed as good and proper service.”

Thus, it is clear that the 2nd Party is obliged to send the notice by RPAD at the last recorded address, communicated by the employee and acknowledged by the Bank. Once it is dispatched through the post to the last known address of the workman (which he himself has furnished to the Bank in writing), there is no further obligation on the 2nd Party about personal service of the notice, since, it amounts to a deemed service on the employee.

The contention of the 2nd Party is, mere mention of 3 redundant letters ‘JUL’ on the postal cover will not amount to insufficient / incomplete address, since all other details are as mentioned in his service record which he himself had furnished to the 2nd Party. But I cannot subscribe to this contention because there is a lot of difference between the 2 addresses, i.e., his house no. 7/1 is missing in the address mentioned on the postal covers. It is incorrectly mentioned as ‘No. 1, JUL Sreerama Nilaya’ instead of ‘Sree. Rama Nilaya, 7/1’. Hence, it cannot be inferred that the call notices were addressed to his proper address as mentioned in his Bank Service Card.

The issue of call notice through RPAD to the last recorded address of the employee being mandatory, it is the logical inference that, 2nd Party / AGM had no authority to draw the proceedings dated 07.06.2013 vide Annexure 5 presuming that “...has no intention of joining the duties and shall be deemed to have voluntarily vacated his employment with the Bank...”

As admitted by MW1, the 1st Party workman had 376 days of leave to his credit. While examining the validity of the order of his termination on the deemed cessation of employment, this Tribunal cannot investigate about the bona fides of his absence. If the 2nd Party were to terminate the workman on the ground of his unauthorised absence, they ought to have taken disciplinary action against him and not get relieved of him by invoking Clause 33 of Bipartite Settlement. The order under Ex M-5 thereby holding that he ceased to be in the services of the Bank is violative of principles of natural justice, for not providing an opportunity to the 1st Party to have a say on his unauthorised absence. Hence, the order dated 07.06.2013 / Ex M-5 is illegal and calls for interference of this Tribunal in exercise of jurisdiction under section 11 A of ‘the Act’.

6. In view of the order dated 07.06.2013, the 1st Party has lost 3 years of his service. Now, it is shown that the terminal benefits appropriate to the years of service rendered by him were released. In his affidavit evidence, the 1st Party had stated that he is not gainfully employed elsewhere, since the cessation of his service from the Bank. During his cross-examination, he was not contradicted on the said statement except suggesting that he had income through other sources, which he denied.

7. In view of the observation and the findings supra, now the 2nd Party has to treat him as on duty continuously from the date of his unauthorised absence i.e. from 02.11.2012 till the date of his superannuation and be paid 50% of Back Wages.

AWARD

The Petition is allowed.

The order of the 2nd Party dated 07.06.2013 in recording the cessation of his services from the Bank is illegal and not justified.

The 2nd Party is directed to treat him as on continuous duty up to the date of his superannuation and release 50% of the Back Wages and consequential benefits. The leave in his credit shall be adjusted towards his absence period.

The terminal benefits already released in his favour shall be adjusted while calculating his monetary benefits.

(Dictated to LDC, transcribed by him, corrected and signed by me on 20th January, 2021)

Justice Smt. RATHNAKALA, Presiding Officer