

Panaji, 10th September, 2015 (Bhadra 19, 1937)

SERIES II No. 24

OFFICIAL GAZETTE



GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

Note:- There is one Extraordinary issue to the Official Gazette, Series II No. 23 dated 03-09-2015 namely, Extraordinary dated 07-09-2015, from pages 761 to 762 regarding Corrigendum from Department of Elections.

GOVERNMENT OF GOA

Department of Agriculture

Directorate of Agriculture

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Order

No. 2/14/95/Agri(Part)/Vol.II/121

Government is pleased to transfer Shri Nitin Bhakale, Agriculture Officer of this Directorate on deputation to Goa State Horticulture Corporation Ltd., against the post of Manager (Farms) in PB—3 Rs. 15,600-39,100+Rs. 5,400/- Grade Pay vacated by Smt. Shoban Ugvenkar with effect from 01-09-2015.

The deputation of Shri Nitin Bhakale shall initially be for a period of two years and shall be governed by standard terms of deputation as contained in the OM No. 13/4/74-PER dated 12-02-1999 and amended from time to time.

By order and in the name of the Governor of Goa.

Orlando Rodrigues, Director & ex officio Joint Secretary (Agriculture).

Tonca-Caranzalem, 28th August, 2015.

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Order

No. 2/14/95/Agri(Part)/Vol.II/122

Government is pleased to transfer Shri Anant Hoble, Agriculture Officer Group 'B', Gazetted in the pay scale of Rs. 9,300-34,800+Rs. 4,600/- Grade Pay of this Directorate on deputation to Command Area Development Authority, Circle IV, Gogol,

Margao against the post of "Water Management Specialist" vacated by Shri Satej Kamat on ad hoc promotion w.e.f. 01-09-2015.

The deputation of Shri Anant Hoble shall initially be for a period of two years and shall be governed by standard terms of deputation as contained in the OM No. 13/4/74-PER dated 12-02-1999 and amended from time to time.

By order and in the name of the Governor of Goa.

Orlando Rodrigues, Director & ex officio Joint Secretary (Agriculture).

Tonca-Caranzalem, 28th August, 2015.

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Order

No. 1/21/307/2015-D.Aagri/999

Government is pleased to establish the following offices which will function in the premises of the Office of Asstt. Director of Agri. (FT), Ela, Old Goa/and the District Agriculture Office (South), Margao-Goa indicated against their name.

Sr. No.	Name of Offices	Function at
1.	State Agriculture Management and Extension Training Institute (SAMETI)	Ela, Old Goa on the ground floor of Hostel of the Office of Asstt. Director of Agri. (FT), Ela, Old Goa.
2.	Agriculture Technology Management Agency (ATMA) (North)	On first floor of the Office of Asstt. Director of Agri. (FT), Ela, Old Goa.
3.	Agriculture Technology Manager Agency (ATMA) (South)	South District Agriculture Office, Margao at the Old Collectorate Building, Margao-Goa.

These offices will strengthen the existing extension system in the State/Develop and promote the application management tools for improving the effective of agriculture extension services through better management of human and material resource. Organisation need based training programmes for middle level grass-root level agriculture extension functioners for farmers of North Goa and South Goa District respectively.

By order and in the name of the Governor of Goa.

Orlando Rodrigues, Director & ex officio Joint Secretary (Agriculture).

Tonca-Caranzalem, 28th August, 2015.



Department of Civil Supplies and
Consumer Affairs

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Order

No. DCS/S/Food Security/2015-16/385

In exercise of powers conferred under Section 14 of the National Food Security Act, 2013 (Central Act No. 20 of 2013) (hereinafter referred to as the Act), the Government hereby designates the Joint Mamlatdar—I of all Talukas as a Nodal Grievance Redressal Officer for the respective Taluka. The Asst. Director of Civil Supplies is hereby designated as the State Nodal Grievance Redressal Officer under the Act.

The Nodal Officer shall hear complaints regarding non-distribution of entitled foodgrains and matters relating thereto and take necessary action for their redressal as per provisions of the Act. The appeal against the orders of the Nodal Officers shall lay with the District Grievance Redressal Officer (DGRO).

By order and in the name of the Governor of Goa.

Vikas S. N. Gaunekar, Director & ex officio Joint Secretary (Civil Supplies).

Panaji, 28th August, 2015.

Order

No. DCS/S/Food Security/2015-16/386

In exercise of powers conferred under Section 15 of the National Food Security Act, 2013 (Central Act No. 20 of 2013) (hereinafter referred to as the Act), the Government hereby designates the following Officers as the District Grievance Redressal Officers (DGRO).

1. Deputy Collector & SDM, Panaji—North Goa.
2. Deputy Collector & SDM, Margao—South Goa.

The above officers shall perform duties as the District Grievance Redressal Officer (DGRO) for expeditious and effective redressal of grievances of the aggrieved persons in matters relating to distribution of entitled food grains under Chapter II and to enforce the entitlements under the Act.

The DGROs shall hear complaints regarding non-distribution of entitled foodgrains and matters relating thereto and take necessary action for their redressal as per provisions of the Act.

By order and in the name of the Governor of Goa.

Vikas S. N. Gaunekar, Director & ex officio Joint Secretary (Civil Supplies).

Panaji, 28th August, 2015.

Notification

No. DCS/S/Food Security/2015-16/384

In exercise of powers conferred under Section 18 of the National Food Security Act, 2013 (Central Act No. 20 of 2013) (hereinafter referred to as the Act), the Government hereby designates the Goa State Commission for Women to exercise the powers and functions of the Goa State Food Commission referred to in Section 16 of the Act.

By order and in the name of the Governor of Goa.

Vikas S. N. Gaunekar, Director & ex officio Joint Secretary (Civil Supplies).

Panaji, 28th August, 2015.



Department of General Administration

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Notification

No. 25/4/95-GA&C/1621

Government of Goa regret to state that Dr. Wilfred D'Souza, Ex-Chief Minister of Goa, passed away on 04-09-2015. As a mark of respect to the departed Leader, Government of Goa declares State mourning from 04-09-2015 to 06-09-2015, throughout the State of Goa.

By order and in the name of the Governor of Goa.

Prashant P. Shirodkar, Under Secretary (GA-II).
Porvorim, 4th September, 2015.

Department of Information and Publicity

Order

No. DI/INF/Admn/2(27) Part-2015/2629

On the recommendation of the Goa Public Service Commission, Panaji vide letter No. COM/II/26(1)/93/1185 dated 25-08-2015, the Government is pleased to promote the below mentioned Assistant Information Officers to the post of Information Officers (Group 'B', Gazetted) on regular basis with immediate effect in the pay band of Rs. 9,300-34,800+ Grade Pay of Rs. 4,600/- (PB-2) and other allowances admissible as per rules in Department of Information & Publicity.

Sr. No.	Name of the Officers
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|----|-----------------------------|
| 1. | Shri Prakash Sadashiv Naik. |
| 2. | Shri John Carlos Aguiar. |

The above officers are promoted against the vacancy caused due to voluntary retirement of Shri Shekar Mayekar and retirement on superannuation of Shri Ratnakar Dessai, Information Officers.

By order and in the name of the Governor of Goa.

Arvind Bugde, Director & ex officio Joint Secretary (Information & Publicity).

Panaji, 31st August, 2015.

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Department of Labour

Notification

No. 28/1/2015-Lab/Part-I/805

The following award passed by the Labour Court-II, at Panaji-Goa on 08-07-2015 in reference No. LC-II/IT/01/12 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Shashank V. Thakur, Under Secretary (Labour).

Porvorim, 25th August, 2015.

IN THE LABOUR COURT-II
GOVERNMENT OF GOA
AT PANAJI

(Before **Shri Suresh N. Narulkar, Hon'ble Presiding Officer**)

Case No. LC-II/IT/01/12

Shri Prabha L. Naik,
H. No.112,
Cansaulim, Murdi,
P. O. Cansaulim-Goa .. Workman/Party I
V/s

M/s. Plastic Export Zundert (I)
Pvt. Ltd.,
Plot No. L-68 & 69,
Verna, Salcete-Goa ... Employer/Party I

Workman/Party I represented by Adv. Shri C. Fernandes.

Employer/Party II represented by Adv. Shri P. J. Kamat.

Panaji dated: 08-07-2015.

AWARD

1. In exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa, by Order dated 21-06-2012, bearing No. 28/19/2012-LAB/320 referred the following dispute for adjudication to the Industrial Tribunal of Goa. The Hon'ble Presiding Officer, Industrial Tribunal-cum-Labour Court in turn assigned the present dispute to this Labour Court-II vide his order dated 09-07-2012.

“(1) Whether the action of the management M/s. Plastic Export Zundert (I) Pvt. Ltd., Verna, Goa, in dismissing from services Shri Prabha L. Naik, Driver, vide Order dated 20-10-2010, is legal and justified?”

(2) If not, to what relief the Workman is entitled?”

2. On receipt of the reference, a case was registered under No. IT/01/12 and registered A/D notice was issued to the Parties. In pursuance to the said notice, the Parties put in their appearance. The Workman/Party-I (for short 'Workman'), filed his Statement of Claim on 21-08-2012 at Exb-5. The facts of the case in brief as pleaded by the Workman are that the Employer/Party II (for short, 'Employer') is company incorporated under the Companies Act, 1956 and it is situated at Electronic City Estate at Verna, Salcete-Goa. He stated that the Employer is in the business of manufacturing plastic bottles of various denominations for

purposes of portable water, for medica-cum-chemical purposes. He stated that he was employed as 'driver' on 01-01-2000, without issuing any letter of appointment in writing by the Employer. He stated that he rendered services to the Employer with effect from 1st January, 2000 till the Employer illegally refused/terminated his services with effect from 20th October, 2010. He stated that apart from the duties assigned to him, he was also rendering additional services including overtime, during the exigencies of work, specifically during Ganesh Chaturthi Festival, Diwali, Christmas etc, however, no overtime or additional payment was released to him to compensate the holidays or overtime work performed by him. He stated that he was also performing the duties such as to go to the post office, delivery of Employer's article etc.

3. He stated that he was refused employment with effect from 20-08-2010, vide letter of the Employer dated 20-08-2010, by dismissing his services on the wrong findings of the Enquiry Officer dated 30-09-2010. He stated that he made a representation dated 31-12-2010 with the Employer to reinstate him in service, but till date there is no response from the Employer.

4. The Workman contended that the termination of his services by the Employer with effect from 20-10-2010 is illegal and unjustified. He submitted that the refusal of his service is bad-in-law, malafide and vindictive. He submitted that he was not paid retrenchment compensation at the time of termination of his services. He submitted that the refusal of his service is in violation of the mandatory provisions of Sec. 25-F as well as Sec. 25-H of the I.D. Act, 1947. He submitted that the Employer cited reasons to refuse his services as per their whims and fancies and not as per the standing order or law in force. He submitted that the Employer has employed new employees in his place, after his illegal dismissal from service. He submitted that his dismissal from service is in violation of principles of natural justice. He submitted that he is unemployed, since after the termination of his services and is surviving with generosity of his family members and at times getting casually employed. The Workman therefore prayed that he be reinstated in services with full back wages and continuity in service.

5. The Employer disputed the claim of the Workman by filing its written statement on 12-10-2012 at Exb.7. The Employer, by way of preliminary objection submitted that this court has no jurisdiction to adjudicate the present reference

specifically made to the Industrial Tribunal constituted u/s 7-A of the said Act. The Employer stated that it is a private limited company registered under the Companies Act, 1956 and is involved in the manufacture of plastic bottles of various denominations for the purpose of portable water, medical cum chemical purposes etc. The Employer admitted that the Workman is one of the driver engaged by them to drive its vehicle. The Employer stated that the drivers engaged by them are working for eight hours in a shift. The Employer stated that the main duties of the driver are to collect the workers from specified places in the morning and drop them to the factories and thereafter take the workers of the earlier shift and drop them to the specified places and report back to office and attend to other works and leave the office after their working hours.

6. The Employer stated that on 28-05-2010, the Workman was in first shift. The Employer stated that at about 3.00 pm, when Mr. Sushant Mandrekar, Executive-HR & Admn. was allotting assignments to the Workman, he behaved very rudely and arrogantly with him. The Employer stated that the Workman insulted Mr. Sushant Mandrekar and also threatened him of dire consequences in the presence of Mr. Fadte, its Director and also banged on computer monitor. The Employer submitted that the aforesaid act, on the part of the Workman are very serious acts of misconducts under its model standing orders namely: Threatening, abusing or assaulting any superior, Willful insubordination or disobedience whether or not in combination with another, of any lawful and reasonable order of a superior and Commission of any act subversive of discipline or good behavior on the premises of the establishment or any place outside the premises.

7. The Employer stated that a charge-sheet dated 10-6-2010 was issued to the Workman for his aforesaid acts of misconduct and he was called upon to file his explanation to the same. The Employer stated that an enquiry was initiated against the Workman by appointing Mr. A. M. Gaikwad as an Enquiry Officer. The Employer stated that the procedure of the enquiry was also explained to the Workman in the said charge-sheet as well as by the Enquiry Officer. The Employer stated that the Workman was allowed to be represented in the enquiry by a co-worker. The Employer stated that initially, the Workman participated in the enquiry in person and thereafter by an Adv. Mr. A. Rodrigues. The Employer stated that the Workman was given full opportunities to defend himself in the enquiry, which he availed. The Employer stated that the enquiry was

concluded on 15-9-2010. The Employer stated that the Enquiry Officer thereafter submitted his findings on 30-9-2010.

8. The Employer stated that thereafter they issued a final show-cause notice dated 11-10-2010 to the Workman on the proposed punishment of dismissal along with a copy of the findings of the Enquiry Officer for his comments. The Employer stated that the Workman filed his reply dated 14-10-2010 to the show-cause notice dated 11-10-2010. The Employer stated that thereafter they went through the enquiry proceedings, findings of the Enquiry Officer and the explanation submitted by the Workman to the show-cause notice. The Employer stated that they found that the explanation submitted by the Workman is not satisfactory. The Employer stated that they agreed with the findings of the Enquiry Officer and decided to dismiss the Workman for his serious and gross acts of misconduct. The Employer stated that they accordingly dismissed the Workman with immediate effect without notice or wages in lieu of notice.

9. The Employer submitted that its action in dismissing the Workman is in the interest of maintaining discipline in their establishment. The Employer stated that its action in dismissing the Workman is just, legal and bonafide. The Employer submitted that the abuses and threats to superiors are serious acts of misconduct on the part of the Workman and such acts cannot be tolerated in the working of the factory. The Employer submitted that in the event, this Hon'ble Court comes to the conclusion that the enquiry conducted against the Workman is not fair and proper and the findings are perverse, they crave leave to adduce evidence before this Hon'ble Court in support of the charges.

10. The Employer denied that the Workman was illegally refused/terminated the services w.e.f. 20-10-2010. The Employer admitted that they did not pay any compensation to the Workman at the time of termination of his service. The Employer admitted that at the time of dismissal/termination of services of the Workman, he was neither paid any compensation nor any notice being served to him. The Employer also admitted that they did not pay any retrenchment compensation as per the provisions of section 25-F of the I.D. Act, 1947 nor he was paid leave wages due to him or other benefits. The Employer stated that since the Workman has been dismissed from service for his proved misconduct, the provisions of section 25-F of the said Act are not applicable. The Employer denied that after termination of services of the

Workman, they have employed any other person in his place to perform the work of driver. The Employer denied that from the date of termination of service of the Workman, he is jobless and for his survival, depends upon the generosity of his family members as alleged. The Employer stated that they discontinued the system of collecting and dropping the workers to and from the factory to the dropping place and the workers have made their own arrangements to attend the work in shifts. The Employer denied the grounds alleged by the Workman in para 23 (a) to (j) of his claim statement, challenging his termination of service and prayed for rejection of the present reference with cost.

11. Thereafter the Workman filed his affidavit in rejoinder on 26-11-2012. The Workman, by way of his Re-joinder, confirms and reiterates all the submissions and averments made by him in his claim statement to be true and correct and denies all the statements and averments made by the Employer in the Written Statement, which are contrary to the statements and averments made by him. The Workman submitted that the Enquiry Officer represented the Employer before the Labour Commissioner in the matter of conciliation. The Workman submitted that the findings of the Enquiry Officer are without application of mind and biased. The Workman submitted that the enquiry conducted against him was a clear manifestation to show only a farce. The Workman submitted that the enquiry conducted against him is prejudicial, pre-determined, biased and full of suspicion. The Workman submitted that no justifiable grounds were given by the Employer to come to the conclusion that his explanation was not satisfactory and hence his termination of service is bad-in-law, malafide and vindictive.

12. Based on the pleadings filed by the respective Parties in the present proceedings, this Hon'ble Court framed following issues on 10-12-2012 at Exhibit-9.

1. Whether a free, fair and proper enquiry has been conducted against the Workman/Party-I?
2. Whether the charges of misconduct levelled against the Workman/Party I vide charge-sheet dated 10-06-2010 have been proved to the satisfaction of this Court by acceptable evidence?
3. Whether the Workman/Party I proves that the action of the Employer/Party II in dismissing him from services w.e.f. 20-10-2010, is illegal and unjustified?

4. Whether the Employer/Party II proves that this court has no jurisdiction to adjudicate the present reference specifically made to the Industrial Tribunal constituted u/s. 7-A of the said Act?

5. Whether the Workman/Party I is entitled to any relief?

6. What Order? What Award?

13. My answers to the aforesaid issues are as under:

Issue No. 1: In the Affirmative.

Issue No. 2: In the Affirmative.

Issue No. 3: In the Negative.

Issue No. 4: In the Negative.

Issue No. 5 & 6: As per final order.

REASONS

14. *Issue Nos. 1 and 2* : Vide order passed in my findings on the preliminary issue Nos.1 and 2, I have come to the conclusion and held that a free, fair and proper enquiry was conducted against the Workman in accordance with the principles of natural justice in respect of charge-sheet dated 10-06-2010 issued to him and that the charges of misconduct levelled against the workman vide charge-sheet dated 10-06-2010 have been proved to the satisfaction of this court by an acceptable evidence. The issue Nos. 1 and 2 are therefore answered in the affirmative.

15. *Issue No. 4*: I am deciding the issue No. 4 first prior to the issue No.3 as the said issue No. 4 touches the very root jurisdiction of this court to adjudicate the present reference.

I have heard the oral arguments of Ld. Adv. Shri C. Fernandes appearing for the Workman as well as Ld. Adv. Shri P. J. Kamat appearing for the Employer. I have carefully perused the records of the present case. I have also carefully considered the various submissions made by the ld. Advocates appearing for the respective parties.

16. Admittedly, the present Order of Reference issued by the Government of Goa pertains to the legality and justifiability of the action of the Employer in terminating the services of its Workman with effect from 20-10-2010 to the Industrial Tribunal of Goa, constituted under Sec. 7 - A of the said Act. The Hon'ble Presiding Officer, Industrial Tribunal cum Labour Court, Panaji, Goa, in turn assigned the present reference for its adjudication to this Labour Court-II, vide her order dated 03-07-2012.

17. Admittedly, Sec. 33 - B of the I. D. Act, 1947 empowered the appropriate Government to withdraw any proceedings pending before a Labour Court, Tribunal or National Tribunal and transfer the same to another Labour Court, Tribunal or National Tribunal, as the case may be for the disposal of the proceeding and the Labour Court, Tribunal or National Tribunal to which the proceeding is so transferred, may, subject to special directions in the Order of Transfer, proceed, either de novo or from the stage at which it was so transferred. However, this does not mean that the Presiding Officer, Industrial Tribunal cum Labour Court being the principal Court does not have any powers to assign any proceeding before it and transferred to any other Labour Court or Industrial Tribunal as the case may be. However, the transferee Court has no power or jurisdiction to re-transfer the said reference or case to the Court who transferred the said proceeding.

18. In the case of **S. G. Pharmaceuticals v/s B. D. Padamwar & Anr.** reported in **CDJ 1984 BSC 065** the Hon'ble High Court of Bombay has ruled that "*it is true that only appropriate Government has power u/s 33-B to withdraw proceedings pending before Labour Court, Tribunal or National Tribunal and transfer them to another Labour Court, Tribunal or National Tribunal and that there is no other specific provision about transfer either in the I. D. Act or the Rules framed thereunder, but I fail to see how ancillary administrative power of assignment of work from time to time is thereby affected and the hearing of matter by a Presiding Officer holding charge that matter is illegal rendering the order null and void. The present case obviously is not of a withdrawal or transfer as contemplated u/s 33-B. Any of the four Labour Courts could exercise jurisdiction over this matter in the absence area wise or work wise division. But the matter could not be tried simultaneously by all courts and hence its assignment to some specific Court was necessary. Exactly this was done by the first Labour Court before whom the matter was presented in usual course. In assigning this matter to the third Court. It is not disputed before me that the original assignment was valid. What is contended is that the power of assignment gets exhausted on first exercise and hence there is no further power to reassignment or transfer. It is also not disputed that there is no statutory bar against such a course being adopted. Now in every Court performing judicial functions certain ancillary powers are always implied for it is difficult to provide statutorily for every minute details of procedure*

and administrative exigencies, as in their absence the very functioning will be chaotic, if not impossible. Principle of interpretation is well established that Courts are always endowed with all the ancillary powers which are necessary to discharge their functions effectively. If for administrative reasons powers to transfer initially existed it is difficult to see why for the same administrative reasons there can be no power of retransfer”.

19. In the case in hand, admittedly the present reference was referred to the Industrial Tribunal of Goa constituted u/s 7-A of the I. D. Act, 1947, vide order dated 21-06-2012. The Hon'ble Presiding Officer, Industrial Tribunal cum Labour Court, Panaji, Goa, being the principal Court, assigns the present reference for its adjudication to this Labour Court-II, vide her order dated 03-07-2012 and as such this court has jurisdiction to adjudicate the present reference. In view of the above, I do not find any merits in the submission of Ld. Adv. Shri P. J. Kamat appearing for the Employer that this Hon'ble Court has no jurisdiction to adjudicate the present matter as the reference is specifically made to the Industrial Tribunal of Goa constituted under Section 7-A of the said Act. The issue No.4 is therefore answered in the negative.

20. *Issue No. 3:* I have heard the oral arguments of Ld. Adv. Shri C. Fernandes appearing for the Workman as well as Ld. Adv. Shri P. J. Kamat appearing for the Employer.

Ld. Adv. Shri M. Fernandes, representing the Workman, during the course of his oral arguments submitted that the Workman was continuously working as driver with the Employer since 01-01-2000 till the termination of his services w.e.f. 20-10-2010. He submitted that the Employer terminated the services of the Workman w.e.f. 20-10-2010 unilaterally and capriciously. He submitted that at the time of termination of service of the Workman, neither one month's notice nor one month's pay in lieu of notice nor retrenchment compensation was paid to him. He therefore submitted that the termination of services of the Workman is therefore in violation of Section 25-F of the I.D. Act, 1947. He submitted that the refusal of service to the Workman is bad-in-law, malafide and vindictive. He submitted that the dismissal of services of the Workman is in violation of principles of natural justice.

21. On the contrary, Ld. Adv. Shri P. J. Kamat, representing the Employer, during the course of

his oral arguments submitted that the Workman was working as driver with the Employer. He submitted that this Hon'ble Court has already come to the conclusion, vide order passed in its findings on the preliminary issue No.1 and 2 and held that a free, fair and proper enquiry was conducted against the Workman in accordance with the principles of natural justice in respect of charge-sheet dated 10-06-2010 issued to him and that the charges of misconduct levelled against the workman vide charge-sheet dated 10-06-2010 have been proved to the satisfaction of this court by an acceptable evidence. He submitted that the Workman used to perform the work of transportation of its workers. He submitted that therefore the safety of the workers is in the hands of the Workman, being the driver. He submitted that the Employer cannot repose any confidence in the workman, who was involved in the misconduct of threatening his superior. He therefore submitted that taking into consideration the proved misconduct on the part of the Workman, the Employer dismissed the Workman from its services w.e.f. 20-10-2010 by giving him show-cause notice dated 11-10-2010. He submitted that the said punishment of dismissal imposed upon the Workman is just, fair and proper and proportionate to the proved misconduct on his part. In support of his oral submissions, he relied upon two judgments of Hon'ble Supreme Court of India, one in the case of **Bharat Heavy Electricals Ltd. v/s. M. Chandrashekhar Reddy and Ors., reported in 2005 1 CLR 959** and another in the case of **L. K. Verma v/s. H.M.T. Ltd and Anr., reported in 2006 1 CLR 854**.

I have carefully perused the records of the present case. I have also carefully considered the various submissions made by the Id. Advocates appearing for the respective parties.

22. The Workman challenged his order of dismissal from service w.e.f. 20-10-2010 mainly on the grounds that it is in violation of the mandatory provisions of Section 25-F as well as 25-H of the I.D. Act, 1947 as well as in violation of principles of natural justice. The Employer, in its written statement filed in the present proceedings as well as in its oral as well as documentary evidence on record made it clear that the dismissal of the Workman from its service was on account of proved misconduct such as threatening and abusing superior, willful insubordination and disobedience of lawful and reasonable order of the superior and commission of act of subversive discipline and good behaviour. Therefore, the question of violation of Section 25-F as well as Section 25-H of the I.D. Act, 1947 does not arise. Thus, I do not find any merits

in the submissions of Ld. Adv. Shri M. Fernandes that the dismissal of the Workman from service is in violation of Sec. 25-F and Sec.25-H of the I.D. Act, 1947 as well as principles of natural justice.

23. In the case of **L. K. Verma (supra)**, the Hon'ble Apex Court, after relying upon its earlier judgment in the case of **Mahindra and Mahindra Ltd. v/s. N. N. Narawade etc., reported in 2005 1 CLR 803**, observed as under:

"It is no doubt true that after introduction of Section 11-A in the I.D. Act, 1947, certain amount of discretion is vested with the Labour Court/Industrial Tribunal in interfering with the quantum of punishment awarded by the management where the workman concerned is found guilty of misconduct. The said area of discretion has been very well defined by the various judgments of this court referred to herein above and it is certainly not unlimited as has been observed by the Division Bench of the High Court. The discretion, which can be exercised under Sec. 11-A is available only on the existence of certain factors like punishment being disproportionate to the gravity of misconduct so as to disturb the conscience of the court, or the existence of any mitigating circumstances which require the reduction of the sentence or past conduct of the workman which may persuade the Labour Court to reduce the punishment. In the absence of any such factor existing, the Labour Court cannot by way of sympathy alone exercise the power u/s. 11-A of the Act and reduce the punishment".

24. In the another case of **Bharat Heavy Electricals Ltd. (Supra)**, the Hon'ble Apex Court has held that *"in our opinion all the above judgments applies with full force to the facts of this case. The Labour Court has itself come to the conclusion that the management has lost confidence in the respondent. If that be the case, the question of it exercising its jurisdiction u/s 11-A to alter or reduce the punishment does not arise".* The Hon'ble Apex Court further held that *"that apart the reasons given by the Labour Court to reduce the penalty are reasons which are not sufficient for the purpose of reducing the sentence by using its discretionary power. The fact that the misconduct now alleged is the first misconduct again is no ground to condone the misconduct. On the facts of this case as recorded by the Labour Court the loss of confidence is imminent, no finding has been given by the courts below including Labour Court that either the fact of loss of confidence or quantum of punishment is so harsh*

as to be vindictive or shockingly disproportionate. Without such finding based on records interference with the award of punishment in a domestic enquiry is impermissible".

The principle laid down by the Hon'ble Apex Court in its aforesaid judgment is well established and also applies to the case in hand.

25. The evidence on record indicates that the Workman has been dismissed from service, by holding a free, fair and proper enquiry. The evidence on record indicates that the charges of misconduct levelled and proved against the Workman are such as threatening and abusing superior, willful insubordination and disobedience of lawful and reasonable order of the superior and commission of act of subversive discipline and good behaviour. The evidence on record indicates that the Workman has been heard on the point of proposed punishment by giving final show-cause notice dated 11-10-2010. The charges levelled and proved against the Workman vide charge-sheet dated 10-06-2010 are grave and serious. The evidence on record indicates that the Workman did not challenge his order of dismissal by contending that the punishment of dismissal meted out to him is shockingly disproportionate to the proved misconduct. The Workman also failed to point out about existence of mitigating circumstances to reduce or to interfere with the punishment of dismissal imposed upon him. The evidence on record further indicates that the Workman was employed as driver and performing the duties of transporting the workers from the factory of the Employer till the specified places. Thus, the safety of the workers was in the hands of workman being driver. The evidence on record indicates that the Employer lost the confidence reposed in the Workman. In the circumstances, it is held that the punishment of dismissal from service imposed upon the workman is just, fair and proper and proportionate to the charges of misconduct levelled and proved against the workman. It is therefore held that the workman failed to prove that the action of the Employer in dismissing him from services vide order dated 20-10-2010 is illegal and unjustified. The issue No. 3 is therefore answered in the negative.

26. *Issue No. 5:* While deciding the issue No. 3 herein above, I have come to the conclusion and held that the workman failed to prove that the action of the Employer in dismissing him from services vide order dated 20-10-2010 is illegal and unjustified. The Workman is therefore not entitled to any relief. The issue No. 5 is therefore answered in the negative.

In view of the above, I proceed to pass the following order:

ORDER

1. It is held that the action of the management of M/s. Plastic Export Zundert (I) Pvt. Ltd., Verna, Goa, in dismissing from services Shri Prabha L. Naik, Driver, vide Order dated 20-10-2010, is legal and justified.
2. The Workman, Shri Prabha L. Naik, Driver, is therefore not entitled to any relief.
3. No order as to costs.

Inform the Government accordingly.

(Suresh N. Narulkar)
Presiding Officer
Labour Court-II



State Directorate of Craftsmen Training

—

Notification

Ref. 3/SDCT/TPO/IMC/MAR/3545

Sub.: Re-constitution of Institute Managing Committee of Margao Government ITI-Borda, Margao.

In pursuance of the guidelines issued by Government of India for constitution of Institute Managing Committee (IMC) for the ITIs vide D.O. No. DGET-21(3)97-CPIU (VOL.IV) dated 25-01-2002 from Director General of Employment & Training and Joint Secretary, Government of India, Ministry of Labour, New Delhi, the Government is pleased to re-constitute the Institute Managing Committee of Margao Government ITI, Borda, Margao-Goa from the date of issue of this Notification.

CONSTITUTION:

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. Shri Manish Gosalia, — Chairman.
Managing Trustee,
Goa Knowledge Foundation,
S-4, Osia Mall, Margao-Goa. 2. Shri Naval Naik, — Member.
Director
M/s. Nanu Engineers Pvt. Ltd.,
Nanu House, Varde Valaulicar
Road, Margao-Goa. 3. Shri S. Ramachandra Pandian, — Member.
Site Engineer Manager
Syngenta India Ltd.,
Santa Monica Works,
Corlim, Ilhas, Goa. | <ol style="list-style-type: none"> 4. Shri Pradip Antonio Peregrino — Member.
da Costa,
Director
M/s. Astra Metal Systems Pvt. Ltd.,
L-75, Verna Industrial Estate,
Verna, Salcete-Goa. 5. Shri Deepak Chodankar, — Member.
Sr. Vice President
M/s. Smartlink Network
Systems Ltd.,
L-5, Verna Industrial Estate,
Verna, Salcete, Goa. 6. Shri Roque Mascarenhas, — Member.
Director/General Manager,
Beleza by the Beach,
Thondvaddo, Betalbatim,
Salcete-Goa. 7. Shri Deepak Pathania, — Member.
Founder, Host,
Creative Director D'Art
of Science, Founder, Creative
Director of Design Intervention,
Plot No. 993/b, Gandhi Road,
Bacbhata, Raia-Goa. 8. Smt. Andrea Gracias, — Member.
Manager-HR
Alila Diwa Goa,
48/10, Village Majorda,
Adao Waddo, Salcete, Goa. 9. Shri Anand Chatterjee — Member.
General Manager,
Planet Hollywood Beach Resort,
A8, Asconwaddo, Utorda Beach,
Salcete-Goa. 10. State Director or his — Member.
representative, State Directorate
of Craftsmen Training
Shramashakti Bhavan,
Panaji-Goa 11. Principal, — Member
Margao Government
Industrial Training Institute,
Borda, Margao, Goa. Secretary. 12. Faculty Representative — Member.
to be nominated by the
Principal, Margao Government
Industrial Training Institute,
Borda, Margao, Goa. 13. Co-ordinator, — Member.
to be nominated by the
Principal, Margao Government
Industrial Training Institute,
Borda-Margao, Goa. |
|---|--|

14. Student Representative — Member.
to be nominated by the
Principal, Margao Government
Industrial Training Institute,
Borda-Margao, Goa.

The term of reference shall be as per attached Annexure also specifying therein indicators for monitoring the performance of the IMC.

The terms of office of the IMC shall be three years from the date of issue of this notification or till the re-constitution of the IMC thereafter. The members representing the Industries may change by name and number depending upon the necessity of the IMC from time to time under specific orders of the Government. Change in the official members, if any, shall be on the basis of the recommendations of the State Director of Craftsmen Training.

The IMC shall meet as frequently as required and in any case at least once in three months. The members will have to intimate to the Chairman about his inability to attend the meeting and obtain leave of absence. Any member remaining absent for three consecutive meetings without leave of absence shall cease to be member of the IMC from the date of third absence.

The non-official members, who attend the meeting shall be paid a fixed honorarium of Rs. 400/- per meeting and no other TA/DA shall be payable.

By order and in the name of the Governor of Goa.

Aleixo F. da Costa, State Director & ex officio Joint Secretary (Craftsmen Training).

Panaji, 25th August, 2015.

ANNEXURE

ROLE AND RESPONSIBILITIES OF THE INSTITUTE MANAGING COMMITTEE (IMC)

1. Generation and Utilisation of Finance:

- a) The IMC would be free to generate funds through various projects from industry.
- b) The IMC would encourage donors to donate funds to the institutes.**
- c) These funds would be available to the IMC for utilization as decided by them.

2. Donation of Machinery & Equipments:

The IMC would encourage donation of machinery & equipments to the institutes.

3. Selection of Contract faculty:

The IMC will have powers for appointment of contract faculty as and when required.

4. Students Selection:

- a) Vocational guidance about the nature of course, job opportunities and career prospects would be provided to students prior to applying for admission in ITI so that they choose right courses.
- b) Introductory seminars for the fresh students (including visits to industry) may be conducted by industry to create interest and motivate them.
- c) The IMC may adopt various transparent methods of selection according to the individual needs of each institute. However, the guidelines prescribed by the NCVT should not be violated.

5. Employment:

- a) The IMC will be responsible for helping students in registration. Before passing out, all ITI students will be registered with (i) Local employment exchange (ii) Overseas employment cell (iii) Regional Headquarters of Industry associations (iv) Campus interviews will also be arranged.
- b) Trainees will be helped by the industry to go in for self-employment through acquisition of skills relating to interaction with FIs and basic trade and commerce facilities.
- c) Tracing the ITI graduates for next three years after their passing out.

6. Faculty and Staff Development:

- a) IMC will identify the training needs of all faculty and staff members based on Faculty Development Forms.
- b) Detailed annual and quarterly training calendars, budgets and release of personnel for training programmes will be planned by IMC including exchange of personnel between industry and institute.

7. Mentors and One-Day Lecturers (Guest Lecturers)

IMC will nominate Mentors and One-Day Lecturers (Guest Lecturers) from industry for various trades. One-day lecturers are specifically meant to deliver lecture or impart practical training in the ITI. A mentor is nominated for a student/group of students

belonging to one trade. Mentor may just discuss/guide/counsel students in the ITI or outside as per mutual convenience. He can, however, also deliver lecture or impart practical training. Mentors are more like role model for students and therefore, should be a good experienced skilled worker. Mentors will play an important role in vocational guidance and career counseling as well as apprising students about latest technologies and trends in the World of Work. Mentorship system should have great flexibility in contact between students and mentor. The contact could even be over telephone.

8. Seminars, workshops and exhibitions:

IMC will organize seminar, workshops and exhibitions for mutual benefits of trainees, faculty and industry.

9. Trade Advisory Committees (TAC):

IMC may constitute Trade Advisory Committee (TAC) for a group of trades or any other committee to assist in various functions. TAC should help IMC in issues related to improvement in effectiveness and relevance of training for a particular trade group. TAC should have trade experts from Industry, concerned instructors, student representatives etc. The exact composition may be decided by the IMC.

10. Industrial Training:

- a) IMC will prepare guidelines for the industrial training with details of periods of training including projects for students and faculty. Students of one trade may be released together for industrial training in order to avoid disruption of training in ITI.
- b) IMC will also decide about the stipend to be paid to each student and faculty by the industry providing training.

11. Curriculum Revamping:

- a) IMC will be allowed to revamp the curriculum of any trade above the NCVTs norms on the basis of industry needs.
- b) IMC will be allowed to include new trades and discontinue the obsolete trades by following simplified procedures to be decided by DGET.

12. Equipment Maintenance:

The maintenance and replacement of the equipment at the institute will be supervised by IMC.

13. Teaching Aids:

Teaching aids like working models, slides, video projections, instruction material in vernacular languages, work books, detailed job assignments of the institute will be upgraded under the supervision of IMC.

14. MIS System:

Under guidance of the Steering Committee, the Managing Committee will introduce an MIS System for each ITI. **Industry associations** will provide the necessary inputs for creating such MIS System.

15. Capital Expenditure:

- a) IMC will be involved in spelling out specifications for the procurement of equipment including accessories and measuring equipment. **The proposals for procurement of equipment will be cleared by IMC before orders are placed.**
- b) **The proposals of civil works (including additions/alterations in the existing building) will be cleared by IMC.**

16. Examination Supervision:

- a) Theoretical examinations will be jointly supervised by industry.
- b) Practical examination and evaluation will be supervised jointly by industry and external examiner.

17. Faculty Evaluation:

- a) Faculty evaluation will be done by the Steering Committee and their recommendations will carry weight and recognition.
- b) Faculty Development Form will be designed by IMC which will include criteria for gradation and development of faculty.

18. Transfer for faculty:

IMC will be taken into confidence while transferring the faculty from one institute to another.

19. Faculty Deputation:

Deputation of the faculty from one institute to another will be made at the recommendations of IMC.

20. Consultancy Rules:

The rules for providing consultancy by the ITI will be laid down in consultation with the Managing Committee.

Indicators for monitoring the performance of IMC:

- 1) Employment rate within 6 months of completing the course.
- 2) Student output to sanctioned capacity.
 - a) Admission rate
 - b) Retention rate
 - c) Pass rate
- 3) Internship/n-the-job training per student per year.
- 4) Average number of days of deputation of instructors in industry per year.
- 5) Revenue generated as percentage of operating expenses.
- 6) Donation of machinery and equipment to ITI by Industry.
- 7) Other co-operation between ITI and industry.
- 8) Time devoted by experts from industry in conducting classes or other activities in ITI.
- 9) Recommendations made by IMC and their implementation.

**Department of Law & Judiciary**

Law (Establishment) Division

Order

No. 5/3/2015/LD-Estt/1774

Sanction of the Government is hereby accorded to pay the following professional fees in addition to Conference fees to the below mentioned Advocates who are appearing in the matters of Mahadayi River Water Dispute Tribunal before the Water Disputes Tribunal at New Delhi.

Name of Advocates	Professional Fees	
	Per Hearing per day	Outstation Conference
1. Shri Anshuman Srivastava		
2. Ms. Nikita A. S. Nadkarni	Rs. 3,500/-	Rs. 1,750/-

The above Advocates shall submit the appearance fees bill to the Chief Engineer, Water Resources Department, Porvorim for settlement.

The expenditure shall be debited to the Budget Head of Water Resources Department, Porvorim-Goa.

This issues with the concurrence of the Finance (Exp.) Department vide their U.O. No. 1400010295 dated 13-08-2015.

By order and in the name of the Governor of Goa.

Amul S. Gaunker, Under Secretary, Law (Estt.).

Porvorim, 26th August, 2015.

Corrigendum

No. 5/3/2015/LD-Estt/1775

Read: Addendum No. 5/3/2015/LD(Estt.)/1446 dated 15-07-2015.

In the above read Addendum, in the third line after Sr. No. 18 may be read as "Adv. Ms. Nikita A. S. Nadkarni" instead of Adv. Ms. Nikhita Nadkarni.

The rest of the contents in the Addendum remain unchanged.

By order and in the name of the Governor of Goa.

Amul S. Gaunker, Under Secretary, Law (Estt.).

Porvorim, 25th August, 2015.

**Department of Personnel****Order**

No. 6/16/2013-PER/Part/2993

Read: Order No. 6/16/2013-PER/Part dated 25-11-2014.

Whereas, on the recommendation of Departmental Promotion Committee as conveyed by the Goa Public Service Commission vide its letter No. COM/II/11/42(3)/2014/795 dated 19-11-2014, 21 Officers holding the posts included in Schedule-II of the Goa Civil Service Rules, 1997, were promoted to hold Junior Scale post of Goa Civil Service, Group 'A', Gazetted in the Pay Band—3, Rs. 15,600-39,100+ GP Rs. 5,400/- vide Order No. 6/16/2013-PER/Part dated 25-11-2014.

And whereas, Shri Arvind Khutkar, one of the Officers holding the posts included in Schedule II of the Goa Civil Service Rules, 1997 was also considered by the D.P.C. for promotion to hold Junior Scale post of Goa Civil Service, but the findings of D.P.C. were kept in sealed cover as his vigilance clearance was withheld as F.I.R. was lodged against him bearing No. 7/2014 dated 10-03-2014.

And whereas when the six monthly review of the sealed cover cases was conducted the Vigilance Department vide letter No. 1/3/2004-VIG/PER/(Vol.XI)/1682 dated 27-05-2015 informed that no disciplinary proceedings are pending against Shri Khutkar.

And whereas in view of the said letter dated 27-05-2015 the sealed cover was opened, wherein Shri Khutkar was found to be fit and recommended for promotion to the post of Junior Scale Officer of Goa Civil Service.

Now therefore, on the recommendation of the Departmental Promotion Committee conveyed by the Goa Public Service Commission vide its letter No. COM/II/11/42(3)/2014/1127 dated 23-07-2015, the Governor of Goa is pleased to promote and appoint under Rule 14 of the Goa Civil Service Rules, 1997 read with Rule 5 (b) of the said Rules, Shri Arvind Khutkar (ST) holding the post included in Schedule-II of the said Rules to hold Junior Scale post of Goa Civil Service, Group 'A', Gazetted against the vacancy reserved for Scheduled Tribes in the Pay Band—3, Rs. 15,600-39,100+ GP Rs. 5,400/- notionally w.e.f. 25-11-2014 and place him below Smt. Olga Menezes and above Shri Pipi T. Murgaonkar in the Order dated 25-11-2014.

Shri Arvind Khutkar shall be on probation for a period of two years from the date of his joining. He shall exercise option for pay fixation within a period of one month from the date of issue of order.

Shri Arvind Khutkar shall continue in the present posting, until further orders.

By order and in the name of the Governor of Goa.

Umeshchandra L. Joshi, Under Secretary, (Personnel-I).

Porvorim, 24th August, 2015.



Department of Revenue

Order

No. 1/1/2015-RD

Whereas a Public Interest Litigation being Writ Petition No. 26 of 2014 has been filed in the Honourable High Court of Bombay at Goa by St. Anthony's Mundkar and Tenant's Association through its President Diego Francis Rodrigues and 2 Ors. against State of Goa, the Chief Town Planner, Town and Country Planning Department and 13 Ors.

And whereas the matter concerns a Hotel Project of Leading Hotels India Limited coming up at Tiracol wherein the allegations basically pertain to the purchases of tenanted agricultural lands by a Hotel-Company and then converting them for non-agricultural purpose pursuant to the consent orders.

And whereas the State Government vide an Affidavit has submitted the stand of the Government that the tenanted lands if any have to be protected. Vide the said Affidavit that Government has decided to institute an inquiry and thereby after hearing both the parties and after giving due opportunity to present whatever they have to say in the matter the Government will take a decision in the matter.

Now therefore the Government hereby sets up and constitutes an enquiry and appoints Shri Sandip Jacques, Member of Goa Civil Service, presently posted as Executive Director, Sports Authority of Goa, Panaji to hold an enquiry in the said matter, to act as a fact finding authority with all powers of the Mamlatdar/Agricultural Land Tribunal under the Goa, Daman and Diu Agricultural Tenancy Act and shall for the purpose herein enquire into:

- a) Whether the land in question as referred in the aforementioned PIL WP were agricultural lands and/or tenanted lands, and
- b) Whether the allegations regarding Tenancy made in the Petition as regards tenanted lands are true and correct, and
- c) Whether the lands are or are not tenanted lands.
- d) Whether any person was or was not a tenant of such lands?

Both the parties to the Writ Petition must be given opportunity to lead evidence if they so desire. Both the parties must be heard in detail if need be and the officer must submit the report with reasoned findings and recommendations to the Government within a period of three months from the date of issue of this Order.

Given under hand and seal of the Government on 2nd day of September, 2015.

By order and in the name of the Governor of Goa.

Ashutosh Apte, Under Secretary (Revenue).

Porvorim, 2nd September, 2015.

Order

No. 23/31/2013-RD

Whereas, the Government of Goa vide Notification No. 23/31/2013-RD dated 16-12-2013, issued under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Act 1 of 1894) (hereinafter referred to as the "said Act") and published in the Official Gazette, Series II No. 39 dated 26-12-2013 notified that the land specified in the Schedule thereof (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for approach road to Sewage Treatment Plant at Baga and Sewage pumping station at Calangute, Bardez-Goa (hereinafter referred to as the "said public purpose");

And whereas, the Government of Goa considered the report made by the Collector under sub-section (2) of Section 5-A of the said Act and on being satisfied that the said land is needed for the said public purpose, vide Notification No. 23/31/2013-RD dated 04-03-2015, issued under Section 6 of the said Act, and published in the Official Gazette, Series II No. 50 dated 12-03-2015, declared that the said land is required for the said public purpose. Subsequently, a Corrigendum vide No. 23/31/2013-RD dated 15-05-2015 issued and published in the Official Gazette, Series II No. 9 dated 28-05-2015.

Now, therefore, in exercise of the powers conferred by Section 7 of the Land Acquisition Act, 1894 (Act 1 of 1894), the Government of Goa hereby directs the Dy. Collector (LA), North Goa District, Panaji-Goa to take the order for acquisition of the said land.

By order and in the name of the Governor of Goa.

Anju S. Kerkar, Under Secretary (Revenue-II).

Porvorim, 4th September, 2015.

Department of Sports and Youth Affairs

Directorate of Sports and Youth Affairs

Order

No. 8/1/2009/Adhoc-Prom/Adm/DSYA (PF)/2103

Read: Government Order No. 8/1/2009/Adhoc-Prom/Adm/DSYA (PF)/269 dated 21-04-2014.

On the recommendation of the Goa Public Service Commission vide their letter No. COM/II/11/45(1)/2014/887 dated 24-08-2015, post-facto sanction of the Government is hereby conveyed for extension of the ad hoc promotion of Smt. Juliana Gurjao e Colaco, Dy. Director (Sports & Youth Affairs) for the period of three months w.e.f. 01-07-2015 to 30-09-2015.

By order and in the name of the Governor of Goa.

V. M. Prabhu Desai, Director & ex officio Joint Secretary (Sports & Youth Affairs).

Panaji, 27th August, 2015.

**Department of Transport**

Directorate of Transport

Order

D.Tpt/EST/244 (Part)/2015/3023

Ref.:- Order No D.Tpt/EST/244 (Part)/2015/705 dated 27-02-15 & Ad hoc Promotion effective from 02-03-2015.

The Government is pleased to extend the ad hoc promotion of Shri Prakash Azavedo to the post of Deputy Director of Transport for a further period of six months i.e. upto 01-03-2016.

By order and in the name of the Governor of Goa.

Arun L. Desai, Director & ex officio Addl. Secretary (Transport).

Panaji, 31st August, 2015.

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