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प्राधिकार से प्रकाशित
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सं. 02] नई दिल्ली, जनवरी 10—जनवरी 16, 2021 शनिवार/पौष 20—पौष 26, 1942
No. 02] NEW DELHI, JANUARY 10—JANUARY 16, 2021, SATURDAY/PAUSHA 20—PAUSHA 26, 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, 6 जनवरी, 2021

का. आ. 23.—वित्तीय आस्तियों का प्रतिभूतिकरण एवं पुनर्गठन तथा प्रतिभूति हित का प्रवर्तन अधिनियम, 2002 की धारा 21(1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, बैंक आफ महाराष्ट्र के महाप्रबंधक श्री प्रमोद आर. दतार को कार्यभार ग्रहण करने की तारीख से 3 वर्ष की अवधि के लिए या अपने कार्यालय में सेवा-निवृत्ति की आयु प्राप्त होने से 15 दिन पहले की तारीख तक अथवा अगले आदेशों तक, जो भी पहले हो, केन्द्रीय प्रतिभूतिकरण आस्ति पुनर्गठन और प्रतिभूति हित रजिस्ट्री, भारत (सीईआरएसएआई) के केन्द्रीय पंजीयक, प्रबंध निदेशक तथा मुख्य कार्यपालक अधिकारी के पद पर नियुक्त करती है।

[फा. सं. 30/01/2019-डीआरटी]

संजय कुमार, उप सचिव

MINISTRY OF FINANCE
(Department of Financial Services)

New Delhi, the 6th January, 2021

S.O. 23.—In exercise of powers conferred under Section 21(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the Central Government hereby appoints Shri Pramod R. Datar, General Manager, Bank of Maharashtra to the post of Central Registrar, Managing Director & Chief Executive Officer in the Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI) for a period of 03 years with effect from the date of assumption of charge of the post, or till he attains the age of 60 years, or until further orders, whichever is the earliest.

[F. No. 30/01/2019-DRT]

SANJAY KUMAR, Dy. Secy.

विदेश मंत्रालय
(सी.पी.वी. प्रभाग)

नई दिल्ली, 29 दिसम्बर, 2020

का.आ. 24.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के दूतावास, कुवैत में श्री राजेश चौधरी, सहायक अनुभाग अधिकारी को दिनांक 29 दिसंबर 2020 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[फा. सं. टी-4330/01/2019]

विष्णु कुमार शर्मा, निदेशक (सी.पी.वी.)

MINISTRY OF EXTERNAL AFFAIRS
(CPV DIVISION)

New Delhi, the 29th December 2020

S.O. 24.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorizes Shri Rajesh Choudhary, Assistant Section Officer in Embassy of India, Kuwait to perform the Consular services as Assistant Consular Officer with effect from 29.12.2020.

[F. No. T-4330/01/2019]

VISHNU KUMAR SHARMA, Director (CPV)

नई दिल्ली, 29 दिसम्बर, 2020

का.आ. 25.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के उच्चायोग, दार-ए-सलाम में श्री देवेन्द्र कुमार सहायक अनुभाग अधिकारी को दिनांक 29 दिसंबर 2020 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[फा. सं. टी-4330/06/2018]

विष्णु कुमार शर्मा, निदेशक (सी.पी.वी.)

New Delhi, the 29th December, 2020

S.O. 25.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Devender Kumar, Assistant Section Officer as Assistant Consular Officer in High Commission of India, Dar-es-Salaam to perform the Consular services with effect from 29 December 2020.

[F. No.T-4330/06/2018]

VISHNU KUMAR SHARMA, Director (CPV)

नई दिल्ली, 30 दिसम्बर, 2020

का.आ. 26.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के दूतावास, अबु धाबी में श्री विजय कुमार वर्मा, सहायक अनुभाग अधिकारी को दिनांक 30 दिसंबर 2020 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[फा.सं. टी-4330/01/2015]

विष्णु कुमार शर्मा, निदेशक (सीपीवी)

New Delhi, the 30th December, 2020

S.O. 26.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorizes Shri Vijay Kumar Verma, Assistant Section Officer in Embassy of India, Abu Dhabi as Assistant Consular Officer to perform the consular services with effect from 30 December 2020.

[F. No.T-4330/01/2015]

VISHNU KUMAR SHARMA, Director (CPV)

नई दिल्ली, 4 जनवरी, 2021

का.आ. 27.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के प्रधान कोंसुलावास सेंट-डेनिस में श्री कीर्ति प्रभाकर आर्य, सहायक अनुभाग अधिकारी को दिनांक 04 जनवरी 2021 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[फा. सं. टी-4330/01/2015]

विष्णु कुमार शर्मा, निदेशक (सीपीवी)

New Delhi, the 4th January, 2021

S.O. 27.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorizes Shri Kirti Prabhakar Arya, Assistant Section Officer in Consulate General of India Saint Denis, as Assistant Consular Officer to perform the consular services with effect from 04 January, 2021.

[F. No.T-4330/01/2015]

VISHNU KUMAR SHARMA, Director (CPV)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय**(कार्मिक और प्रशिक्षण विभाग)**

नई दिल्ली, 14 जनवरी, 2021

का.आ. 28.—केन्द्र सरकार, एतद द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए गोवा राज्य सरकार (कार्योत्तर प्रभाव से दिनांक 14.10.2020 से) के गोवा गृह (सामान्य) सचिवालय, पोर्वोरिम-गोवा की अधिसूचना सं. 30/01/2015-सीबीआई/एचडी(जी)/2897, दिनांक 18.12.2020 के माध्यम से जारी सहमति से, सूचना प्रौद्योगिकी अधिनियम, 2000 (2000 का 21) की धारा 67-बी और लैंगिक अपराधों से बालकों का संरक्षण अधिनियम, 2012 (2012 का 32) की धारा 12 के तहत दिनांक 14.10.2020 को दर्ज सीबीआई मामला सं. आरसी-9(एस)/2020/सीबीआई/एससी-III/एनडी से संबंधित अपराध(धों) का अन्वेषण तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना (दिनांक 14.10.2020 से कार्योत्तर प्रभाव से) के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त गोवा राज्य में करती है।

[फा. सं. 228/39/2020-एवीडी-II]

एस.पी.आर. त्रिपाठी, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS**(Department of Personnel and Training)**

New Delhi, the 14th January, 2021

S. O. 28.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Goa (ex-post facto w.e.f. 14.10.2020), issued vide Notification No. 30/01/2015-CBI/HD(G)/2897 dated 18.12.2020 of Goa Home (General) Secretariat, Porvorim – Goa, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment (ex-post facto w.e.f. 14.10.2020) to the whole State of Goa for investigation into the offence(s) relating to CBI Case RC-9(S)/2020/CBI/SC-III/ND registered on 14.10.2020, under section 67-B of Information Technology Act, 2000 (21 of 2000) and Section 12 of Protection of Children from Sexual Offences Act, 2012 (32 of 2012) and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/39/2020-AVD-II]

S. P. R. TRIPATHI, Under Secy.

नई दिल्ली, 14 जनवरी, 2021

का.आ. 29.—केन्द्र सरकार, एतदद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए छत्तीसगढ़ सरकार, गृह विभाग (सी-अनुभाग), महानदी भवन, मंत्रालय, नवा रायपुर, अटल नगर, रायपुर की अधिसूचना सं. एफ-4-7/गृह-सी/2020 दिनांक 28 नवंबर, 2020 के माध्यम से जारी छत्तीसगढ़ राज्य सरकार की सहमति से, लारा सुपर थर्मल पावर प्लांट (एलएसटीपीपी), एनटीपीसी लिमिटेड, गांव-लारा, जिला रायगढ़ (छ.ग.) में 1,00,55,576 /- रु. (लगभग) मूल्य की स्टील और सीमेंट मदों की कमी/दुर्विनियोजन के संबंध में श्री बी.पी.बिस्वाल, पूर्व एजीएम एवं

विभागाध्यक्ष; श्री बी.एन.प्रसाद, पूर्व डीजीएम; श्री एस.एन.मंडल, डीजीएम; श्री एम.के.मिश्रा, सहायक प्रबंधक; श्री आर.के.साहू, अभियंता; श्री कनक साहा, कनिष्ठ अभियंता; श्री हर्षवर्धन मठिया, कनिष्ठ अभियंता; श्री सुधीर पुरोहित, कनिष्ठ अभियंता, श्री एल.पी.रात्रे, कनिष्ठ अभियंता, अनुबंध और सामग्री-भंडार (सीएंडएम स्टोर्स) विभाग, एलएसटीपीपी, एनटीपीसी लिमिटेड, गांव-लारा, जिला रायगढ़ (छ.ग.) एवं अन्य अज्ञात लोक सेवकों/गैर-सरकारी व्यक्तियों के खिलाफ महाप्रबंधक (सतर्कता), नेशनल थर्मल पावर कॉर्पोरेशन (एनटीपीसी) लिमिटेड, मुख्यालय, नई दिल्ली द्वारा संदर्भ संख्या 01/विजि/लारा/1658 दिनांक 29.11.2019 के अंतर्गत दर्ज कराई गई भारतीय दंड संहिता (1860 का 45) एवं भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का 49) के तहत दंडनीय शिकायत के कारण उत्पन्न अपराध(धों) के अन्वेषण और ऐसे अपराध(धों) से जुड़े या संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त छत्तीसगढ़ राज्य में करती है।

[फा. सं. 228/01/2021-एवीडी-II]

एस.पी.आर. त्रिपाठी, अवर सचिव

New Delhi, the 14th January, 2021

S. O. 29.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Chhattisgarh, issued vide Notification No. F-4-7/Home-c/2020 dated 28 November, 2020 of Government of Chhattisgarh, Home Department (C-Section), Mahanadi Bhavan, Mantralaya, Nava Raipur, Atal Nagar, Raipur, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Chhattisgarh for investigation into the offence(s) arising out of the complaint lodged by General Manager (Vigilance), National Thermal Power Corporation (NTPC) Ltd., Head Office, New Delhi vide Ref. No. 01/Vig/Lara/1658 dated 29.11.2019 pertaining to shortage/misappropriation of Steel and Cement items worth Rs. 1,00,55,576 /- (approx.) at Lara Super Thermal Power Plant (LSTPP), NTPC Ltd., Village – Lara, District Raigarh (C.G.) against Shri B.P. Biswal, Ex-AGM & HoD; Shri B.N. Prasad, EX-DGM; Shri S.N. Mandal, DGM; Shri M.K. Mishra, Asstt. Manager; Shri R.K. Sahu, Engineer; Shri Kanak Saha, Jr. Engineer; Shri Harshvardhan Mathia, Jr. Engineer; Shri Sudhir Purohit, Jr. Engineer; Shri L.P. Ratre, Jr. Engineer, Contract & Materials-Stores (C&M-Stores) Department, LSTPP, NTPC Ltd., Village-Lara, District Raigarh (C.G.) and other unknown Public Servants/Private Persons, punishable under the Indian Penal Code (45 of 1860) and Prevention of Corruption Act, 1988 (49 of 1988) and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/01/2021-A VD-II]

S.P.R. TRIPATHI, Under Secy.

वाणिज्य एवं उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 8 जनवरी, 2021

का.आ. 30.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स मिनरल्स लैब सर्विसेज प्राइवेट लिमिटेड, शंकर

रूफ ट्रीटमेंट्स, प्रथम मंजिल, प्लॉट न. 66, सैक्टर - ए, जोन - डी, मंचेस्वर इंडस्ट्रियल इस्टेट, भुवनेश्वर - 751010 (जिसे एतदपश्चात् उक्त अभिकरण माना जाएगा) को इस अधिसूचना के शासकीय राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की संख्या का.आ. 3975 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-I अर्थात् लौह अयस्क के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन पारादीप पत्तन, गोपालपुर पत्तन और धामरा पत्तन में उक्त खनिज एवं अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

- (i) यह अभिकरण, खनिज और अयस्क समूह-I के निर्यात (निरीक्षण) नियम, 1965 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 में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/1/2021-निर्यात निरीक्षण]

दिवाकर नाथ मिसरा, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 8th January, 2021

S. O. 30.—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, the Central Government hereby recognises M/s. Minerals Lab Services Private Limited, C/o Shankar Roof Treatments, 1st Floor, Plot no. 66, Sector-A, Zone-D, Mancheswar Industrial Estate, Bhubaneswar- 751010, (hereinafter referred to as the said agency), as an agency for a period of three years from the date of publication of this notification, for the inspection of Minerals and Ores - Group-I, namely, Iron Ore 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, prior to export of the said Mineral and Ore at Paradip Port, Gopalpur Port and Dhamra 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 examine the method of inspection followed by them in carrying out the inspection specified under rule 4 of the Export of Minerals and Ores - Group I (Inspection) Rules, 1965; and
- (ii) the said agency 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-16014/1/2021-Export Inspection]

DIWAKAR NATH MISRA, Jt. Secy.

कोयला मंत्रालय

नई दिल्ली, 11 जनवरी, 2021

का.आ. 31.—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 ने कोयला मंत्रालय द्वारा जारी की गई अधिसूचना संख्यांक का. आ. 474, तारीख 30 जून, 2020, जो भारत के राजपत्र के भाग II, खण्ड 3, उपखण्ड (ii), तारीख 4 जुलाई, 2020 में प्रकाशित की गई थी, इस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 62.03 हेक्टर (लगभग) या 153.28 एकड़ (लगभग) है, कोयले का पूर्वेक्षण करने के अपने आशय की सूचना दी थी;

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

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इससे संलग्न अनुसूची में वर्णित 61.89 हेक्टर (लगभग) या 152.93 एकड़ (लगभग) माप वाली भूमि में या उस पर के सभी अधिकार का अर्जन करने के अपने आशय की सूचना देती है:

टिप्पण 1: इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक संख्यांक सी-1 (ई) III/ एफआर/1120-965, तारीख 13 नवम्बर, 2020 का निरीक्षण कलेक्टर, जिला नागपुर (महाराष्ट्र) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता- 700 001 के कार्यालय में या विभागाध्यक्ष अथवा मुख्य प्रबंधक, वेस्टर्न कोलफील्ड्स लिमिटेड (राजस्व विभाग), कोल इस्टेट, सिविल लाईन्स, नागपुर, (महाराष्ट्र) - 440 001 के कार्यालय में किया जा सकता है।

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

“8. अर्जन के संबंध में आपत्तियां.- (1) कोई व्यक्ति जो किसी भूमि में, जिसके संबंध में 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 संख्या का. आ. 2519, तारीख 27 मई, 1983, जो भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii) में तारीख 11 जून, 1983 में प्रकाशित की गयी थी, द्वारा सक्षम प्राधिकारी नियुक्त किया है।

अनुसूची
अमल्लामेटेड इंदर-कामठी डीप ओपनकास्ट माईन
नागपुर क्षेत्र
जिला नागपुर (महाराष्ट्र)

[रेखांक संख्या सी-1 (ई) III / एफआर/1120-965, तारीख 13 नवम्बर, 2020]

सभी अधिकार :

क्र. सं.	ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्रफल हेक्टर में			कुल	टिप्पणी
					निजी	सरकारी	भाग		
भाग 1	कांद्री	15अ	पारसिवनी	नागपुर	9.53	5.36	0.00	14.89	भाग
भाग 2	कांद्री	15अ	पारसिवनी	नागपुर	0.90	0.00	0.00	0.90	भाग
भाग 3	कांद्री	15अ	पारसिवनी	नागपुर	7.68	0.56	0.00	8.24	भाग
भाग 4	टेकाडी (गोंडेगांव)	14	पारसिवनी	नागपुर	1.46	0.00	0.00	1.46	भाग
भाग 5	टेकाडी (गोंडेगांव)	14	पारसिवनी	नागपुर	17.22	1.85	0.00	19.07	भाग
भाग 6	टेकाडी (गोंडेगांव)	14	पारसिवनी	नागपुर	0.71	0.05	0.00	0.76	भाग
भाग 7	टेकाडी (गोंडेगांव)	14	पारसिवनी	नागपुर	1.57	0.00	0.00	1.57	भाग
भाग 8	टेकाडी (गोंडेगांव)	14	पारसिवनी	नागपुर	0.40	0.00	0.00	0.40	भाग
भाग 9	टेकाडी (गोंडेगांव)	14	पारसिवनी	नागपुर	0.01	0.00	0.00	0.01	भाग
भाग 10	टेकाडी (गोंडेगांव)	14	पारसिवनी	नागपुर	0.00	2.02	0.00	2.02	भाग
भाग 11	टेकाडी (गोंडेगांव)	14	पारसिवनी	नागपुर	12.17	0.00	0.00	12.17	भाग
भाग 12	टेकाडी (गोंडेगांव)	14	पारसिवनी	नागपुर	0.40	0.00	0.00	0.40	भाग

कुल क्षेत्र : 61.89 हेक्टर (लगभग)

या 152.93 एकड़ (लगभग)

अर्जित किए जाने वाले सीमा क्षेत्र के प्लॉट संख्यांक :

भाग 1

ग्राम कांद्री के प्लॉट संख्यांक :

27, 28/1(भाग) - 28/2(भाग), 29(भाग), 32/1(भाग), 33/2(भाग), 33/1- 33/3, 40 (एमआईडीसी), 333(भाग) (एमआईडीसी), सरकारी भूमि (भाग).

भाग 2

ग्राम कांद्री के प्लॉट संख्यांक :

32/2.

भाग 3

ग्राम कांद्री के प्लॉट संख्यांक :

11/1अ (भाग) - 11/1ब (भाग), 13/1 (भाग), 317, 318/1- 318/2, 326/1, सरकारी भूमि (भाग).

भाग 4

ग्राम टेकाडी (गोंडेगांव) के प्लॉट संख्यांक :

593.

भाग 5

ग्राम टेकाडी (गोंडेगांव) के प्लॉट संख्यांक :

597 (भाग), 603/1/ए- 603/1/बी- 603/2ए- 603/2बी, 605/1- 605/2- 605/3, 606/1- 606/2, 607/1- 607/2-607/2ए, 609/1ए- 609/1बी, 609/2, 610/1ए- 610/1बी- 610/2- 610/3ए- 610/3बी- 610/4, 623/3, सरकारी भूमि (भाग).

भाग 6

ग्राम टेकाडी (गोंडेगांव) के प्लॉट संख्यांक :

588/1, सरकारी भूमि (भाग).

भाग 7

ग्राम टेकाडी (गोंडेगांव) के प्लॉट संख्यांक :

529, 532, 587(भाग).

भाग 8

ग्राम टेकाडी (गोंडेगांव) के प्लॉट संख्यांक :

538/1- 538/2- 538/3- 538/4- 538/5- 538/6- 538/7.

भाग 9

ग्राम टेकाडी (गोंडेगांव) के प्लॉट संख्यांक :

581.

भाग 10

ग्राम टेकाडी (गोंडेगांव) के प्लॉट संख्यांक :

493 (एमआईडीसी) (भाग).

भाग 11

ग्राम टेकाडी (गोंडेगांव) के प्लॉट संख्यांक :

625/1- 625/2, 626, 627/1-627/2- 627/3, 629, 630, 631, 632, 634/3, 635, 636/3ए/1- 636/3ए/2- 636/3बी.

भाग 12

ग्राम टेकाडी (गोंडेगांव) के प्लाट संख्यांक :

624/2.

सीमा वर्णन :

(भाग - 1)

- क - ख : रेखा ग्राम टेकाडी एवं ग्राम कांद्री की सम्मिलित सीमा पर स्थित बिन्दु 'क' से आरंभ होकर दक्षिण-पूर्व दिशा में नाले के दक्षिण तट से लगकर गुजरती है और ग्राम कांद्री में नाले के तट पर स्थित बिन्दु 'ख' पर मिलती है।
- ख-ग-घ : रेखा बिन्दु 'ख' से आरंभ होकर दक्षिण दिशा में प्लाट संख्यांक 40, 33/1 की बाह्य सीमा से लगकर गुजरती है फिर बिन्दु 'ग' से होकर दक्षिण दिशा में गुजरती है और सड़क के पश्चिम तट पर स्थित बिन्दु 'घ' पर मिलती है।
- घ-ड.-क : रेखा बिन्दु 'घ' से आरंभ होकर पश्चिम दिशा में प्लाट संख्या 27 की बाह्य सीमा से लगकर गुजरती है फिर बिन्दु 'ड.' से मुड़कर उत्तर-पूर्व दिशा में प्लाट संख्या 27 की पूर्व सीमा से लगकर गुजरती है फिर प्लाट संख्या 333 से होकर सड़क पार करती है तत्पश्चात् उत्तर-पूर्व दिशा में ग्राम कांद्री और ग्राम टेकाडी की ग्राम सीमा से लगकर गुजरती है और प्रारंभिक बिन्दु 'क' पर समाप्त होती है।

(भाग - 2)

च-छ-ज-च: यह भाग ग्राम कांद्री में एकमात्र प्लाट संख्या 32/2 को समाविष्ट करता है।

(भाग - 3)

- झ - ज : रेखा ग्राम कांद्री में बिन्दु 'झ' से आरंभ होकर दक्षिण-पूर्व दिशा में प्लाट संख्यांक 317, 318 की बाह्य सीमा से लगकर गुजरती है फिर सड़क पार कर प्लाट संख्या 12 की बाह्य सीमा से लगकर फिर प्लाट संख्या 11/1 में से गुजरती है फिर दक्षिण दिशा में नाले के तट से लगकर गुजरती है और बिन्दु 'ज' पर मिलती है।
- ज - ट : रेखा बिन्दु 'ज' से आरंभ होकर पश्चिम दिशा में प्लाट संख्या 13/1 से गुजरती है फिर सड़क पार कर प्लाट संख्या 326/1 की बाह्य सीमा से लगकर गुजरती है और ग्राम कांद्री में बिन्दु 'ट' पर मिलती है।
- ट - झ : रेखा ग्राम कांद्री में बिन्दु 'ट' से आरंभ होकर उत्तर दिशा में प्लाट संख्यांक 326/1, 317 की पश्चिम सीमा से लगकर गुजरती है और सड़क पार कर बिन्दु 'झ' पर समाप्त होती है।

(भाग - 4)

ठ-ड-ढ-ठ : यह भाग ग्राम टेकाडी में एकमात्र प्लाट संख्या 593 को समाविष्ट करता है।

(भाग - 5)

- ण - त : रेखा ग्राम टेकाडी में बिन्दु 'ण' से आरंभ होकर प्लाट संख्यांक 610, 605 की बाह्य सीमा से लगकर गुजरती है फिर एम.एस.ई.बी. भूमि की बाह्य सीमा से लगकर गुजरती है और बिन्दु 'त' पर मिलती है।

- त - थ : रेखा बिन्दु 'त' से आरंभ होकर पश्चिम दिशा में एम.एस.ई.बी. भूमि की बाह्य सीमा से लगकर गुजरती है तत्पश्चात् दक्षिण दिशा में प्लॉट संख्या 603 की बाह्य सीमा से लगकर गुजरती है और ग्राम टेकाडी में बिन्दु 'थ' पर मिलती है।
- थ - द : रेखा ग्राम टेकाडी में बिन्दु 'थ' से आरंभ होकर प्लॉट संख्यांक 603, 606, 607 की बाह्य सीमा से लगकर गुजरती है और बिन्दु 'द' पर मिलती है।
- द - ध : रेखा ग्राम टेकाडी में बिन्दु 'द' से आरंभ होकर प्लॉट संख्या 607/1, 607/2 की बाह्य सीमा से लगकर गुजरती है फिर उत्तर-पूर्व दिशा में प्लॉट संख्यांक 609/1ए, 609/1बी, 609/2 की बाह्य सीमा से लगकर गुजरती है और सड़क के पूर्व तट पर स्थित बिन्दु 'ध' पर मिलती है।
- ध - न : रेखा ग्राम टेकाडी में बिन्दु 'ध' से आरंभ होकर दक्षिण दिशा में सड़क के पूर्वी तट से लगकर गुजरती है फिर सड़क पार कर सड़क के पश्चिम तट पर स्थित बिन्दु 'न' पर मिलती है।
- न - प : रेखा ग्राम टेकाडी में बिन्दु 'न' से आरंभ होकर उत्तर दिशा में सड़क के पश्चिम तट से लगकर गुजरती है और प्लॉट संख्या 623/3 के निकट सड़क के तट पर स्थित बिन्दु 'प' पर मिलती है।
- प फ-ब-भ : रेखा ग्राम टेकाडी में बिन्दु 'प' से आरंभ होकर प्लॉट संख्या 623/3 के दक्षिण सीमा से लगकर गुजरती है फिर बिन्दु 'फ' से मुड़कर उत्तर दिशा में प्लॉट संख्या 623/3 की पश्चिम सीमा से लगकर गुजरती है फिर बिन्दु 'ब' से पूर्व दिशा में मुड़कर प्लॉट संख्या 623/3 की उत्तरी सीमा से लगकर गुजरती है और प्लॉट संख्या 623/3 के उत्तरी-पूर्व कोने पर स्थित बिन्दु 'भ' पर मिलती है।
- भ - ण : रेखा ग्राम टेकाडी में बिन्दु 'भ' से आरंभ होकर सड़क पार करती है फिर दक्षिण दिशा में सड़क के पूर्वी तट से लगकर गुजरती है और प्लॉट संख्या 610 के निकट सड़क के पूर्वी तट पर स्थित प्रारंभिक बिन्दु 'ण' पर समाप्त होती है।

(भाग - 6)

- म -य-म : यह भाग ग्राम टेकाडी में प्लॉट संख्या 588/1, सरकारी भूमि के भाग को समाविष्ट करता है।

(भाग - 7)

- क1 - ख1 : रेखा ग्राम टेकाडी में बिन्दु 'क1' से आरंभ होकर पूर्व दिशा में प्लॉट संख्या 532 की उत्तरी सीमा से लगकर गुजरती है फिर दक्षिण-पूर्व दिशा में प्लॉट संख्यांक 529, 587 की बाह्य सीमा से लगकर गुजरती है और बिन्दु 'ख1' पर मिलती है।
- ख1 - क1 : रेखा बिन्दु 'ख1' से आरंभ होकर प्लॉट संख्या 587 में से होकर पश्चिम दिशा में प्लॉट संख्या 532 की बाह्य सीमा से लगकर गुजरती है और आरंभिक बिन्दु 'क1' पर समाप्त होती है।

(भाग - 8)

- ग1-घ1-ड.1-ग1 : यह भाग ग्राम टेकाडी में प्लॉट संख्या 538 को समाविष्ट करता है।

(भाग - 9)

- च1 : यह भाग ग्राम टेकाडी में एकमात्र प्लॉट संख्या 581 को समाविष्ट करता है।

(भाग – 10)

छ1-ज1-झ1-

ज1-छ1: यह भाग ग्राम टेकाडी में एकमात्र प्लॉट संख्या 493 का पश्चिमी भाग समाविष्ट करता है।

(भाग – 11)

ट1 – ठ1 : रेखा ग्राम टेकाडी में बिन्दु 'ट1' से आरंभ होकर दक्षिण-पूर्व दिशा में प्लॉट संख्यांक 635, 634/3 की उत्तरी सीमा से लगकर गुजरती है और बिन्दु 'ठ1' पर मिलती है।

ठ1 – ड1 : रेखा बिन्दु 'ठ1' से आरंभ होकर दक्षिण दिशा में प्लॉट संख्यांक 634/3, 635, 632, की बाह्य सीमा से लगकर गुजरती है फिर उत्तर दिशा में प्लॉट संख्यांक 626, 625 बाह्य सीमा से लगकर गुजरती है फिर दक्षिण दिशा की बाह्य सीमा से लगकर गुजरती है और बिन्दु 'ड1' पर मिलती है।

ड1 – ढ1 : रेखा ग्राम टेकाडी में बिन्दु 'ड1' से आरंभ होकर पश्चिम दिशा में प्लॉट संख्यांक 625, 627 की दक्षिण सीमा से लगकर गुजरती है और बिन्दु 'ढ1' पर मिलती है।

ढ1 – ण1 : रेखा बिन्दु 'ढ1' से आरंभ होकर प्लॉट संख्यांक 627, 629, 636/3ब की बाह्य सीमा से लगकर गुजरती है फिर उत्तर दिशा में ग्राम टेकाडी एवं ग्राम गोंडेगांव की सम्मिलित ग्राम सीमा से लगकर गुजरती है और बिन्दु 'ण1' पर मिलती है।

ण1 – ट1 : रेखा बिन्दु 'ण1' से आरंभ होकर पूर्व दिशा में प्लॉट संख्यांक 636/3अ/1, 636/3अ/2, 636/3ब की उत्तरी सीमा से लगकर गुजरती है फिर उत्तर दिशा में प्लॉट संख्या 635 की पश्चिम सीमा से लगकर गुजरती है और आरंभिक बिन्दु 'ट1' पर मिलती है।

(भाग – 12)

त1 : यह भाग ग्राम टेकाडी में एकमात्र प्लॉट संख्या 624/2 को समाविष्ट करता है।

[फा. सं. 43015/09/2020 एलए एण्ड आईआर]

राम शिरोमणि सरोज, उप सचिव

MINISTRY OF COAL

New Delhi, the 11th January, 2021

S. O. 31.—Whereas by the notification of the Government of India in the Ministry of Coal number S. O. 474, dated the 30th June, 2020 issued under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act) and published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 4th July, 2020, the Central Government gave notice of its intention to prospect for coal in 62.03 hectares (approximately) or 153.28 acres (approximately) of the land in the locality specified in the Schedule annexed to that notification ;

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

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire all rights in or over the said land measuring 61.89 hectares (approximately) or 152.93 acres (approximately) described in the Schedule appended hereto:

Note 1: The plan bearing number C-I(E)III/FR/1120-965, dated the 13th November, 2020 of the area covered by this notification may be inspected in the office of the Collector, District Nagpur (Maharashtra) or in the office of the Coal Controller, 1, Council House Street, Kolkata - 700 001 or in the office of the Head of Department or Chief Manager, Western Coalfields Limited (Revenue Department), Coal Estate, Civil Lines, Nagpur, (Maharashtra) – 440 001.

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

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

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

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

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

SCHEDULE

Amalgamated Inder-Kamptee Deep Opencast Mine
Nagpur Area
District Nagpur (Maharashtra)

[Plan bearing number C-I(E)III/FR/1120-965, dated the 13th November, 2020]

All Rights:

Sl. No.	Name of Village	Patwari Circle number	Tahsil	District	Description of land			Total	Remarks
					Tenancy	Government	Forest		
Part I	Kandri	15A	Parseoni	Nagpur	9.53	5.36	0.00	14.89	Part
Part II	Kandri	15A	Parseoni	Nagpur	0.90	0.00	0.00	0.90	Part
Part III	Kandri	15A	Parseoni	Nagpur	7.68	0.56	0.00	8.24	Part
Part IV	Tekadi (Gondegaon)	14	Parseoni	Nagpur	1.46	0.00	0.00	1.46	Part
Part V	Tekadi (Gondegaon)	14	Parseoni	Nagpur	17.22	1.85	0.00	19.07	Part
Part VI	Tekadi (Gondegaon)	14	Parseoni	Nagpur	0.71	0.05	0.00	0.76	Part
Part VII	Tekadi (Gondegaon)	14	Parseoni	Nagpur	1.57	0.00	0.00	1.57	Part
Part VIII	Tekadi (Gondegaon)	14	Parseoni	Nagpur	0.40	0.00	0.00	0.40	Part
Part IX	Tekadi (Gondegaon)	14	Parseoni	Nagpur	0.01	0.00	0.00	0.01	Part
Part X	Tekadi (Gondegaon)	14	Parseoni	Nagpur	0.00	2.02	0.00	2.02	Part

Part XI	Tekadi (Gondegaon)	14	Parseoni	Nagpur	12.17	0.00	0.00	12.17	Part
Part XII	Tekadi (Gondegaon)	14	Parseoni	Nagpur	0.40	0.00	0.00	0.40	Part

Total Area: 61.89 hectares (approximately)

or 152.93 acres (approximately)

Plot numbers to be acquired within acquisition of boundary:

Part I

Village Kandri : 27, 28/1(Part)- 28/2(Part), 29(Part), 32/1(Part), 33/2 (Part),33/1- 33/3, 40 (MIDC), 333(Part) (MIDC), Government land (Part).

Part II

Village Kandri : 32/2

Part III

Village Kandri : 11/1A(Part)- 11/1B(Part), 13/1(Part), 317, 318/1- 318/2, 326/1, Government land (Part).

Part IV

Village Tekadi (Gondegaon) : 593.

Part V

Village Tekadi (Gondegaon) : 597(Part), 603/1/A- 603/1/B- 603/2A- 603/2B, 605/1- 605/2- 605/3, 606/1- 606/2, 607/1- 607/2- 607/2A, 609/1A- 609/1B, 609/2, 610/1A- 610/1B- 610/2- 610/3A- 610/3B- 610/4, 623/3, Government land (Part).

Part VI

Village Tekadi (Gondegaon) : 588/1, Government land (Part) .

Part VII

Village Tekadi (Gondegaon): 529, 532, 587(Part).

Part VIII

Village Tekadi (Gondegaon): 538/1- 538/2- 538/3- 538/4- 538/5- 538/6- 538/7.

Part IX

Village Tekadi (Gondegaon): 581.

Part X

Village Tekadi (Gondegaon): 493 (MIDC) (Part).

Part XI

Village Tekadi (Gondegaon): 625/1- 625/2, 626, 627/1-627/2- 627/3, 629, 630, 631, 632, 634/3, 635, 636/3A/1- 636/3A/2- 636/3B.

Part XII

Village Tekadi (Gondegaon) : 624/2.

Boundary description:

(PART – I)

A – B : Line starts from point 'A' on common boundary of village Tekadi and Kandri, passes in south-east direction along the south bank of Nallah in village Kandri and meets at point 'B' on the bank of Nallah.

B – C – D : Line starts from point 'B' passes in south direction along the outer boundary of plot numbers 40, 33/1, passes through point 'C' then passes in south direction and meets at point 'D' on the west side of road in village Kandri.

D – E – A : Line starts from point 'D', passes in west direction along the outer boundary of plot number 27, turns through point 'E' and passes in north-east direction along the east boundary of plot number 27, then passes through plot number 333 crosses the road, then passes along the common boundary of village Tekadi and Kandri in north-east direction and ends at starting point 'A'.

(PART – II)

F–G–H–F : Encompasses the single plot number 32/2 in village Kandri.

(PART – III)

I – J : Line starts from point 'I' in village Kandri, passes in south-east direction along the outer boundary of plot numbers 317, 318, crosses the road passes along the outer boundary of plot number 12, passes through plot number 11/1, then passes in south direction along the bank of Nallah and meets at point 'J'.

J – K : Line starts from point 'J' passes in west direction, then passes through plot number 13/1, crosses the road passes along the outer boundary of plot number 326/1 and meets at point 'K' in village Kandri.

K – I : Line starts from point 'K' in village Kandri passes along the west boundary of plot numbers 326/1, 317 in north direction crosses the road and ends at starting point 'I' in village Kandri.

(PART – IV)

L–M–N–L : Encompasses the single plot number 593 in village Tekadi.

(PART – V)

O – P : Line starts from point 'O' in village Tekadi, passes along the outer boundary of plot numbers 610, 605, then passes along the outer boundary of MSEB land and meets at point 'P'.

P – Q : Line starts from point 'P', passes in west direction along the outer boundary of MSEB land then passes in south direction along the outer boundary of plot number 603 and meets at point 'Q' in village Tekadi.

Q – R : Line starts from point 'Q', passes along the outer boundary of plot numbers 603, 606, 607 and meets at point 'R' in village Tekadi.

R – S : Line starts from point 'R', passes along the outer boundary of plot numbers 607/1, 607/2 then passes in north-west direction along the outer boundary of plot numbers 609/1A, 609/1B, 609/2 and meets at point 'S' on the east boundary of road.

S – T : Line starts from Point 'S' in village Tekadi, passes along east side of the road in south direction, crosses the road and meets at point 'T' on the west side of the road.

T – U : Line starts from point 'T', passes in north direction along the west side of the road and meets at point 'U' on west side of the road near the plot number 623/3.

U–V–W–X : Line starts from point 'U' passes through south boundary of plot number 623/3, turns in north direction through point 'V' then passes along the west boundary of plot number 623/3 then turns in east direction through point 'W', passes along the north boundary of plot number 623/3 and meets at point 'X' on north-east corner on plot number 623/3.

X – O : Line starts from point 'X' in village Tekadi, crosses the road passes in south direction along the east side of road and ends at starting point 'O' on east side of the road near plot number 610.

(PART – VI)

Y – Z – Y : Encompasses the plot number 588/1 and part Government land in village Tekadi.

(PART – VII)

A1 – B1 : Line starts from point 'A1' in village Tekadi, passes in east direction along the north boundary of plot number 532, then passes in south-east direction along the outer boundary of plot numbers 529, 587 and meets at point 'B1'.

B1 – A1: Line starts from point 'B1', passes through plot number 587 in west direction then passes along the outer boundary of plot number 532 and ends at starting point 'A1' in village Tekadi.

(PART – VIII)

C1 – D1-

E1- C1 : Encompasses the plot number 538 in village Tekadi .

(PART – IX)

F 1: Encompasses the single plot number 581 in village Tekadi .

(PART –X)

G1 – H1 –

I1 – J1- G1: Encompasses the western part of single plot number 493 in village Tekadi.

(PART – XI)

K1 – L1 : Line starts from point 'K1' in village Tekadi, passes in south-east direction along the north boundary of plot numbers 635, 634/3 and meets at point 'L1'.

L1 – M1 : Line starts from point 'L1', passes in south direction along the outer boundary of plot numbers 634/3, 635, 632, passes in east direction along the outer boundary of plot numbers 626, 625 then passes in south direction and meets at point 'M1'.

M 1– N1 : Line starts from point 'M1', passes in west direction along the south boundary of plot numbers 625, 627 and meets at point 'N1'.

N1 – O1 : Line starts from point 'N1', passes along the outer boundary of plot numbers 627, 629, 636/3B passes in north direction along the common village boundary of village Tekadi and Gondegaon and meets at point 'O1'.

O 1– K1 : Line starts from point 'O1', passes in east direction along the north boundary of plot numbers 636/3A/1, 636/3A/2, 636/3/B then passes in north direction along the west boundary of plot number 635 and ends at starting point 'K1'.

(PART – XII)

P1 : This part encompasses single plot number 624/2.

[F. No. 43015/09/2020-LA&IR]

RAM SHIROMANI SAROJ, Dy. Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 7 जनवरी, 2021

का.आ. 32.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स अधीक्षण पुरातत्वविद, भारतीय पुरातत्व सर्वेक्षण, सामंतपुर, भुवनेश्वर एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, भुवनेश्वर के पंचाट (संदर्भ संख्या 64/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 31.12.2020 को प्राप्त हुआ था।

[सं. एल-42025/07/2021-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 7th January, 2021

S.O. 32.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 64/2019) of the Central Government Industrial-Tribunal-cum Labour Court, Bhubaneswar-2 as shown in the Annexure, in the Industrial dispute between the employers in

relation to The Superintending Archeologist, Archaeological Survey of India, Samantrapur, Bhubaneswar Others and their workmen, which was received by the Central Government on 31.12.2020.

[No. L-42025/07/2021-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

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

INDUSTRIAL DISPUTE CASE NO. 64 OF 2019

Dated Bhubaneswar, the 9th December, 2020

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

Between:

1. The Superintending Archeologist,
Archaeological Survey of India,
1st floor, Purattattva Bhavan,
Samantrapur, Bhubaneswar-751002.
2. The Superintending Archeologist,
Archaeological Survey of India (Chemist),
2nd floor, Purattattva Bhavan,
Samantrapur, Bhubaneswar-751002.

...First party managements

AND

Sri Sanjay Dutta Mohapatra,
S/o: Nilakantha Dutta Mohapatra,
At-West Gate, Baseli Sahi,
Jagannath Temple, Puri, Odisha.

...Second party workman

Appearances:

Shri Vijay Prasad Gupta,
Assistant Superintending

Archeological Chemist : For first party managements

Sri Sanjay Dutta Mohapatra : The second party workman himself

AWARD

The Government of India, Ministry of Labour have referred the industrial dispute for adjudication vide its Order No.08(01)/2019/DY.CLC/BBSR/B.IV dated 07.08.2019 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 management of Archaeological Survey of India, Bhubaneswar is justified in denying conferment of temporary status and regularization in service under the scheme, which came into effect from 01.09.1993 to Sri Sanjay Dutta Mohapatra by issuing letter No.BD/CAT/99-2010 is legal and/or justified? If not what relief the workman is entitled to?”

2. Sworn of unnecessary details the case of the second party workman as emerging from his statement of claim is that he was engaged as a Skilled Supervisor on daily wage basis in Chemical Branch of Archaeological Survey of India at Lord Jagannath Temple, Puri since 1990. Prior to that he was also working as a daily wager under the first party managements from 1986 to do such chemical works in different places. In the year, 1993 the Central Government introduced a scheme of permanent status and regularization which came into effect on 1.9.1993. As per the said scheme, the daily wagers on employment/engagement under the Central Government on 1.9.1993 and who completed 240 days engagement in a calendar year preceding to the notification i.e. 10.9.1993 are to be conferred with permanent status. It is the claim of the second party workman that he was engaged for more than 240 days in the calendar year preceding to the introduction of the scheme. As it was five working days in a week in Central Government, he was required to render continuous service for a period of 206 days in the calendar year. He has asserted that he was working as a daily wager on the date of notification of the

scheme, but the managements did not confer him with the permanent status as per the scheme despite he had qualification to hold the post of Laboratory Assistant being a science graduate and four numbers of vacancies of Laboratory Assistants were available under the first party managements. He was assured of employment for such a post of Laboratory Assistant by the managements as he was rendering good services in the archaeological maintenance of Jagannath Temple, Puri. He made a representation to the first party managements for conferment of permanent status to him. When the managements did not pay any heed to his claim, he preferred a case in the learned CAT, Cuttack Bench praying for conferment of permanent status and consequently regularization in terms of the scheme. The management contested his claim taking a stand that he did not complete 240 days as a daily wager in the calendar year. The learned CAT dismissed his application and he preferred a writ before Hon'ble High Court of Orissa vide WP(C) No.14668 of 1999. The managements contested the writ also. The Hon'ble High Court in its order dtd.2.2.2020 directed the managements to reconsider the claim of the second party workman for conferment of employee status by recalculating the number of working days in terms of judgment passed in the case between **Workmen of American Express International Banking Corporation Vrs. Management of American Express International Banking Corporation** reported in AIR 1986 Supreme Court 458. The managements preferred a SLP vide Civil Appeal No.17640 of 2010 before Hon'ble Supreme Court and the same was dismissed in admission stage. Pursuant to the direction of the Hon'ble High Court of Orissa he made a representation to the first party managements. But, his request for permanent status was rejected. Hence, he raised a dispute before the labour machinery and consequent upon which the reference is made as noted above since the conciliation effort was failed to resolve the dispute.

3. The first party managements have filed a joint WS contesting the claim. According to the first party managements the scheme is applicable to casual labourers who are in employment on daily wage basis on the date of issue of office memorandum and who rendered a continuous service of at least 240 days in a calendar year preceding to the scheme. The second party workman was not in employment on the date of notification of this scheme and he did not also rendered service of 240 days in the calendar year as a daily wager. Therefore, he was not entitled to the conferment of permanent status under the scheme. The management has further averred that in working site six days in a week is being adopted whereas Central Govt. Offices are observing five days in a week. The disputed workman having completed less than 240 days engagement in working site and not being employed on the date of notification of this scheme is not entitled to such permanent status. Hence, prayer has been made for rejection of the claim statement.

4. On the pleadings of the parties following issues have been settled for just and proper adjudication of the dispute

ISSUES

- i) Is the reference maintainable in the eye of law?
- ii) Whether the workman was engaged temporarily on daily wage basis by the first party management and continued to work as such from the year 1986 to 1.9.1993 and thereafter ?
- iii) Whether he was employed for more than 206/240 days in the calendar year preceding to 1.1.1993?
- iv) Whether he was entitled to be benefited in the scheme of temporary status and regularization in service in the scheme of Government of India which came into effect from 1.9.1993, if not, to what relief he is entitled to?

5. In order to substantiate his case, the second party workman has examined himself as W.W.1 and filed a large number of documents including a Xerox copy of log book of Archeological Survey of India, Puri showing the workload in Jagannath Temple for the year, 1994-95, Xerox copy of office memorandum of Govt. of India showing introduction of five days in a week in the offices of Govt. of India, Xerox copy of office memorandum of Govt. of India in regard to mode of recruitment of casual labourers and identity card issued to him by the first party management, Xerox copy of experience certificate purportedly issued by some officials of the managements, his representations made to the managements from time to time, the certified copies of the order of learned CAT in OA Case No.35 of 1997, order of the Hon'ble High Court in WP(C) No.14668 of 1999, order of Hon'ble Supreme Court in Civil Appeal No.17640 of 2010 and copies of some correspondences made between the first party managements and the advocate of the workman in connection to compliance of directions of the Hon'ble High Court. On the other hand, one Sri Vijaya Prasad Gupta, Assistant Superintending Archeological Chemist, Bhubaneswar Division has been examined as MW No.1 on behalf of the first party managements and Xerox copies of letter dtd.05.05.1994 issued by the Director, order dtd.02.02.2010 of the Hon'ble High Court passed in OJC No.14668 of 1999, letter dtd.24.9.2010 issued by the SA (Chemist), letter dtd.8.6.995 issued by the Director (Science), order dtd.28.7.1999 of Hon'ble CAT passed in OA No.35 of 1997,

order dtd.28.9.1999 of Hon'ble CAT passed in R.A No.18 of 1999, copy of letter dtd.24.1.2012 issued by Suptdg. Archl. (Chemist), Bhubaneswar and letter dtd.3.4.2012 issued by Asst. Suptdg. Archl. Chemist, Bhubaneswar are filed (marked as Ext.A to Ext.H) by the managements to refute the claim of the second party workman.

FINDING

6. For the sake of convenience all the issues are taken into consideration simultaneously.

It is seen from the pleadings and evidence of the parties that there is no serious dispute to the fact that the second party was engaged on daily wage basis by first party managements for doing archeological maintenance work in the Jagannath Temple, Puri. Though the first party managements had disputed the claim of the second party workman as to his employment/engagement of the date of issue of office memorandum i.e. 10.09.1993, it is emerging from the oral testimony of MW No.1 as well as the pleading of the managements as reflected in OA No.35 of 1997 that the disputant was first engaged on daily wage basis in the year, 1990 and since then he was attached to the work as a casual labourer on daily wage basis. Further, it is seen from the order passed in OA Case that it was the assertion of the first party managements before the learned CAT that the workman was only engaged for 52 days in between 25.11.1990 to 2.2.1991 and thereafter, he was engaged for 71 days in between 19.3.1993 to 31.5.1993. Undisputedly, Ext.C showing the calculation sheet of working days of the second party workman in between 09.11.1992 to 10.11.1993 as prepared by the managements themselves indicates that the workman was engaged for 206.5 days in the preceding year to the notification. It is noticed from the calculation sheet prepared and produced by the managements that the disputant was engaged for at least 25 days in each month in between November to May, whereas he has been shown not engaged throughout the month of June, July and August as well as September, 1993. When the engagement of the disputant was required near about 25 days in a month in between September, 1992 to May, 1993, it is difficult to believe that he was not engaged for a single day in next three months when his engagement is admitted in October, 1993 onwards. It is elicited from cross-examination of MW No.1 that the calculation sheet is prepared on the basis of muster roll showing engagement of the workman. The said muster roll is available in the office. When there is inconsistency and discrepancy in the pleadings advanced by the managements before the learned CAT and in this Tribunal in respect of the number of days engaged as casual labourer and availability of muster roll is admitted as well as there is no serious dispute to the employment of the workman as a casual labourer from the year, 1990 it has to be presumed that the workman has discharged his burden/onus of proving that he was under employment of the first party managements for more than 240 days as a casual labourer in the preceding year to the OM introducing permanent status. He was a daily wager on the date of notification of the scheme. Thereby, two conditions preceded to conferment of permanent status are established. Now the burden shifts to the managements to refute the presumption.

That apart, it is not disputed that the organization of the first party management is a Central Government organization where five working days in a week is adopted. But, it is the claim of the management that five working days in a week is adopted in the administrative offices whereas works executed at site is six days in a week. The office memorandum of the Govt. of India in this regard as filed by the managements does not suggest that five days in a week in the administrative offices of the Govt. of India is not applicable to the working site. As per the said office memorandum the working hour is from 10 AM to 6 PM. There is nothing either in the averment of the managements or in oral evidence of MW No.1 to suggest or to show that the second party workman was engaged less than 8 hours in a day so as to his working days could be counted six days in a week. Hence, as per the own pleading and evidence of the managements the workman is found to have completed 206 days in the preceding year to the notification of the OM if five days in a week is counted for calculating the period of his engagement keeping in view the provision of sections 25-F and 25-B of ID Act is taken into consideration. The order dtd.2.2.2010 of Hon'ble High Court passed in OJC No.14668 of 1999 mandates that the claim of the workman for permanent status is to be taken into consideration having regard to number of days engaged in preceding year vis-à-vis recalculating the working days in terms of judgment passed in the case between **Workmen of American Express International Banking Corporation Vrs. Management of American Express International Banking Corporation** reported in AIR 1986 Supreme Court 458. Had it been shown it can be said being five working days in a week the workman completed 206 working days in the preceding year and thereby, he is entitled to conferment of permanent status as per the scheme. The managements have also not given explanation for non-production of the muster roll from which the actual number of days on engagement of the second party workman could be ascertained. When the first party

managements have shown the engagement of the workman for more than 20 to 25 days in a month in between October, 1992 to May 1993 it is difficult to believe on the basis of calculation sheet filed by the management that the workman was not engaged for a single day in between June to September, 1993. Hence, the managements fail to dislodge the inference as drawn earlier that the workman completed 240 days engagement as a casual labourer preceding to the OM.

The workman is a daily wager and as such he is not expected to be in possession of any record or document to establish his claim that he worked for 240 days in the calendar year preceding to the OM. Being a daily wager he is also not excepted to show that he was engaged as a casual labourer and continued as such when the OM was introduced. The managements being in possession of the muster roll and other connecting papers are required to adduce credible evidence to refute the claim of the workman when it is not disputed by them that the workman was working under their establishment as a casual labourer to carry out certain works in Jagannath Temple and they have admitted through a calculated sheet prepared by themselves showing the engagement of the disputant for 206.5 days in the preceding year. In the facts and circumstances as discussed above, it is to be held that the disputant workman was working as a casual labourer on daily wage basis under the first party managements on the date of introduction of the scheme of permanent status and he completed 240 days engagement as a casual labourer in the calendar year preceding to the date of notification of the OM. It is not out of place to note here that in the case between **Union of India and Another Vrs. Mohan Pal Etc. Etc. in Appeal (civil) 3168 of 2002** the Hon'ble Supreme Court have set out that *in order to acquire 'temporary' status, the casual labourer should have been in employment as on the date of commencement of the Scheme and he should have also rendered a continuous service of at least one year which mean that he should have been engaged for a period of at least 240 days in a year or 206 days in case of offices observing 5 days a week*. As two conditions are fulfilled for conferment of permanent status as per the scheme introduced on 10.9.1993 the workman is entitled to avail the benefit under the scheme.

Having regard to the pleadings of the parties that the second party was engaged on daily wage basis it can be said that employee-employer relationship was existing between the parties on the date of introduction of OM. It is also emerging from the pleadings that the disputant was a casual labourer till he was not provided engagement from the year, 1997. There is nothing either in the pleading or evidence of the managements to establish that the disputant was provided notice pay and retrenchment compensation as required under section 25-F of the Act before refusal of employment to him. When the reference is confined to decide if the claim of the second party workman for conferment of permanent status is justified and legal, and to what relief he is entitled to, it would not be outside the jurisdiction of the Tribunal to hold the managements to be duty bound under the scheme of permanent status to confer such permanent status to the workman w.e.f.10.9.1993 as the workman was under employment as a casual labourer as well as completed 206/240 working days preceding to the date of notification of the scheme. Had he been continuing in the work as a casual labourer he could have been conferred with the permanent status and availed benefits of the scheme including his regularization in service. But, the workman did not render any service from the year, 1996-97 onwards due to his disengagement. His such disengagement being not in conformity to the provisions of section 25-F is illegal.

Having regard to the findings as discussed above it would be just and appropriate to direct to the first party managements to confer the permanent status to the workman from the date of notification of the scheme as if he deemed to be continuing in service. Hence, the workman shall be entitled to all the benefits as available to a workman conferred with permanent status from the date of introduction of the scheme, but he is not entitled to financial benefits accrued to him for the period of his non-engagement till the notification of the Award on the principle of "no work no pay". The managements are directed to extend all benefits of permanent status as well as regularization of his service as per the scheme within two months of notification of the Award deeming that the second party is continuing in engagement, failing which the workman is entitled to 6.5% interest on the financial benefits from the date of notification of the Award till the benefit is extended to him.

Accordingly the reference is answered and Award is passed.

Dictated and corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 7 जनवरी, 2021

का.आ. 33.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स एडीए और सहायक अधीक्षक, डाक घर, होसापेटे सब-डिवीजन, होसपेटे, बेंगलोर (कर्नाटक), पोस्टमास्टर जनरल, एनके क्षेत्र, धारवाड़ श्री के नागराजा, कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलोर के पंचाट (संदर्भ संख्या 03/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 05.01.2021 को प्राप्त हुए थे।

[सं. एल-42025/07/2021-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 7th January, 2021

S.O. 33.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947) the Central Government hereby publishes the award (Ref. No. 03/2019) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the Industrial dispute between Sh Nagaraja and the employers in relation to The ADA & Asst Supdt. Of Post Offices, Hosapete Sub-Division, Hosapete Bangalore (Karnataka) and The Post Master General, NK Region, Dharward, Sh K Nagaraja, which were received by the Central Government on 05.01.2021.

[No. L-42025/07/2021-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**DATED : 31ST DECEMBER, 2020**PRESENT** : JUSTICE SMT. RATNAKALA, Presiding Officer**ID 03/2019****I Party**

Sh. K Nagaraja,
S/o Jutlappa,
R/o Kurekappa Village,
Sandur Taluk,
Bellary District - 583 123.

II Party

1. ADA & Asst. Supdt. of Post Offices,
Hosapete Sub-Division,
Hosapete - 583 201.
2. The Post Master General,
NK Region, Dharward - 580001.

Appearance

Advocate for I Party : Mr. Basavaraj B. Advani

Advocate for II Party : Smt. R Vijayakumari

AWARD

It is a petition filed under Sec 2-A read with Sec 10 of the Industrial Dispute Act, 1947 (for brevity 'the Act'). The petitioner is challenging the penalty of Removal from Service dated 13.02.2013 imposed on him by the Disciplinary Authority. His case is, he was the permanent employee of the Respondent working as GDSMC at Challagurki Post Office of Ballari District; on his absence for few days on health grounds, the Disciplinary Authority initiated enquiry against him: the Enquiry was concluded in one day on obtaining his confession statement: the Enquiry Officer has drawn his finding holding that the workman is guilty of the charges. The Domestic Enquiry was held without providing sufficient opportunity to him to defend his case: the confession statement was dictated and obtained by the Enquiry Officer to suit their motive against him. The opportunity of

cross examination of the Reporting Official was taken by the Enquiry Officer: the Enquiry proceeding was drawn in English, later on the statement of the workman was recorded in Kannada on the dictation of the Enquiry Officer: he was threatened to sign the statement otherwise to face drastic consequence. The major penalty of Removal from Service does not commensurate to the alleged act of misconduct.

2. The claim is contested by the 2nd Party on the following lines : he was not a permanent employee, his service was governed by Gramina Dak Sevaks (Conduct and Engagement) Rules 2011: he remained absent from 01.12.2011 unauthorisedly: he remained absent for a period of 83 days from 02.09.2011 to 30.11.2011 on the ground of ill health of himself and his family member. Again he applied for LWA from 01.12.2011 to 31.12.2011, same was not granted: he was directed to join duty vide letter dated 15.12.2011, same is served on him, but he did not report to duty. Another call notice dated 16.01.2012 was sent to him through RPAD, but the postal cover returned unserved with remarks “Addressee not in Station”. Another notice dated 18.02.2012 was delivered on 21.02.2012; he did not join duty and not even responded to the notice; he remained absent totally for a period of 374 days unauthorisedly. During the enquiry he did not utilise the opportunities given to him: he failed to submit his written statement. During the Preliminary Inquiry the charges were read over to him in Kannada language, after understanding the same he admitted the charges. The Enquiry Officer concluded the enquiry since he admitted the charges. The Enquiry Officer submitted his report to the 1st Respondent on 21.01.2013 holding that the charges as proved. The Authority issued show cause notice to the petitioner on 28.01.2013 but he did not submit his reply. Vide order dated 13.02.2013 he was removed from service: he preferred appeal after a lapse of 1 year against the order of removal and the same is rejected on 24.02.2014. He filed a petition dated 24.03.2014 before D.P.S N K Region, Dharwad: said petition was dismissed vide memo dated 22.07.2014, by holding that there is inordinate delay in submitting the appeal and the delay is not sufficiently explained.

3. It is further contended by the 2nd Party that, during the Domestic Enquiry sufficient opportunity was extended to him by the Enquiry Officer: his allegation against the Enquiry Proceedings, recording his confession under threat are all false: he had unequivocally admitted the charge before the Enquiry Officer: he had all opportunity to defend himself during the enquiry or after the enquiry by replying to the showcause notice issued by the 1st Respondent. He has failed to utilise the opportunity: he is guilty of misconduct on intentional absence unauthorisedly. The action taken against him is clear and justifiable.

4. Subsequent to registration of the case, the 1st Party has not appeared before this Tribunal to prosecute his case. The notice issued to him though was served none appeared to represent him. He is not diligent in prosecuting his claim. Hence, it is inevitable to dismiss the petition for non-prosecution.

AWARD

The petition filed by Sh. K. Nagaraja under Sec 2-A read with Sec 10 of the Industrial Dispute Act, 1947 is dismissed for non-prosecution. He is not entitled for any relief.

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

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 7 जनवरी, 2021

का.आ. 34.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार मेसर्स उप-महाप्रबंधक, एमएमटीसी लिमिटेड, जगतसिंहपुर, (ओडिशा) और प्रबंधक, स्टार वन सिक्योरिटी सर्विसेज, ठेकेदार, जगतसिंहपुर, (ओडिशा) एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, भुवनेश्वर के पंचाट (संदर्भ संख्या 92/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 31.12.2020 को प्राप्त हुआ था।

[सं. एल-42012/47/2012-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 7th January, 2021

S.O. 34.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 92/2012) of the Central Government Industrial-Tribunal-cum Labour Court, Bhubaneswar-2 as shown in the Annexure, in the Industrial dispute between the employers in relation to The Dy. General Manager, MMTC Ltd, Jagatsinghpur, Orissa and The Manager, Star One Security Services, Contractor, Jagatsinghpur, Orissa, and their workmen, which was received by the Central Government on 31.12.2020.

[No. L-42012/47/2012-IR (DU)]

D. K. HIMANSHU, Under Secy.

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. 92 OF 2012
Dated Bhubaneswar, the 11th December, 2020

Between:

1. The Manager,
M/s. Star One Security Services, Contractor,
M/s. MMTC Ltd., Madhuban, Paradip,
PO : Paradip Port, Plot No.3/93,
Brundaban Colony, Dt. Jagatsinghpur,
Orissa.

2. The Dy. General Manager,
M/s. MMTC Ltd.,
Madhuban, Paradip,
Near Jagannath Temple,
Paradip Port, Dt.: Jagatsinghpur,
Orissa.

...First Party Managements

(AND)

The Working President,
Paradip Dock & Transport Workers' Union,
Nisamani Bhawan, Paradip Oort,
Dist.: Jagatsinghpur, Orissa.

... Second Party Workman

Appearances:

None : For management No.1

Shri Ch. S. Prasad Rao,
Dy. General Manager,
Authorised Representative : For the management No. 2

Sudhaka Mantry
Working President : For and on behalf of the workman/Union

AWARD

The Government of India, Ministry of Labour have referred the industrial dispute for adjudication vide its Order No. L-42012/47/2012-IR(DU) 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 on the part of the M/s. Star One Security Services, Contractor, working under M/s.MMTC Ltd., Paradip in terminating the services of Shri Kanhu Charan Senapati, Electrician without complying section-25(F) of Industrial Disputes Act, 1947 is legal and justified? If not, what relief the workman is entitled to? (b) Whether the action on the part of the management of MMTC Ltd., Paradip engaging Shri Kanhu Charan Senapati, Electrician in PPT in emergency work and issuing experience certificate and not considering for his absorption in MMTC is justified?”

2. Bereft of unnecessary details, the case of the second party workman as emerges from his claim statement is that he was working under the management No.2 M/s. MMTC Ltd from 12.1.2002 to 28.2.2010 continuously when his service was terminated. In the process, he rendered continuous service to management No.2 for more than 8 years. But, he was not provided notice pay as well as retrenchment compensation as required under the provisions of section 25-F of ID Act before his termination. He was receiving wages of Rs.3500/- per month. It is his assertion that though he was engaged through different contractors for different spans of period, he was paid wages by the first party management No.2 and he was working under direct control and supervision of the authority of the said management. His termination without notice pay and retrenchment compensation being illegal he is entitled to reinstatement in service with full back wages and other service benefits.

3. The contractor i.e. M/s.Star One Security Services (management No.1) did not appear and contest the claim in spite of service of notice, as a result of which it has been set ex-parte. The management No.2 M/s.MMTC Ltd. has contested the claim pleading, inter alia, that no employer-employee relationship was there between the parties. The second party workman was not given any appointment directly or indirectly by the management No.2. The management No.2 has its own Recruitment Rule and as such question did not arise to engage the disputant directly under the control and supervision of the management No.2 without following the Recruitment Rule. The stand the of the management No.2 is that contractors are being entrusted from time to time for the purpose of electrical maintenance and repair work for its quarters. In between 2002 to 2010 different contractors were issued with work orders for such maintenance and repair work. The second party workman was last engaged by the contractor M/s. Star One Security Services and the said contractor is only answerable to the termination of the disputant, if any. There being no employer-employee relationship between the parties the reference is not maintainable in the eye of law. As the workman was not appointed or engaged by the first party management No.2, question did not arise for termination of his service by it. Hence, prayer is made for the rejection of the claim statement 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 services of Shri Kanhu Charan Senapati was terminated by M/s. Star One Security Services, Contractor of M/s. MMTC Limited in violation of Section 25-F of the ID Act?
- (ii) Whether the action of the M/s. MMTC Limited, Paradip engaging Shri Kanh Charan Senapati, Electrician in PPT in emergency work and not absorbing in MMTC is justified?
- (iii) If so, to what relief the second party-workman is entitled?

5. In order to substantiate his case while the second party besides examining himself as WW No.1 has adduced evidence of another witness WW No.2 and filed the Xerox copies of his entry pass permit issued by Traffic Department to work in the prohibited area of MMTC, pass issued to him by the Paradip Port Trust to work in the prohibited area of MMTC, permit issued by the MMTC to Paradip Port Trust for issuing passes, letters of MMTC issued to Paradip Port Trust to issue gate passes, experience certificates issued by MMTC to him, provident fund slips issued to him, attendance and maintenance registers maintained by the first party management No.2, electrical workman certificate issued in his favour, his ration card, his bank pass book, Voter List-II of Municipality, his Voter I-card, work orders issued in favour of the contractors by the MMTC, his matric certificate, his dock entry permits, letter dtd.20.07.2010 addressed to DLO issued by the management, letter dtd. 22.11.2020 addressed to ALC(C) issued by the management, letter dtd.19.08.2020 addressed to DLO, Jagatsinghpur by MMTC Ltd which are marked as Ext.1 to Ext.18. The first party management No.2, on the other hand has examined one witness, namely Bhaskar Prasad Mohapatra, Deputy General Manager and proved the copy of the written statement filed by it before ALC(C), Bhubaneswar as Ext.A to refute the claim of the second party workman.

FINDINGS

ISSUE NO. II

6. Out of the issues as framed by this Court, issue No. II being on the question of absorption of the second party by management No.2 under it, the same is taken up first part for determination.

As it emerges from the pleadings of the second party workman Union and oral testimony of the disputant workman (WW No. 1) that the disputant was engaged in the electrical maintenance and repair work for the quarters of the first party management No. 2 through different contractors for different periods from 12.01.2002 onwards till alleged termination of his service in January, 2010. There is neither any specific pleading or evidence to the effect that the workman was receiving wages directly from the management No. 2 or

he was directly under the control and supervision of the said management. In order to establish the relationship of employer-employee between the management No. 2 and the workman, the disputant has to establish (i) that he was receiving salary/wages from the employer i.e. the management No. 2 and (ii) the management No.2 was controlling and supervising his employment and work. In the above aspects, it is evident that the disputant was receiving wages from his contractors throughout the period of his employment for electrical maintenance and repair work. There is also no specific pleading and evidence that any agreement between the contractor and the principal employer i.e., the first party management No. 2 or the issuance of work order to different contractors were camouflage to deprive the disputant's service benefits from management No. 2. The EPF slips relied upon by the disputant do not reveal that the employer contribution was paid by the management No.2, for which the said management can be treated/presumed his employer. Undoubtedly, gate pass of the workman was issued by the Security Officer-in-Charge of Paradip Port Trust by showing the disputant's entry to the prohibited area for purpose of Electrical installation/electrical work for M/s. MMTC Ltd. But the same does not establish that the gate pass was issued to him on account of he being an employee of the first party management No. 2 or he was issued with the gate pass on the request of the said management. Similarly, occupation of a quarter of M/s. MMTC Ltd. by the disputant does not lead to a conclusion that he was employed or engaged by the management of MMTC Ltd. and therefore, employer-employee relationship existed between them.

On the other hand, it is evident from the claim statement as well as oral testimony of the disputant that he was terminated from service w.e.f.1.3.2010 by the first party management No. 1 without compliance of mandatory provisions of section 25-F the Act. Be that as it may, the disputant cannot be held as an employee under the management No. 2. That apart, he has admitted in his cross-examination that he had no document to show that he was appointed as an Electrician by the management No. 2 or the said management had issued any experience certificate to him. He has also admitted that there was no advertisement for the post of Electrician under management No. 2. No interview was ever held by the management No. 2 for appointment of any Electrician. Under the above pleadings and evidence it can be safely concluded that there was no employer-employee relationship between the first party management No.2 and the disputant. In that view of the matter the disputant cannot be said to be a workman of the management No.2. Hence, any dispute raised by him against the said management for regularisation of service under the said management cannot be maintainable. Accordingly the issue No.2 is answered in favour of the management No.2.

ISSUE NO. I

7. Coming to the issue it is found that the disputant worked for 28 days only under the first party management No.1. It is his own pleading and evidence that his service was hired through different contractors. MW No.1 has categorically stated that the disputant was working under different contractors. Thus, it is evident that the disputant did not work continuously for 240 days in a calendar year under management No.1 so as to make it liable for any relief on account of his termination being made without notice pay and retrenchment compensation. So, this issue is answered against the disputant workman.

ISSUE NO. III

8. The disputant workman has claimed reinstatement and regularisation of service under management No.2 on a contention that he rendered service to the said company for more than 8 years with all sincerity and devotion of work. He was allotted with a quarter by the said management for his service to the company. Though contractors were changed and work orders were issued to different contractors from time to time, he was discharging his duties under the management No.2 being engaged in name shake by those contractors. Therefore, keeping in view the long period of service rendered by him he shall be regularised as an Electrician under the employment of management No.2. But, keeping in view of the finding given in issue No.1 his claim against management No.2 has no legal sanctity. The dispute raised by him in this regard is not maintainable against management No.2 on account of there being no employer-employee relationship between them. Hence, this Tribunal cannot exercise its jurisdiction and pass an Award directing the management No.2 to reinstate and regularise the service of the disputant workman as an Electrician in his establishment. However, the disputant is at liberty to make a representation to the authority of the first party management No.2 and the management No.2 should dispose of his representation sympathetically.

Accordingly the reference is answered and Award is passed.

Dictated and corrected by me.

B.C. RATH, Presiding Officer

नई दिल्ली, 7 जनवरी, 2021

का.आ. 35.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स महासचिव, साउथ एमसीडी, नॉर्थ एमसीडी, ईस्ट एमसीडी, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नई दिल्ली -1 के पंचाट (शुद्धिपत्र) (संदर्भ संख्या 165/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 21.12.2020 को प्राप्त हुए थे।

[सं. एल-42011/76/2015-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 7th January, 2021

S.O. 35.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Corrigendum) (Ref. No. 165/2015) of the Central Government Industrial Tribunal-cum-Labour Court New Delhi -1 as shown in the Annexure, in the Industrial dispute between the employers in relation to The General Secretary, South MCD, North MCD, East MCD, New Delhi & Others, and their workmen which were received by the Central Government on 21.12.2020.

[No. L-42011/76/2015-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

**BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL-TRIBUNAL-CUM
LABOUR COURT No. 1, DELHI**

ID No. 165/2015

General Secretary

...Workman

Versus

MCD, Delhi

...Management

CORRIGENDUM

20.01.2020

Present: Shri B. K. Prasad, Ld. A/R for the claimant.
Ms. Savita Chauhan, Ld. A/R for the SDMC.
Shri Rahul Verma, Ld. A/R for the NDMC.

The matter came up on account of an application filed by the claimant for correction of the award. Copy of the application was served on the Ld. A/R for the management No.1, i.e. SDMC and management No.2 i.e. NDMC. The award has already been passed against management No.3, i.e. ex-parte.

In the petition filed under Rule 28 of the Industrial Dispute (Central) Rules 1957 the claimant workmen have stated that reference was received to decide in the following manner,

“Whether the sweeper/Safai Karamcharis are entitled to the enhanced under the 1st ACP Scheme w.e.f. 09.08.1999 after completion of 12 years of service in the pay scale of Rs.2750-4400/- in place of 2610-4000/- and 2nd ACP after completion of 24 years in the pay scale of 3050-4590/- in place of 2750-4400/- in the sanitary wing of the management along with all consequential benefits. If so what directions are necessary in this respect”.

It has also been pleaded that this tribunal while passing the award due to a clerical error though granted the relief in favour of the workmen instead of mentioning that the workmen after completion of 12 years of service are entitled to enhanced first ACP in the pay scale of 2610-4000 which is the old scale which should have been mentioned as 2750-4400. Similarly while allowing second ACP the tribunal held that the persons on completion of 24 years are entitled to second ACP in the scale of 2750-4400 instead of mentioning Rs. 3050 to

4590. He also pleaded that para 16 of the Award may be corrected to that effect which is nothing but a clerical omission apparent on the face of the record.

The Ld. A/Rs for the management agreed that the error has occurred due to a clerical slip and unless the same is corrected the award cannot be implemented. Considering the same the application filed by the claimant/workman is allowed and Para 16 of the award is corrected accordingly as follows.

Para 16:- In the aforesaid facts and circumstances of the case, I find merit in the claim of the workmen and it is held that the workmen viz Sweepers/Safai Karamcharis are entitled to get first financial up gradation on completion of 12 years of regular services. In the pay scale of Rs. 2750-4400/- viz pay scale of Sanitary Guide and to get second financial up gradation on completion of 24 years or regular service, in pay scale of Rs.3050-4590 as per their hierarchy, subject to fulfilment of conditions as specified in RRs and under the ACP Scheme dated 09/08/1999. The management is directed to grant financial benefits to all the eligible workmen Safai Karamcharis under the ACP Scheme dated 09/08/2008 and arrears of the same be paid to all such eligible workmen, within three months from the date of publication of this award. Award is passed accordingly.

Office is directed to communicate the matter to the Appropriate Government for publication of a corrigendum in this regard.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 7 जनवरी, 2021

का.आ. 36.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्र सरकार ने इसके लिए केंद्र सरकार के औद्योगिक न्यायाधिकरण सह श्रम न्यायालय, भुवनेश्वर-2 के पुरस्कार (आईडी संख्या 68/2016) को प्रकाशित किया। अनुबंध में, प्रबंध निदेशक, त्रिवेणी अर्थ मूवर्स प्राइवेट लिमिटेड, तमिलनाडु, इंद्राणी पटनायक माइंस, और श्री पंचरत्न महाकुड के संबंध में नियोक्ताओं के बीच औद्योगिक विवाद में, जो 31.12.2020 को केंद्र सरकार द्वारा प्राप्त किया गया था।

[सं. एल-42025/07/2021-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 7th January, 2021

S.O. 36.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 68/2016) of the Central Government Industrial-Tribunal-cum Labour Court, Bhubaneswar-2 as shown in the Annexure, in the Industrial dispute between the employers in relation to The Managing Director, Triveni Earth Movers Private Ltd, Tamil Nadu, Indrani Patnaik Mines, and Sri Pancharatna Mahakud, which was received by the Central Government on 31.12.2020.

[No. L-42025/07/2021-IR (DU)]

D. K. HIMANSHU, Under Secy.

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. 68 OF 2016 [U/s. 2-A(2)]

Dated Bhubaneswar, the 10th December, 2020

Between:

1. The Managing Director,
M/s.Triveni Earth Movers Private Ltd.,
Regd. Office : No.22/110, Greenways Road,
FAIRLANDS, SALEM, Tamil Nadu-536016,
Site Office : At: Unchabali, Post : Eamebari,
Dist.: Keonjhar-758034, Odisha.

2. Mines Manager,
M/s. Indrani Patnaik Mines,
H.O : -A/6, Commercial Estate,
Civil Township, Rourkela,
Dist.: Sundargarh,
Site Office : At : Unchabali Iron Ore Site,
PO : Bamebari, Dist.: Keonjhar-758034,
Odisha.

...First Party Managements

(AND)

Sri Pancharatna Mahakud, aged about 32 yrs.,
S/o: Duryodhan Mahakud,
Permanent Resident of
At/PO : Badadumuria, Via-Ukhunda,
PS : Baria, Dist.: Keonjhar-758032.

...Second Party Workman

Appearances:

Sri Bishnu Charan Swain,
Asst. Vice President (HR & IR)

Authorised Representative : For management No.1.
None : For the management No. 2
Sri Pancharatna Mahakud : The workman himself

AWARD

This Award is directed against an application preferred U/s.2-A(2) of ID Act (amended Act, 2010), 1947 wherein and whereby the applicant-second party workman has challenged his dismissal.

2. The case of the applicant-second party workman in short, is that he was initially appointed as "Despatch Supervisor" w.e.f.1st May, 2008 under the establishment of first party management No.1. The said management is outsourced by the management No.2 for mining operation in its iron ore mines at Unchhabali, Keonjhar. He was discharging his duties with all sincerity and devotion. He and other co-workmen formed a trade union in the name and style of "Tribeni Mazdoor Sabha" in order to secure better service conditions for the workmen engaged in the establishment of first party management No.1. It is the claim of the applicant-second party workman that he was elected as President of the said Trade Union and being President of the Union he used to oppose unfair practices of the administration of the first party management No.1. Being aggrieved with such union activities of the applicant-second party workman the management No.1 was vindictive towards him. His wife was suffering from different ailments, for which he applied for leave for medical treatment of his wife from 3.5.2015 onwards. The leave application was submitted by E-mail. It is alleged by the applicant-second party workman that the management No.1 adopted an unfair labour practice and issued a transfer order by E-mail dtd.4.5.2015 directing him to join in another project in the State of Andhra Pradesh by 9.5.2015. Despite his application for leave on the ground of illness and medical treatment of his wife as well as on the ground of self illness the first party management No.1 transferred him to the project at Andhra Pradesh deliberately and he was given a short period to join in his new assignment. When he could not report to his duty, the first party management No.1 issued a charge sheet without considering his leave application. Enquiring Officer was appointed with haste and the enquiry was conducted ex-parte in gross violation of principles of natural justice and such ex-parte enquiry was also prejudicial to his interest as he was not given due opportunity to defend himself in the departmental enquiry. Even, the management No.1 did not allow him to appear before the medical board for deciding his fitness when he communicated that he would appear before the medical board being declared medically fit by his treating Govt. Doctor. As the first party management No.1 was bent upon for his removal from service, ex-parte enquiry was held and on the findings of Enquiring Officer his service was terminated w.e.f.20.6.2015 without compliance of a second show cause notice. There was no previous misconduct or any serious misconduct on his part except his inability to join within a short span of time in the new place of posting due to self illness and illness of his wife. There was no serious misdeed or misconduct warranting his dismissal from service. Therefore, according to him the first party management No.1 adopted an unfair labour practice and vindictively terminated his service by holding an ex-parte departmental enquiry. It is also asserted by him that the imposed punishment was not also in conformity to the gravity of the alleged misconduct on his part. So, he raised a dispute before the labour machinery and when the conciliation was failed before the labour machinery he was issued with a Failure Report of conciliation. Hence, this case.

3. The first party management No.2 did not appear and contest the claim in spite of service of notice, as a result of which it has been set ex-parte. The first party management No.1 has contested the claim stating, inter alia, that the assertions made by the workman in his statement of claim are not correct. The second party

workman was issued with his transfer order on 2.5.2015 and due to exigency of company work and manpower requirement in its new site project the second party workman was relieved on the same day and directed to report to his duty on 9.5.2015. He was also offered an amount of Rs.5,000/- from the Time Office to meet his transit expenses. Despite issuance of his transfer order the applicant refused to receive the same, for which the transfer order was notified and displayed in the notice board at the working site of the disputant on 2.5.2015. After issuance of such transfer order the second party workman applied for one month leave on medical ground through E-mail. As the second party workman refused to receive the transfer order when it was offered to him in presence of officers, the said order was also issued to him by E-mail on 4.5.2015. It has been asserted by the first party management No.1 that a copy of his transfer order was sent to the second party workman in his available address through Regd. Post. The workman also refused to receive the postal letter and did not join in his new place of posting. Hence, he was again issued with a letter on 14.5.2015 through Regd. Post wherein he was advised to join at his new place of posting and submit his leave application to the Reporting Officer. As the second party workman did not comply the direction of the authority, he was issued with a charge sheet on 18.5.2015 under the provisions of sub clauses-(1), (19), (43) and (72) of clause-15 of the Certified Standing Order of the company. On being accused of wilful insubordination or disobedience of lawful and reasonable order of superior authority, refusal to accept or take notice of communications meant for him, unauthorized absence of duty etc., he was called upon to submit his show cause on the charge sheet within 48 hours of receipt of the charge sheet. According to the first party management No.1 the disputant submitted his explanation on 24.5.2015 and the same being found unsatisfactory it was decided to hold an enquiry. An officer in the rank of DGM was appointed as Enquiring Officer and an officer of AGM(HR) rank was appointed as the Presenting Officer. The Enquiring Officer issued notice to the disputant for his appearance before him at KMC Project Office on 3.6.2015. But, the second party workman informed the Enquiring Officer vide his letter dtd.2.6.2015 that he was unable to attend the enquiry till he is medically fit. On receipt of the reply the workman was directed to appear before the medical board for his fitness/illness examination. The medical board headed by Dr. N.C.Kalanan was constituted to examine the disputant on 5.6.2015 at 10 AM in Hi-tech Diagnostic Centre, Joda. But, the workman did not appear before the medical board despite intimation to him as to the place and time of sitting of the Board. He was again informed on 6.6.2015 to appear before the Medical Board on 11.6.2015. It is averred by the first party management No.1 that enquiry committee met as per the schedule date i.e. 3.6.2015. As the workman was found absent, the committee sat on 8.6.2015 and again on 13.6.2015. As the second party workman was found absent despite prior intimation to him about such sitting of enquiry committee, it was decided to conduct the enquiry ex-parte. In the enquiry, officials of the first party management No.1 were examined and the documents placed before the enquiry committee, were marked as Ext.1 to Ext.24. Taking into consideration the materials placed before the enquiry committee finding was submitted to the Disciplinary authority vide Enquiry Report dtd.13.6.2015. Taking the findings of the Enquiring Officer into consideration the punishment of termination of service was imposed in the departmental proceeding. The workman was communicated about his dismissal on a letter dtd.20.6.2015 issued by Regd. Post with AD. According to the first party management No.1 the enquiry was conducted in conformity to the provisions of Certified Standing Order of the company and principles of natural justice. All sorts of opportunities were afforded to the second party workman to defend himself in the departmental enquiry. But, he did not participate in the enquiry deliberately as well as he did not appear before the medical board since he was not having any ground or reason for his non-reporting to duty and unauthorized absence from his duty. Since the Certified Standing Order prescribes punishment of dismissal/removal for unauthorized absence, there was no disproportionate in imposing the order of removal for the misconduct on the part of the second party workman. Hence, prayer is made for the rejection of the claim statement of the applicant.

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

ISSUES

- (i) Whether the departmental enquiry was held in fair and proper manner in conformity to the provisions of Certified Standing Order of the Company and principles of natural justice?
- (ii) Whether the order of removal of the applicant-second party workman was legal and/or justified?
- (iii) If not, what relief the applicant-second party workman is entitled to?

5. The applicant- second party workman has examined himself as WW No.1 and relied upon documents like copies of his letter of appointment dtd.01.05.2008, charge sheets dtd.18.5.2015 & 26.5.2015, replies submitted by him on 24.5.2015 & 02.06.2015, his medical documents, complaint petition dtd.8.7.2015 submitted by him before RLC(C), Rourkela, certificate issued by the RLC(C), Rourkela, application for registration of Trade Union, his termination order dtd.20.06.2015, information sought under RTI Act by him, his leave application dtd.04.07.2013, doctor's prescriptions dtd.04.08.2013, 09.08.2013 & 20.05.2014, outdoor patient ticket dtd.30.06.2014, his leave application dtd.09.07.2014, doctor's prescription with the ultrasound report dtd.15.07.2014, his leave applications dtd.24.12.2014 & 01.02.2015, doctor's prescription dtd.09.02.2015 with prescription dtd.23.03.2015, his E-mail dtd.02.12.2015, his leave application dtd.23.03.2015, paper

clipping “The Samaj” dtd.03.05.2015, paper clipping “The Pragatibadi”, paper clipping “The Sambad” his E-mail dtd.03.05.2015, letters dtd.02.05.2015, 04.05.2015 of the management No.1 & Regd. Postal Envelop dtd.05.05.2015 in which the letters sent by it, letter dtd.04.05.2015 and postal envelop dtd.07.05.2015 of the management No.1, is letter dtd.09.05.2015 with postal receipt, his E-mail dtd.09.05.2015, letter dtd.14.05.2015 of management, his E-mail dtd.18.05.2015, letter dtd.18.05.2015 of management, E-mail dtd.19.05.2015 of management, his E-mail dtd.24.05.2015, letter dtd.24.05.2015 of the management, his letter dtd.02.06.2015, his E-mail dtd.02.06.2015, letter dtd.26.05.2015 of the management, letter dtd.28.05.2015 of the management, E-mail dtd.06.06.2015 of the management, his E-mail dtd.10.06.2015, his letter dtd.10.06.2015 letter dtd.20.06.2015 of the management and copy of doctor’s prescription which are marked as Exts.1 to 44 to substantiate his claim, whereas to refute the claim of the applicant, the first management No.1 has examined three witnesses as MW No.1 to MW No.3 and filed the departmental proceeding file including the letters allegedly communicated to the applicant- second party workman which are marked as Ext.A to Ext.AA.

It is pertinent to mention that the first party management No.1 agreed for final and simultaneous hearing of all issues instead of deciding the fairness of departmental enquiry as a preliminary issue, for which the applicant-second party workman adduced his evidence first instead of the first party management No.1 being called upon to establish the fairness of the departmental enquiry.

FINDINGS

Issue Nos. I to III

6. For the sake of convenience all the issues are taken into consideration simultaneously.

No serious dispute is raised by the applicant-workman that he was issued with the letter dtd.18.5.2015 under Ext.2 on a nomenclature/heading charge sheet wherein he is alleged to have committed certain omissions and commissions which are defined as misconducts under the provisions of sub-clauses-(1), (19), (43) and (72) of clause-15 of the Certified Standing Order of the Company. The applicant-workman was asked to submit his explanation within 48 hours of receipt of the charge sheet either through post or E-mail. There is also no serious dispute that the applicant-workman submitted his explanation vide his letter dtd.24.5.2015 wherein and whereby he explained to his authority that he had applied for leave on 3.5.2015 due to illness of his wife. The said explanation having not been accepted by the authority, a departmental enquiry was held. Admittedly, the enquiry was conducted ex-parte due to non-participation of the applicant-workman in the enquiry. It is the claim of the applicant-workman that he could not attend the enquiry due to self illness and illness of his wife for which he expressed his inability to attend the enquiry. As per his intimation dtd.2.6.2015 to the Enquiring Officer he informed that he can only attend the domestic enquiry when he will be declared fit by his doctor. There is also no serious dispute to the fact that he was transferred from the project site at Unchhabali Iron Ore Mine to other project site at Andhra Pradesh and he did not report to his duty in the new place of posting on the date fixed for his joining as well as till the commencement of the departmental enquiry by submitting an application for leave on the ground of self illness and illness of his wife. It is also evident from the oral testimony of MW No.1 to MW No.3 as well as correspondences made between the Disciplinary Authority and the applicant-workman that he was advised to appear before the Medical Officer for his medical examination on 5.6.2015 as per letter Ext.M issued on 3.6.2015. But, he did not appear before the medical board. It is also evident from the oral evidence of the management witnesses as well as Ext.Q that the applicant-workman did not appear before the medical board, for which another opportunity was given to him for his medical examination on 11.06.2015. The documents exhibited by the management No.1 as well as oral testimony of MW No.3 reveal that the applicant-workman did not appear before the medical board held on 11.6.2015. The applicant-workman has not seriously challenged the above assertions of the management No.1. The only plea of the applicant-workman is that he was transferred on vindictive ground and asked to join within a short span of time when he applied for leave on 3.5.2015 on the ground of illness of his wife. It is his claim that the transfer order was issued to him subsequent to his leave application. The departmental enquiry is only an eye wash with a determination to remove him from service.

Keeping in view the above facts and circumstances emerging from the pleadings and evidence of the parties it is to be determined whether principles of natural justice or provisions of Certified Standing Order of the Company in conducting the departmental enquiry were violated by holding an ex-parte enquiry against the applicant-workman and by removing him without giving him a second show cause notice. As per settled position of law an enquiry cannot be said to have been properly held unless (i) the employee proceeded against has been informed clearly of the charges levelled against him, (ii) the witnesses are examined ordinarily in the presence of employee in respect of the charges, (iii) the employee is given a fair opportunity to cross-examine witnesses, (iv) he is given a fair opportunity to examine witnesses including himself in his defence if he so desires and (v) the Enquiring Officer records his findings with reasons for the same in his report basing upon the materials placed before him in the enquiry. Therefore, the first and foremost principle is that no one should be condemned unheard. Notice is the first limb of the principles so also the charge which must be precise and unambiguous, so that it could apprise the party determinatively the case he has to meet. In the absence of a

notice of the kind and such reasonable opportunity the order passed becomes wholly vitiated. Thus, it is must essential that a party should be put on notice of the case before any adverse order is passed against him.

Coming to the case at hand it is seen from the evidences of the first party management No.1 more particularly from the correspondences made by the Disciplinary Authority and the Enquiring Officer that the disputant was required to report his duty in his new place of posting on 9.5.2015 after issuance of transfer as well as relieve order on 2.5.2015. Though the applicant-workman has alleged that he was issued with the transfer order on 4.5.2015 when he sent his leave application on 3.5.2015 due to illness of his wife, MW No.1 and MW No.2 have categorically stated in their evidence that the applicant-workman was offered the letter of his transfer order on 2.5.2015. But, he refused to receive the same. In the transfer order both the witnesses have given their attestation towards refusal of acceptance on the part of the applicant-workman. There is nothing adverse in their cross-examination to disbelieve them except the fact that they are subordinates to the Disciplinary Authority. That apart, the applicant-workman does not dispute his transfer as well as the date of his joining. He has also not disputed or denied that he was ever directed to appear before the medical board at Joda. Medical Board was fixed on two occasions i.e. on 5.6.2016 and 11.6.2015 for his medical examination. He did not attend the board on both the occasions. There is also no reply from him for his non-appearance before the board. In that view of the matter it cannot be held that his non-reporting to the duty as well as non-appearance before the Enquiring Officer or non-participation in the Departmental Enquiry was bonafide one. When there is overwhelming evidence to establish that the transfer order was issued and offered to the applicant-workman on 2.5.2015 and he refused to accept the same, his application for leave on 3.5.2015 is to be accepted subsequent to his transfer order. When the said leave application is not acted upon by the first party management No.1 and he was directed to report to his duty and submit his leave application in a new place of posting and again he was directed to appear before the medical board for his fitness examination, he was expected to comply the directions or at least available himself before the medical board for his fitness examination. On the other hand, it is not disputed that he informed the Enquiring Officer that he would attend the enquiry when his physician would declare him fit.

It has been contended by the applicant-workman that the domestic enquiry cannot be said valid unless the enquiry is held in presence of the charged officer and statement of the witnesses are recorded in his presence and he was given an opportunity to cross-examine the witnesses as well as given a scope to advance his evidence/contention. The departmental enquiry having been conducted in his absence despite his intimation on his illness and illness of his wife, the same cannot be said a fair enquiry. But, in the case at hand it is apparent that the disputant was communicated distinctly to report to his duty on 9.5.2015 and on his reply and leave application he was directed to report in place of new posting and applied for leave. It is also emerging that he refused to receive his transfer order. He failed to appear before the medical board. Hence, his non-reporting to duty by refusing to receive the transfer order and applying for leave is undoubtedly covered by omissions and commissions amounting to misconduct as provided in various sub-clauses of clause-15 of the Certified Standing Order of the Company. When the applicant-workman failed to appear in the departmental enquiry on a plea of illness and when he did not appear before the medical board to show his illness it cannot be accepted that he was not given an opportunity to defend himself in the departmental enquiry. In that situation examination of witnesses in his absence in the enquiry cannot be said to be illegal or it cannot be held that he was not given opportunity to cross-examine the witnesses.

It is well settled that in an ex-parte enquiry, if the charges are born out from the documents kept in normal course of business, no oral evidence is necessary to prove those charges. In such situation uncontroverted documentary evidence can be sufficient to prove the charges. The reason assigned by him for his non-attendance in the enquiry is not well founded since he did not attend the medical board fixed by his authority. His explanation to the charge sheet in the departmental enquiry that he would attend the enquiry when he will be declared fit by his doctor is itself an unsatisfactory one. No enquiry can be postponed for an indefinite period. The applicant-workman could have requested for deferring the enquiry for certain period only. Therefore, bonafide on the part of the applicant-workman for his non-appearance in the departmental enquiry can be doubted and it cannot be accepted that he was not given due opportunity and there was violation of principles of natural justice. As per settled position of law that when the delinquent/CO fails to participate in a departmental enquiry without sufficient reasons and the enquiry was held ex-parte, it cannot be said that due opportunity was denied to the delinquent/CO. Admittedly, it is emerging from the evidence of the management No.1 that the enquiry was completed on a single day and report was submitted. But, it cannot be over sighted that date was fixed for the enquiry on two occasions and it was held on 13.6.2015. When the enquiry was held ex-parte it cannot be said that the enquiry was conducted and completed in a single day by haste. That the charges levelled against the applicant-workman was for his unauthorised absence from duty and refusal to accept the officials' correspondences. Ex-parte enquiry in respect to such charges can be expected to be completed within a day. Therefore, it cannot be said that the enquiry report was submitted in haste or the enquiry was not conducted in a fair manner.

The fairness of the departmental enquiry is also challenged on a contention that the workman was not issued with a second show cause notice and the enquiry report. Undisputedly, the management No.1 does not claim to have issued second show cause notice before imposing punishment in the departmental proceeding. It is the stand of the first party management No.1 that Certified Standing Order does not provide for issuance of second show cause notice in a departmental proceeding. The Certified Standing Order is exhibited in the present case and it is silent as to issuance of second show cause notice in the departmental proceeding. That apart, it cannot be overlooked that when the applicant-workman did not participate in the departmental enquiry, non-supply of the enquiry report cannot be said to have caused prejudiced to him. Therefore, the departmental enquiry cannot be vitiated on the said ground.

Thrust has been given by the workman that the imposed punishment is highly disproportionate to the misconduct on his part. There being no previous charge sheet or misconduct on his part, the punishment of removal is shockingly disproportionate to the allegation raised in the charge sheet. When he had applied for leave on the ground of self illness and illness of his wife, the punishment of removal is not sustainable in the eye of law keeping in view the settled principle of Hon'ble Supreme Court in the case between **Municipal Corporation of Greater Bombay Vrs. B.E.S.T Workers' Union reported in AIR 1973 SC 883**. It is also argued that punishment of removal without furnishing enquiry report more particularly for misconduct of unauthorised absence is not maintainable in the eye of law since long absenteeism is not an act of moral turpitude or dishonesty and an order of such dismissal passed on that ground is bad keeping in view the principle set out by the **Hon'ble Apex Court in the case between Mahinder Dutta Sharma Vrs. Union of India reported in AIR 2014 SC 2009**. Admittedly, no material or evidence is emerging in the adjudication to show or suggest that the workman was ever held guilty in any departmental proceeding or he was charge sheeted earlier. It was a single instance of misconduct on his part. Further, he was not provided with a copy of the enquiry report or second show cause notice before the order of his removal on being held guilty of misconduct for his unauthorised absence. The first party management No.1 did not dispute that the workman submitted a leave application after his transfer. If the above facts and circumstances are taken into consideration along with the settled principles of the Hon'ble Apex Court, the punishment of removal of workman for the misconduct of unauthorised absence or non-reporting to the duty appears to be disproportionate to the gravity of the alleged misconduct on the part of the applicant-workman. Law is well settled that Industrial Tribunal can interfere in such situation under the provisions of section 11-A of ID Act and can modify the punishment itself or remit back the matter to the Disciplinary Authority to review its own decision.

In the facts and circumstances emerging in the adjudication it would not be just and appropriate on the part of Tribunal to interfere with the punishment imposed by the Disciplinary Authority as it may encourage indiscipline or defines on the part of the applicant-workman. However, for the interest of justice the punishment of removal as imposed on the workman is set aside and the matter is remitted back to the Disciplinary Authority to impose any other lesser punishment than removal as the absenteeism on the part of the workman is a misconduct of first instance and keeping in view the observation of the Hon'ble Supreme Court in the case between **Mahinder Dutta Sharma Vrs. Union of India reported in AIR 2014 SC 2009** the same is not an act of moral turpitude and dishonesty and give an opportunity to the workman to join in the work/project to be assigned by the Appointing Authority within a reasonable period, failing which it (the first party management No.1) is at liberty to discharge/remove/terminate his service without initiating a further proceeding. Since the applicant-workman was absent from his duty till he was removed and he did not render any service to the first party management No.1 after his removal, he is not entitled to any back wages on the principle of "no work no pay". The direction as narrated above is to be carried out within a period of one month of the date of publication of the Award in the official Gazette, failing which the applicant-workman is entitled to interest @ 6.5% on his last wages drawn by him from the date of notification of the Award.

The application is disposed of accordingly.

Dictated and corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 11 जनवरी, 2021

का.आ. 37.—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 22/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.01.2021 को प्राप्त हुआ था।

[सं. एल-22012/74/2016-आईआर. (सीएम-2)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, 11th January, 2021

S.O. 37.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2017) 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 04.01.2021.

[No. L-22012/74/2016-IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/22-2017****Present:** P. K. Srivastava, H.J.S..(Retd)

The President
Coal India Pensioners Association,
Branch Bishrampur Area,
Quarter No.1B-32, Bishrampur
Surajpur (CG)-497226.

...Workman

Versus

The General Manager
SECL. Bishrampur Area,
PO-Bishrampur Colliery
District Surajpur (CG).

...Management

AWARD**(Passed on this 17th day of December 2020)**

1. As per letter dated 8/3/2017 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-22012/74/2016-IR(CM-II) The dispute under reference relates to:

“Whether the action on the part of General Manager, Bishrampur Area of SECL in withholding the terminal benefits viz. settling Allowance, leave encashment and Plrs if any, amount unpaid as per eligibility after retirement on ground of alleged company quarter retention by Shri Sundar Lal Gupta, Ex.Driver, Cat-VI is justified, if not, what relief the workman is entitled to? .”

1. After registering the case on the basis of reference, notices were sent to the parties.
2. The workman never appeared before the Tribunal inspite of service, hence the case was ordered to proceed ex-parte against the workman vide order dated 1-1-2020. The Management has filed its written statement and affidavit of its witnesses which is uncross-examined. The Management has also proved two documents Exhibit M-1 and Exhibit M-2.
3. The case of Management is that the workman retired w.e.f from 31-12-2011 but raised a dispute in the year 2016. There is no relation of workman and employer between the parties, hence the dispute is not an Industrial Dispute as defined in Section 10 of Industrial Disputes Act,1947. Also it has been pleaded that the

workman did not vacate the residential quarter allotted to him during his employment. He did not pay any rent, water charges, electricity charges or maintenance after retirement. He illegally occupied the accommodation for which the eviction proceedings were initiated. The workman thereafter vacated the residence on 9-12-2015. He has been paid Rs.8,70,597 as gratuity. His CMPF and PLRS amount has also been paid. He has been paid monthly pension. The Management is entitled to recover penal rent and maintenance as well as water and electricity charges of the premises which was illegally occupied by the workman from the date of his retirement till the date of its vacation. Accordingly, the Management has prayed that the reference be answered against the workman.

4. **The Reference is the point in issue in the case in hand.**

5. After perusal of record, in the light of the arguments of Mrs. A.K.Shashi, Learned counsel for the Management, it comes out that dues of the workman are still not paid is not disclosed by the workman at any stage.

6. Reference of Section 2(k) and Section 2(r) of Industrial Disputes Act, 1947 is necessary here, which is being reproduced as follows:-

2(k) "industrial dispute" means any dispute or difference between employers and employees or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person."

2(r) "Tribunal" means an Industrial Tribunal constituted under section 7A and includes an Industrial Tribunal constituted before the 10th day of March, 1957, under this Act;]

7. Admitted by the Management is the case is that the workman has now vacated the accommodation on 9-12-2015, hence the workman will be entitled to any dues which has not yet been paid to him after deducting the statutory penal rent and other charges due on him for illegally occupying the accommodation. The reference is required to be answered accordingly.

8. On the basis of the above discussion, following award is passed:-

A. The action of the management on the part of General Manager, Bishrampur Area of SECL in withholding the terminal benefits viz. settling Allowance, leave encashment and Plrs if any, amount unpaid as per eligibility after retirement on ground of alleged company quarter retention by Shri Sundar Lal Gupta, Ex.Driver, Cat-VI is held not justified.

B. The workman is held entitled to receive any un-paid dues as per law after deducting the penal rent and other legally admissible charges from the workman by the Management with reference to illegal occupation of the official residence.

9. No order as to costs.

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

DATE: 17.12.2020

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 11 जनवरी, 2021

का.आ. 38.—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 109/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.01.2021 को प्राप्त हुआ था।

[सं. एल-22012/67/2015-आईआर. (सीएम-2)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 11th January, 2021

S.O. 38.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.109/2015) 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 04.01.2021.

[No. L-22012/67/2015-IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

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

NO. CGIT/LC/R/109/2015

Present: P. K. Srivastava, H.J.S. (Retd)

The Vice President
Rashtriya Colliery Mazdoor Congress,
Near Gram Panchayat,
Johilla Area, P.O Naurajabad,
District Umaria (MP)-484555

...Workman

Versus

The Chief Manager,
Johilla Area, SECL,
PO Naurajabad,
District Umaria-484555

...Management

AWARD

(Passed on this 16th day of December 2020)

1. As per letter dated 15-12-15 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-22012/67/2015-IR(CM-11) The dispute under reference relates to:

“Whether M/s Anchor Security Services Pvt. Ltd. द्वारा M/s Anchor Security Services Pvt. Ltd. Evam Prabhandan Johilla Shetra , SECL के बीच हुए अनुबंध का पुराना पालन ना किया जाना उचित है। यदि नहीं तो कामगार सुरक्षा कर्मियों के अनुरोध पत्रों के पत्रों हों, .”

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

3. In spite of sufficient services, none appeared from the side of the workman, hence the case was ordered to be proceeded ex-parte from the workman side vide order dated 2-1-2020.

4. The Management filed its written statement of defence through its learned counsel Shri A.K.Shashi wherein it was pleaded that firstly the reference is vague because the particulars of beneficiaries are not provided. The dispute is one which relates to contract workers. The contractor is not a party to the reference. It was further stated that there is no employer/employee relationship between the Management and the claimant, hence there is no dispute as defined under Section 10 of the Industrial Disputes Act, 1947. The Management Company is a licensed Principal Employer which engages licensed Contractors for certain works which are not in the category of prohibited contracts in Contract Labour (Regulation & Abolition) Act, 1970. The Security Company mentioned in the reference was engaged for security services within the period 1-9-2013 to 29-2-2016 as they are licensed contractors and the work was of non-prohibited category. Wages of the employees of the contractor which were engaged by the contractor were paid by the Management Company through their bank account as per rules. The power of appointment and termination of service of the laborers engaged by the contractor were with the contractor and the Management had no role to play in this respect. Accordingly, it was prayed by the Management that reference be answered against the workman. The documentary evidence Exhibit M-1 to M-13 were filed and proved by the Management through un-cross-examined affidavit of its witnesses.

5. The workman side which is Vice President, Rashtriya Colliery , Mazdoor Congress have not appeared in this case in spite of service as has been stated earlier.

6. Heard arguments of Mr. A.K. Shashi, Learned Counsel for the Management and perused the record as well. None appeared from the side of the workman.

7. **The Reference is point in issue in the case in hand.**

8. The initial burden to prove its case lies on the party who asserts it. In this case the burden lies on the workman/Union in which they have utterly failed. Hence the reference is liable to be answered against the workman/Union.

9. On the basis of the above discussion, following award is passed:-

A. The action M/s. Anchor Security Services Pvt. Ltd. in not completely following the agreement drawn between M/s Anchor Security Services and Mangement SECL, Johilla Area is held to be illegal and unjustified.

B. The workman/Union is held entitled to no relief.

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

DATE: 16.12.2020

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 11 जनवरी, 2021

का.आ. 39.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स डब्ल्यू.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 25/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.01.2021 को प्राप्त हुआ था।

[सं. एल-22012/94/2014-आईआर. (सीएम-2)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 11th January, 2021

S.O. 39.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2015) 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. W.C.L and their workmen, received by the Central Government on 04.01.2021.

[No. L-22012/94/2014-IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

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

NO. CGIT/LC/R/25/2015

Present: P. K. Srivastava, H.J.S..(Retd)

The Md.Bismillah
S/o Md. Ismile, Ex-workman
R/o Ghorawari colony,
Mines Quarter No.213,
PS.Damua, Tehsil Junnardev
Chhindwara-480555

...Workman

Versus

The Chief General Manager
Western Coalfields Ltd.Pench Area
P.O. Parasia, Tehsil Parasia
Chhindwara-480441.
The Mines Manager/Superintendent
Ghorawari Colliery
WCL, P.O. Ghorawari.
Tehsil Junnardev
Chhindwara-480555

...Management

AWARD

(Passed on this 17th day of December 2020)

1. As per letter dated 27/2/2015 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-22012/94/2014-IR(CM-II)The dispute under reference relates to:

“Kya Mahabrabhandak, Wesetern Coal Fields Limited Kanhan Shetra post Dungariya Tehsil Junnardev, Jilla Chhindhawara dwara awadek Shri Bismillah, S/o Md. Esmail, Purv Kamgaar, Ghorawari Colliery ko unki janm thithi 1.1.1952 ke sthan par 27-2-1947 adhilikhit karna va tadaunusar 28-1-2007 ko sewanevrit karna nyay sangat hai? Yadi nahi to purv kamgaar kya anutosh paane ka adhikari hai. ”

2. After registering the case on the basis of reference, notices were sent to the parties. Parties appeared and filed their statement of claim in defense.

3. The case of the workman as stated in his statement of claim is that he was first appointed by the Management in the year 1973 and his date of birth was recorded as 27-2-1947 and on the basis of this date of birth which was wrongly recorded by the Management, the workman was retired on 28-2-2007. The workman while in service, objected against the wrong recording of his date of birth and filed a Writ Petition No.16245/2006(s) before Hon'ble High Court at Jabalpur which was decided vide order dated 6-11-2012. The Management was directed by Hon'ble High Court to decide his representation regarding his date of birth and retirement. According to the Management, he failed to file his High School Certificate before Hon'ble High court and before the Management. The Management wrongly decided the age representation against him, holding the date of birth recorded by the Management as correct. The Management did not rely on the marksheet and character certificate which was an illegality committed by the Management. The workman again filed a writ petition No.6314/2013 which he was permitted to withdraw on his request and raised a disputed before the Industrial Tribunal. Thereafter he raised a dispute with the Management after failure of conciliation, the reference was made by the appropriate Government to this Tribunal. According to the workman, his date of birth is 1.1.1952 which is recorded in his High School Certificate which was wrongly not accepted by the Management. Accordingly, the workman has prayed to set aside his retirement and grant him benefits deeming him to be in continuous service after fixing date of retirement according to his actual date of birth i.e. 1-1-1952.

4. The case of Management is that the workman disclosed his date of birth as 27-2-1947 at the time of his initial appointment. He was initially appointed as Tub-loader w.e.f. 31-7-1972, reappointed on 18-4-1975, he disclosed his date of birth as 27-2-1947 which was recorded in Form-B register which was maintained for this purpose. He signed and verified the entry in the register in this respect. His date of birth as mentioned above was also recorded in service register, particulars of family and nomination form as PS3 and PS4 on the basis of his declaration which was verified by him on his transfer from Sukri Mines to Ghorawari Colliery in which his date of birth was mentioned as 27-2-1947 in the last pay certificate. Again in the year 1987 when the employees were directed to furnish the particulars of their family and verify it, he mentioned his date of birth as 27-2-1947. Till his retirement in the year 2007, he never objected his date of birth in his service record. He raised a dispute at the fag end of his service.

5. Further the case of the Management is that Provision of I.I.No.76 will not apply to the case in hand because there is no variation regarding his date of birth in his service record. The matriculation certificate which the workman relied at the fag end of his service while raising the dispute was of a date after his joining the service. He disclosed himself as an illiterate person, so as to secure an unskilled job i.e. Badli Mazdoor which was meant for illiterate people. Accordingly, he suppressed information while getting the job, thus he never came in with clear hands in this respect. Also the Management has stated that in the light of the directions of Hon'ble High Court, the Management decided his representation regarding his date of birth. According to the management, there is no illegality in not accepting the claim of the workman regarding his date of birth and the action of retirement taken by the Management on the basis of his recorded date of birth 27-2-1947 is just and proper. The management has prayed that the reference be answered against the workman.

6. The workman filed photocopy of documents which were not admitted by Management. The Management filed documents Exhibit M-1 to M-9 and proved it through oath and cross-examined the statement of its witness. The workman did not appear for evidence. He did not file any affidavit nor did he prove the photocopy documents filed by him which were denied by the Management. Due to continuous absence of the workman during the hearing of case, it was ordered to proceed ex-parte against him.

7. I have heard arguments of learned Counsel for Management Shri A.K.Shashi. None was present for the workman. I have also perused the record.

8. The documents produced by Management are Exhibit M-1 to M-9 which establishes that there was a self-declaration signed by the workman at different stages of service right from the date of joining till retirement in which he disclosed his date of birth as 27-2-1947. The dispute was first raised by the workman in the year 2006 by way of filing a writ petition, establishes the claim of the Management that the dispute was raised by the workman at the fag end of his service for the reasons best known to him. Admitted by the workman is the fact that he did not produce the High School Certificate and transfer certificate at the time of hearing on his representation, in the light of order of Hon'ble High Court. Before this Tribunal also he has not proved his High School Certificate and marksheet, hence the case of the workman is held not proved so far as it relates to date of his birth. On the other hand, the case of Management appears more convincing in this respect.

9. On the basis of the above discussion, following award is passed:-

A. Holding the claim of the workman not proved, it is held that the action of Management refusing to incorporate the date of birth of workman as 1-1-1952 in place of 27-2-1947 and retiring him on 28-2-2007 is held justified in law.

B. The workman is held entitled to no relief.

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

DATE: 17-12-2020.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 13 जनवरी, 2021

का.आ. 40.— केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, **बीईएमएल लिमिटेड** के कारखानों/स्थापनाओं के नियमित कर्मचारियों को उक्त अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट इस अधिसूचना के जारी होने की तारीख से एक वर्ष की अवधि के लिए प्रभावी रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:-

- (1) कारखाना/ स्थापना छूट प्राप्त कर्मचारियों के नाम और पदनाम विनिर्दिष्ट करते हुए, कर्मचारियों का एक रजिस्टर रखेगी;
- (2) कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने पर उक्त अधिनियम (जिसे इसमें इसके पश्चात उक्त अवधि कहा गया है) प्रवर्तन के अध्यक्षीन था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों से युक्त होगी जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;
- (5) निगम द्वारा उक्त अधिनियम की धारा 45 की उप धारा (1) के अधीन नियुक्त किया गया कोई सामाजिक सुरक्षा अधिकारी या निगम का इस प्रयोजन के लिए इस निमित्त प्राधिकृत कोई अन्य पदधारी:-
 - (i) उक्त अधिनियम की धारा 44 की उप धारा (1) के अधीन, उक्त अवधि के लिए प्रस्तुत किसी विवरण में अंतर्विष्ट विशिष्टियों को सत्यापित करने; या

- (ii) यह अभिनिश्चयन के लिए कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
- (iii) यह अभिनिश्चयन के लिए कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार है या नहीं; या
- (iv) यह अभिनिश्चयन के लिए कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:-
- (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे इस अधिनियम के प्रयोजन के लिए आवश्यक समझता है; या
- (ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह कार्मिक के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या
- (ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या
- (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;
- (ङ) यथास्थिति अन्य शक्तियों का प्रयोग करना।
6. विनिवेश या निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट के लिए समुचित सरकार को आवेदन करना होगा।

[सं. एस-38014/06/2020-एस.एस-1]

मदन चौरसिआ, अवर सचिव

New Delhi, the 13th January, 2021

S.O. 40.—In exercise of the powers conferred by section 88 read with section 91 A of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby exempts the regular employees of factories and establishments of **BEML Limited** from the operation of the said Act. The exemption shall be effective for a period of one year from the date of issue of this notification.

2. The exemption is subject to the following conditions namely:-

- (1) the factories and establishments shall maintain a register of the employees specifying the names and designations of the exempted employees;
- (2) the employees shall continue to receive such benefits under the said Act to which they would have been entitled to on the basis of the contribution paid prior to the date from which exemption granted by this notification operates;
- (3) the contribution for the exempted period, if already paid, shall not be refundable;

- (4) the employer of the said factory and establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;
- (5) a Social Security Officer appointed by the Corporation under sub-section (1) of section 45 of the said Act or other official of the Corporation authorised in this behalf by it, shall, for the purpose of :—
- (i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 of the said Act for the said period; or
 - (ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or
 - (iii) ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
 - (iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory and establishment to be empowered to :—
 - (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
 - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
 - (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or
 - (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,
 - (e) exercise such other powers as may be specified.
- (6) in case of disinvestment or corporatisation, the exemption granted shall stand cancelled and then the new entity may apply to the appropriate Government for exemption.

[No. S-38014/06/2020-SS-I]

MADAN CHAURASIA, Under Secy.