

Panaji, 2nd March, 2017 (Phalgun 11, 1938)

SERIES II No. 48

OFFICIAL GAZETTE



GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

Note:- There are two Extraordinary issues to the Official Gazette, Series II No. 47 dated 23-02-2017 as follows:—

- (1) Extraordinary dated 26-02-2017 from pages 1063 to 1064 regarding Notification from Goa Legislature Secretariat.
- (2) Extraordinary (No. 2) dated 01-03-2017 from pages 1065 to 1066 regarding Notification from Goa Legislature Secretariat.

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.

Georgina Saldanha, Under Secretary (Labour).

Porvorim, 22nd February, 2017.

GOVERNMENT OF GOA

Department of Agriculture

Directorate of Agriculture

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Order

No. 2/12/98-AGR/Part II/317

Ex-post facto approval of the Government is conveyed with regard to acceptance of the resignation of Shri Kiran M. Kandolkar, Chairman of Goa State Horticultural Corporation Ltd., and relieve him w.e.f. 09-01-2017 as per his request.

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

U. B. Pai Kakode, Director & ex officio Joint Secretary (Agriculture).

Tonca-Caranzalem, 27th February, 2017.

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Department of Labour

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Notification

No. 28/1/2016-LAB/92

The following award passed by the Industrial Tribunal and Labour Court at Panaji-Goa on 28-11-2016 in reference No. C-IT/37/10 is hereby

IN THE INDUSTRIAL TRIBUNAL AND
LABOUR COURT
GOVERNMENT OF GOA
AT PANAJI

(Before Mr. Vincent D'Silva, Hon'ble Presiding Officer)

Case No. C-IT/37/10

Mr. Sagar Naik,
Rep. by the General Secretary,
Gomantak Mazdoor Sangh,
Ponda-Goa.

... Complainant

V/s

M/s. Narcinva Damodar Naik,
Fatorda, Margao, Goa

... Respondent

Complainant represented by Shri P. Gaonkar.

Respondent represented by Ld. Adv. Shri M. S. Bandothkar.

AWARD

(Delivered on this the 28th day of the month of November of the year 2016)

This is a complaint filed under Section 33-A of the Industrial Disputes Act, 1947.

2. In short, the case of the Complainant is that he was transferred from Margao to Mapusa workshop with effect from 16-03-2009 with malafide intention in order to harass him as he along with others joined Gomantak Mazdoor Sangh to which he protested vide his representation. The Complainant raised a dispute before Assistant Labour Commissioner, Margao asking her intervention in the matter. The Complainant on 19-11-2010 reported for work, however he was not

allowed to resume his duties. The action of Respondent in refusing him to join duties amounts to violation of Section 33 of the Industrial Disputes Act, hence the complaint.

3. In the written statement at Exhibit 4, the Respondent has stated that the allegations made by the Complainant are totally false. The transfer of the Complainant was done due to business exigencies and as per Certified Standing Orders. The Respondent has not violated any provisions of law and therefore the complaint be dismissed.

4. The Party I filed a rejoinder at Exhibit 5 denying the case put forth by Party II in the written statement.

5. Issues came to be framed at Exhibit 8.

6. In the course of further proceedings, the parties filed an application wherein they have agreed that in view of the settlement in reference IT/2/13 & IT/5/11, the Complainant, Shri Sagar Naik withdraws the complaint against the Respondent and that the Respondent is not guilty of contravention of Section 33 of the Industrial Disputes Act, 1947 as contained in the said complaint and that the complaint is voluntarily withdrawn.

7. The above application is signed by Shri Humberto Cardozo, Shri Manuel Vaz and Shri Hillary Fernandes for Complainant, so also Shri Puti Gaonkar, General Secretary, Gomantak Mazdoor Sangh and Adv. M. S. Bhandodkar for Respondent. I have gone through the said application and the records of the case and I am convinced that in view of the settlement in reference No. IT/2/13 & IT/5/11, the Complainant has voluntarily withdrawn the complaint against the Respondent. Hence, I have no difficulty in allowing the said application.

8. In view of above, I pass the following:

ORDER

- 1) The application at Exhibit 20 for withdrawal of the above complaint stands granted. Consequently, the complaint stands withdrawn.
- 2) No order as to costs.
- 3) Inform the Government accordingly.

Sd/-

(Vincent D'Silva)
Presiding Officer,
Industrial Tribunal and
Labour Court.

Notification

No. 28/1/2016-LAB/93

The following award passed by the Industrial Tribunal and Labour Court at Panaji-Goa on 28-11-2016 in reference No. IT/37/09 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.

Georgina Saldanha, Under Secretary (Labour).
Porvorim, 22nd February, 2017.

IN THE INDUSTRIAL TRIBUNAL AND
LABOUR COURT
GOVERNMENT OF GOA
AT PANAJI

(Before Mr. Vincent D'Silva, Hon'ble Presiding Officer)

Ref. No. IT/37/09

Shri Sagun Naik & 11 Ors,
Rep. by the General Secretary,
Gomantak Mazdoor Sangh,
G-5, Macedo Apartment,
Tisk, Ponda-Goa-403 401 ... Workmen/Party I
V/s

M/s. Narcinva Damodar Naik,
V. V. Naik Road, Fatorda,
Margao, Goa-403 602 ... Employer/Party II
Workmen/Party I represented by Shri P. Gaonkar.
Employer/Party II represented by Ld. Adv. Shri M. S. Bhandodkar.

AWARD

(Delivered on this the 28th day of the month of November of the year 2016)

By Order dated 25-11-2009, bearing No. 28/29/2009-LAB/ 1191, the Government of Goa in exercise of powers conferred by Section 10 (1)(d) of the Industrial Disputes Act, 1947 (for short The Act) has referred the following dispute to this Tribunal for adjudication.

"(1) Whether the action of the management of M/s. Narcinva Damodar Naik, Fatorda, Margao, Goa in refusing employment to the 12 workmen (mentioned below) and represented by the Gomantak Mazdoor Sangh, with effect from 01-09-2008 is legal and justified?

- | | |
|------------------------|---------------------|
| 1. Mr. Sagun Naik | 5. Mr. Olvish Cruz |
| 2. Mr. Pankaj Naik | 6. Mr. Gloria Paugo |
| 3. Mr. Rohidas Talekar | 7. Mr. Jayesh Naik |
| 4. Mr. David Paugo | 8. Mr. Rajan Achari |

9. Mr. Santosh Betkikar 11. Mr. Ankush Gaonkar
10. Mr. Sanjay Parab 12. Mr. Suresh Mhalsekar

(2) If not, what relief the workmen are entitled to?"

2. Upon receipt of the reference, it was registered as IT/37/09 and registered A/D notices were issued to both the parties. Pursuant to service of notices, Party I filed a claim statement at Exhibit 4 and Party II filed a written statement at Exhibit 5.

3. In short, the case of the Party I is that Party I workmen were working with Party II since last several years in their main workshop at Fatorda continuously till their refusal of employment/date of termination. The Party II has not revised their wages and allowances and their services were not confirmed and accordingly in June, 2008 they joined the union viz. Gomantak Mazdoor Sangh and thereafter submitted a charter of demands dated 28-6-2008, however Party II refused to negotiate with the union and on contrary, started harassing and threatening the workers. The workers were not allowed to resume their duties w.e.f. 1-9-2008 as they joined the union. The Party II has not conducted any enquiry and were not paid or offered retrenchment compensation, notice pay and other dues and therefore their refusal of employment is illegal.

4. In the written statement, the Party II has stated that there was no employer-employee relationship between them. The entire reference is not maintainable and bad-in-law as the management has not terminated the services of workmen concerned in the reference. The workmen were never employed in the firm but were employed by the service provider, P. B. Human Resources.

5. The Party I filed a rejoinder at Exhibit 6 denying the case put forth by Party II in the written statement.

6. Issues came to be framed at Exhibit 7.

7. In the course of further proceedings, the parties arrived at an amicable settlement and filed consent terms along with Annexure-A at Exhibit 30 colly.

8. The consent terms read as follows:

- (1) It is agreed between the parties that following workmen concerned in the reference namely Mr. David Paugo at serial No. 4, Mr. Olivish Cruz at serial No. 5, Mr. Gloria Paugo at serial No. 6, Mr. Santosh Betkikar at serial No. 9, Mr. Suresh Mhalsekar at serial No. 12 are workmen employed by P. B. Human Resources and not employed by Party No. II and have settled all their dues

with P. B. Human Resources and that there exists no employee-employer relationship between the Party No. II and above workmen.

- (2) The union does not press their demands as they have already settled their entire dispute in connection with employment and non-employment and condition of labour with the said employer.
- (3) It is further agreed between the parties that the workmen whose names are mentioned in Annexure-A shall have no claim of whatsoever nature against the Party No. II including any claim of benefit which can be computed in terms of money and/or claim of re-instatement or re-employment against the Party No. II.
- (4) In so far as the workmen concerned in above reference namely Mr. Sagun Naik at serial No. 1, Mr. Pankaj Naik at serial No. 2, Mr. Rohidas Talekar at serial No. 3, Mr. Jayesh Naik at serial No. 7, Mr. Rajan Achari at serial No. 8, Mr. Sanjay Parab at serial No. 10, Mr. Ankush Gaonkar at serial No. 11 who are concerned in the reference and whose names are mentioned in Annexure-A of the settlement shall be paid money mentioned against their names in full and final settlement of all their claims arising out of their employment with Party No. II and they further confirm that their entire claim arising out of their reference including any claim/benefit which can be computed in terms of money has been fully and satisfactorily settled in terms of settlement and they shall not claim any re-instatement or re-employment.

9. The above consent terms are signed by Shri Humberto Cardozo, Shri Manuel Vaz and Shri Hillary Fernandes for Workmen/Party I, so also Shri Puti Gaonkar, General Secretary, Gomantak Mazdoor Sangh and Adv. M. S. Bandodkar for Employer/Party II. I have gone through the records of the case and the above consent terms and I am convinced that the consent terms filed by the parties are just and fair and are in the interest of the Workmen/Party I and Employer/Party II and therefore, the same are accepted.

10. In view of above, I pass the following:

ORDER

- 1) The reference stands disposed of in view of the consent terms filed by the parties, at Exhibit 30 colly.

- 2) No order as to costs.
3) Inform the Government accordingly.

Sd/-
(Vincent D'Silva)
Presiding Officer,
Industrial Tribunal and
Labour Court.

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Notification

No. 28/1/2016-LAB/94

The following award passed by the Industrial Tribunal and Labour Court at Panaji-Goa on 28-11-2016 in reference No. IT/05/11 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.

Georgina Saldanha, Under Secretary (Labour).

Porvorim, 22nd February, 2017.

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IN THE INDUSTRIAL TRIBUNAL AND
LABOUR COURT
GOVERNMENT OF GOA
AT PANAJI

(Before Mr. Vincent D'Silva, Hon'ble Presiding Officer)

Ref. No. IT/05/11

Shri Loyal Fernandes & 4 Ors,
Rep. by the General Secretary,
Gomantak Mazdoor Sangh,
G-5, Macedo Apartment,
Tisk, Ponda-Goa-403 401 ... Workmen/Party I

V/s

M/s. Narcinva Damodar Naik,
V. V. Naik Road, Fatorda,
Margao, Goa-403 602 ... Employer/Party II
Workmen/Party I represented by Shri P. Gaonkar.
Employer/Party II represented by Ld. Adv. Shri M. S. Bandodkar.

AWARD

(Delivered on this the 28th day of the month of November of the year 2016)

By order dated 22-3-2011, bearing No. 28/3/2011-LAB/104, the Government of Goa in exercise of powers conferred by Section 10 (1)(d) of the Industrial Disputes Act, 1947 (for short The Act), has referred the following dispute to this Tribunal for adjudication.

“(1) Whether the action of the management of M/s. Narcinva Damodar Naik, Fatorda, Goa, in transferring Shri Loyal Fernandes, Shri Narendra Naik, Shri Abhay Jambaulikar, Shri Sagar Naik and Shri Abhit Naik vide order dated 03-03-2009 is legal and justified?”

(2) If not, what relief the workmen are entitled to?”

2. Upon receipt of the reference, it was registered as IT/05/11 and registered A/D notices were issued to both the parties. Pursuant to service of notices, Party I filed the claim statement at Exhibit 4 and Party II filed the written statement at Exhibit 5.

3. In short, the case of the Party I is that Party I workmen were working with Party II continuously since last several years and that on 03-03-2009 all the workmen concerned were issued transfer order transferring them to the Party II's Mapusa workshop w.e.f. 16-3-2009 as majority of the workmen had joined the union viz. Gomantak Mazdoor Sangh who had submitted a charter of demands as there was no proper wage structure or consistent wage revision. The said transfers were illegal and malafide and done only to victimize them. The workers made letters to withdraw the transfer letters as workshop at Mapusa is of different nature than the workshop at Margao. The transfer of the workmen is highly improper, illegal and amounted to victimization for trade union activities.

4. In the written statement, the Party II has stated that the entire reference is bad-in-law and not maintainable. The workmen were issued individual transfer orders without changing the service conditions including remuneration package. The transfer of workmen concerned in the reference is legal and justified having regards to transfer clause mentioned in appointment letter issued to workmen concerned and that the workmen were transferred to Mapusa due to exigency of work w.e.f. 16-3-2009. No case has been made out for granting any relief claimed by Party I.

5. The Party I filed a rejoinder at Exhibit 6 denying the case put forth by Party II in the written statement.

6. Issues came to be framed at Exhibit 9.

7. In the course of further proceedings, the parties arrived at an amicable settlement and filed consent terms along with Annexure at Exhibit 23 colly.

8. The consent terms read as follows:

(1) It is agreed between the parties that Mr. Loyal Fernandes, Mr. Abhay Zambaulikar, Mr. Sagar Naik and Mr. Abhit

Naik shall be paid each Rs. 10,000/- in full and final settlement of their all claim arising out of reference and they shall not have any claim of whatsoever nature including any claim which can be computed in terms of money.

- (2) It is agreed between the parties that since Mr. Narendra Naik workmen concerned in reference has resigned from services of company and by accepting his dues in full and final settlement arising out of his employment that nothing is due and payable to him arising out of reference in terms of money or otherwise.

9. The above consent terms are signed by Shri Humberto Cardozo, Shri Manuel Vaz and Shri Hillary Fernandes for Workmen/Party I, so also Shri Puti Gaonkar, General Secretary, Gomantak Mazdoor Sangh and Adv. M. S. Bandodkar for Employer/Party II. I have gone through the records of the case and the above consent terms and I am convinced that the consent terms filed by the parties are just and fair and are in the interest of the Workmen/Party I and Employer/Party II and therefore, the same are accepted.

10. In view of above, I pass the following:

ORDER

- 1) The reference stands disposed of in view of the consent terms filed by the parties, at Exhibit 23 colly.
- 2) No order as to costs.
- 3) Inform the Government accordingly.

Sd/-
(Vincent D'Silva)
Presiding Officer,
Industrial Tribunal and
Labour Court.

Notification

No. 28/1/2016-LAB/95

The following award passed by the Industrial Tribunal and Labour Court at Panaji-Goa on 28-11-2016 in reference No. IT/30/09 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.

Georgina Saldanha, Under Secretary (Labour).
Porvorim, 22nd February, 2017.

IN THE INDUSTRIAL TRIBUNAL AND
LABOUR COURT
GOVERNMENT OF GOA
AT PANAJI

(Before Mr. Vincent D'Silva, Hon'ble Presiding
Officer)

Ref. No. IT/30/09

Shri Chidanand Volvoikar & 5 Ors,
Rep. by the General Secretary,
Gomantak Mazdoor Sangh,
G-5, Macedo Apartment,
Tisk, Ponda-Goa 403 401 ... Workmen/Party I
V/s

M/s. Narcinva Damodar Naik,
Fatorda,
Margao, Goa 403 602 ... Employer/Party II

Workmen/Party I represented by Shri P. Gaonkar.
Employer/Party II represented by Ld. Adv. Shri M.
S. Bandodkar.

AWARD

(Delivered on this the 28th day of the month
of November of the year 2016)

By Order dated 7-9-2009, bearing No. 28/7/2009-LAB/909, the Government of Goa in exercise of powers conferred by Section 10 (1)(d) of the Industrial Disputes Act, 1947 (for short The Act), has referred the following dispute to this Tribunal for adjudication.

“(1) Whether the action of the management of M/s. Narcinva Damodar Naik of refusing employment to Shri Chidanand Volvoikar, Shri Vinod A. Chari, Shri Aditya C. Naik and Shri Ziy-aul S. Shaikh with effect from 01-08-2008 and to Shri Krishnanand Gajinkar and Shri Prashant Bandekar with effect from 04-08-2008 is legal and justified?

(2) If not, what relief the workmen are entitled to?”

2. Upon receipt of the reference, it was registered as IT/30/09 and registered A/D notices were issued to both the parties. Pursuant to service of notices, Party I filed the claim statement at Exhibit 4 and Party II filed the written statement at Exhibit 5.

3. In short, the case of the Party I is that Party I workmen were working with Party II since last several years in their sales and service workshop and to carryout maintenance and repairs of the vehicles, they were employed at their main workshop at Fatorda continuously till their refusal of employment/date of termination. The Party II

has not revised their wages and allowances and their services were not confirmed and accordingly in June, 2008 they joined the union viz. Gomantak Mazdoor Sangh and thereafter submitted Charter of Demands dated 28-6-2008, however Party II refused to negotiate with the union and on contrary, started harassing and threatening the workers. The workers were not allowed to resume their duties as they joined the union. The Party II has not conducted any enquiry and were not paid or offered retrenchment compensation, notice pay and other dues and therefore their refusal of employment is illegal.

4. In the written statement the Party II stated that since Party II is dealing with vehicles of 'Tata Motors Ltd.', it was engaging various contractors to provide expert services including P. B. Human Resource and Services, who was deploying manpower as and when required. The workman Shri Chidanand Volvoikar accepted all his dues and severed his relationship with Party II. The other workmen viz. Shri Vinod A. Chari, Shri Aditya C. Naik & Shri Ziy-aul S. Shaikh are not the employees of Party II as they are the workers of P. B. Human Resources and Services. The workshop has been permanently closed and the workers have been paid all the legal dues.

5. The Party I filed a rejoinder at Exhibit 6 denying the case put forth by Party II in the written statement.

6. Issues came to be framed at Exhibit 7.

7. In the course of further proceedings, the parties arrived at an amicable settlement and filed consent terms at Exhibit 27 colly along with Annexure.

8. The consent terms read as follows:

- (1) It is agreed between the parties that Shri Chidanand Volvoikar having resigned from the services of the Party No. II is not entitled to any relief of whatsoever nature, arising out of reference as he had already accepted all dues arising out of his employment and nothing is due and payable to him by the Party No. II. The union does not press their demands of Shri Chidanand Volvoikar.
- (2) It is further agreed between the parties that Shri Vinod A. Chari, Shri Aditya C. Naik, Shri Ziy-aul S. Shaikh the workmen concerned in the reference being employee of P. B. Resources, another employer and not being workmen of the Party No. II, the Gomantak Mazdoor Sangh, the union do

not desire to press their claim as all of them already settled their all claims with P. B. Resources and therefore they do not have any claims against the Party No. II as there is no employee-employer relationship between them.

- (3) In so far as Shri Krishnanand Gajinkar and Shri Prashant Bandekar is concerned, it is agreed between the parties that these workmen shall be paid a sum of Rs. 50,000/- each as full and final settlement of all their claims arising out of their employment of the Party No. II which includes Notice Pay, Retrenchment Compensation, Gratuity, Ex-Gratia etc. and nothing further due and payable to them arising out of employment and/or reference.
- (4) It is further agreed between the parties that 2 workmen mentioned above as well as other workmen who are concerned in the reference shall have no claim of whatsoever nature which can be computed in terms of money and this settlement is full and final settlement of all their claims arising out of reference including claim of re-instatement or re-employment.

9. The above consent terms are signed by Shri Humberto Cardozo, Shri Manuel Vaz and Shri Hillary Fernandes for Workmen/Party I, so also Shri Puti Gaonkar, General Secretary, Gomantak Mazdoor Sangh and Adv. M. S. Bandodkar for Employer/Party II. I have gone through the records of the case and the above consent terms and I am convinced that the consent terms filed by the parties are just and fair and are in the interest of the Workmen/Party I and Employer/Party II and therefore, the same are accepted.

10. In view of above, I pass the following:

ORDER

- 1) The reference stands disposed of in view of the consent terms filed by the parties, at Exhibit 27 colly.
- 2) No order as to costs.
- 3) Inform the Government accordingly.

Sd/-
(Vincent D'Silva)
Presiding Officer,
Industrial Tribunal and
Labour Court.

Notification

No. 28/1/2016-LAB/96

The following award passed by the Industrial Tribunal and Labour Court at Panaji-Goa on 28-11-2016 in reference No. IT/2/13 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.

Georgina Saldanha, Under Secretary (Labour).

Porvorim, 22nd February, 2017.

IN THE INDUSTRIAL TRIBUNAL AND
LABOUR COURT
GOVERNMENT OF GOA
AT PANAJI

(Before Mr. Vincent D'Silva, Hon'ble Presiding Officer)

Ref. No. IT/2/13

Workmen,
Rep. by the General Secretary,
Gomantak Mazdoor Sangh,
G-5, Macedo Apartment,
Tisk, Ponda-Goa 403 401 ... Workmen/Party I
V/s

M/s. Narcinva Damodar Naik,
V. V. Naik Road,
Fatorda, Goa – 403 602 ... Employer/Party II

Workmen/Party I represented by Shri P. Gaonkar.
Employer/Party II represented by Ld. Adv. Shri M. S. Bandodkar.

AWARD

(Delivered on this the 28th day of the month of November of the year 2016)

By Order dated 25-02-2013, bearing No. 28/3/2013-Lab/90, the Government of Goa in exercise of powers conferred by Section 10 (1)(d) of the Industrial Disputes Act, 1947 (for short The Act), has referred the following dispute to this Tribunal for adjudication.

“(1) Whether the action of the management of M/s. Narcinva Damodar Naik, Fatorda, Goa, in terminating the services of the below mentioned workmen, with effect from 01-08-2012 is legal and justified?

- (1) Shri Humberto Cardoso, Mechanic.
- (2) Shri Manuel Vaz, Lathe Room (IN).
- (3) Shri Gokuldas Naik, Mechanic.
- (4) Shri Agnelo Rodrigues, Tool Room In-charge.
- (5) Shri Shivaji Tanavji, Mechanic.
- (6) Shri Mahadev Naik, Mechanic.
- (7) Shri Hillary Fernandes, Mechanic.
- (8) Shri Freddy Fernandes, Tool Room In-charge.
- (9) Shri Sandesh Kawlekar, Mechanic.
- (10) Shri Uttam Chodankar, Tin Smith.
- (11) Shri Narayan Naik, Tin Smith.
- (12) Shri Milagres Pachaco, Mechanic.
- (13) Shri Abhay Zambaulikar, Mechanic.
- (14) Shri Loyal Fernandes, Mechanic.
- (15) Shri Abit Naik, Mechanic Helper.
- (16) Shri Sagar Naik, Mechanic Helper.

(2) If not, what relief the workmen are entitled to?”

2. Upon receipt of the reference, it was registered as IT/02/13 and registered A/D notices were issued to both the parties. Pursuant to service of notices, Party I filed the claim statement at Exhibit 4 and Party II filed the written statement at Exhibit 6.

3. In short, the case of the Party I is that Party I workmen were working with Party II since last several years in their sales and service workshop and to carry out maintenance and repairs of the vehicles, they were employed at their main workshop at Fatorda. The Party II has not revised their wages and allowances and their services were not confirmed and accordingly in June, 2008 they joined the union viz. Gomantak Mazdoor Sangh and thereafter submitted a Charter of Demands dated 28-6-2008, however Party II refused to negotiate with the union and on contrary, started harassing the workers and has illegal terminated their services. The action of management in terminating the services and engaging new workers is an unfair labour practice. The Party II has not conducted any enquiry and were not paid or offered retrenchment compensation, notice pay and other dues and therefore their termination of employment is illegal.

4. In the written statement the Party II stated that the termination of services of workmen is arising out of permanent closure of establishment under Section 25 FFF of the Industrial Disputes Act and therefore the said termination cannot be considered as retrenchment as contemplated under Industrial Disputes Act. The entire closure is fully legal and justified. The Party I had not made out any case and therefore the reference be dismissed.

5. The Party I filed a rejoinder at Exhibit 7 denying the case put forth by Party II in the written statement.

6. Issues came to be framed at Exhibit 10.

7. In the course of further proceedings, the parties arrived at an amicable settlement and filed consent terms along with Annexure-A at Exhibit 11 colly.

8. The Consent terms read as follows:

- (1) It is agreed between the parties that the workmen concerned in the reference shall be paid money as per Annexure-A in full and final settlement arising out of employment and reference and the amount mentioned in Annexure-A shall include Notice Pay, Retrenchment Compensation, Gratuity, Ex-Gratia, etc. and these workmen shall not have any further claim against the Party No. II other than what is mentioned in Annexure-A or as also any benefit which can be computed in terms of money, including re-instatement and re-employment.
- (2) It is further agreed between the parties that the workmen concerned in the above reference shall have no other claim other than amount mentioned against in Annexure-A of the settlement and their entire matter in connection with the employment, non employment and condition of labour is full and final settlement arising out of the reference and nothing is due and payable to them and that they are not entitled to claim any re-instatement or re-employment to the Party No. II.
- (3) It is agreed between the parties that since the workman concerned in the reference at serial No. 5 Shri Shivaji Tanavji has already settled with the Party No. II by taking his dues by full and final settlement, the union does not press his demand as contained in the order of reference and he would not get his claim for any money which can be computed in terms of money is fully and finally settled and he gave up his claim for re-instatement/re-employment.

9. The above Consent terms are signed by Shri Humberto Cardozo, Shri Manuel Vaz and Shri Hillary Fernandes for Workmen/Party I, so also Shri Puti Gaonkar, General Secretary, Gomantak Mazdoor Sangh and Adv. M. S. Bandodkar for Employer/Party II. I have gone through the records of the case and the above consent terms and I am convinced that the consent terms filed by the parties are just and

fair and are in the interest of the Workmen/Party I and Employer/Party II and therefore, the same are accepted.

10. In view of above, I pass the following:

ORDER

- 1) The reference stands disposed of in view of the consent terms filed by the parties, at Exhibit 11 colly.
- 2) No order as to costs.
- 3) Inform the Government accordingly.

Sd/-
(Vincent D'Silva)
Presiding Officer,
Industrial Tribunal and
Labour Court.

Notification

No. 28/1/2016-LAB/97

The following award passed by the Industrial Tribunal and Labour Court at Panaji-Goa on 28-11-2016 in reference No. IT/31/09 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.

Georgina Saldanha, Under Secretary (Labour).
Porvorim, 22nd February, 2017.

IN THE INDUSTRIAL TRIBUNAL AND
LABOUR COURT
GOVERNMENT OF GOA
AT PANAJI

(Before Mr. Vincent D'Silva, Hon'ble Presiding Officer)

Ref. No. IT/31/09

Workmen,
Rep. by the General Secretary,
Gomantak Mazdoor Sangh,
G-5, Macedo Apartment,
Tisk, Ponda-Goa 403 401 ... Workmen/Party I
V/s

The Managing Director,
M/s. Narcinva Damodar Naik,
Fatorda,
Margao, Goa 403 602 ... Employer/Party II

Workmen/Party I represented by Shri P. Gaonkar.
Employer/Party II represented by Ld. Adv. Shri M. S. Bandodkar.

AWARD

(Delivered on this the 28th day of the month of November of the year 2016)

By Order dated 7-9-2009, bearing No. 28/7/2009-LAB/910, the Government of Goa in exercise of powers conferred by Section 10 (1)(d) of the Industrial Disputes Act, 1947 (for short The Act), has referred the following dispute to this Tribunal for adjudication.

“(1) Whether the following demands raised by the Gomantak Mazdoor Sangh vide letter dated 28-06-2008 before the management of M/s. Narcinva Damodar Naik, Fatorda, Margao, Goa are legal and justified?”

Demand No. 1: Pay Scales

Grade	Pay Scales
I	1750-60-2050-70-2400-80-2800-90-3250-100-3750-110-4300-120-4900
II	1850-65-2175-75-2550-85-2975-95-3450-105-3975-115-4550-125-5175
III	1950-70-2300-80-2700-90-3150-100-3650-110-4200-120-4800-130-5450
IV	2050-75-2425-85-2850-95-3325-105-3850-115-4425-125-5050-135-5725
V	2150-80-2550-90-3000-100-3500-110-4050-120-4650-130-5300-140-6000

Demand No. 2: Flat Rise

It is demanded that all the workmen should be given a flat rise of Rs. 1000/- and the same shall be added to the existing basic and thereafter fitted in the revised pay scale in the higher stage.

Demand No. 3: Seniority Increments

It is demanded that the workmen shall be given seniority increments as mentioned below:

Service up to 4 years	Two increments
Service above 4 years and upto 8 years	Three increments
Service above 8 years and upto 13 years	Four increments
Service above 13 years	Five increments

Demand No. 4: Variable Dearness Allowances

It is demanded that the Variable Dearness Allowance shall be paid at the revised rate of Rs. 3/- per point rise above 2000 points (1960=100). The computation of Variable Dearness Allowance shall be made quarterly based as per existing system.

Demand No. 5: House Rent Allowances

It is demanded that the House Rent Allowance shall be paid at the revised rate of Rs. 30% of basic and Dearness Allowance, as the cost of accommodation is very high in Goa on account of it being a Tourist State.

Demand No. 6: Children Education Allowance

It is demanded that the Children Education Allowance shall be paid by adding an amount of Rs. 500/- to existing allowance per month.

Demand No. 7: Conveyance Allowance

It is demanded that all workmen shall be paid Conveyance Allowance at the rate of Rs. 750/- per month.

Demand No. 8: Paid Holidays

It is demanded that all the workmen shall be granted paid holidays at the rate of 16 days per year. It is further demanded that the festival holidays that fall on weekly off day shall be changed to next day or one day earlier, which shall be finalized in consultation with the union.

Demand No. 9: Leave

It is demanded that all the workers shall be given leave on following basis:

- (A) Earned Leave:- It is demanded that all the workmen shall be given earned leave at the rate of 30 days Earned leave per year with accumulation up to 120 days and leave shall be allowed to be taken 10 times in a year.
- (B) Casual Leave:- It is demanded that all the workmen shall be given casual leave at the rate of 15 days per year with encashment facility.
- (C) Sick Leave:- It is demanded that all the workmen shall be given sick leave at the rate of 15 days per year with accumulation of 60 days.

Demand No. 10: Leave Travel Assistance

It is demanded that Leave Travel Assistance shall be paid at the revised rate of Rs. 5000/- per annum, with minimum of four days earned leave. The amount shall be paid one week before the commencement of leave.

Demand No.11: Medical Reimbursement/Medical Allowance

Workmen are working in the dusty place, which causes major hazards to the health of the workers, and as such the cost of medicine is very high which cannot be met with the wages paid to the

workmen. It is, therefore demanded that the cost of all medical expenses of the workmen and their family shall be reimbursed and an amount of Rs. 4500/- should be paid as medical allowance to meet the day to day needs of the family members of the workmen.

Demand No. 12: Festival Allowance

It is demanded that all the workmen shall be granted festival allowance of Rs. 3500/- once in a year at the time of festival to meet the additional expenses incurred by him for such festival.

Demand No. 13: Bonus/Ex-Gratia

It is demanded that all the workers shall be paid Bonus/Ex-gratia at the rate of 20% of gross wages every year, before Diwali.

Demand No. 14: Canteen Subsidy

It is demanded that all the workmen shall be paid canteen subsidy @Rs.500/- per month.

Demand No. 15: Washing Allowance

It is demanded that the existing washing allowance shall be revised to Rs. 350/- per month.

Demand No. 16: Daily Bhatta/Outdoor Allowance

It is demanded that those workmen who are required to work on outstation duties, they shall be paid actual travelling and accommodation and the daily bhatta at the rate of Rs. 350/- per day.

Demand No. 17: Special Sick Leave

It is demanded that those workmen who meet with accident while on duty shall be granted special sick leave for the period they are under medical treatment.

(2) If not, what relief the workmen are entitled to?"

2. Upon receipt of the reference, it was registered as IT/31/09 and registered A/D notices were issued to both the parties. Pursuant to service of notices, Party I filed the claim statement at Exhibit 5 and Party II filed the written statement at Exhibit 8.

3. In short, the case of the Party I is that the Party II was engaged in sales and service of vehicles of Tata Motors in Goa. The Party I submitted a Charter of Demands as the wages of workers are very low and not revised for many years. The financial position of the company is very sound and they can bear additional cost of demands made by the workers. The other comparable establishments functioning in Goa are paying much higher wages and allowances to the workmen. The

workers have joined the union and on account of that the management started implementing various unfair labour practices. The Party II failed to resolve the issue of Charter of demands. The dispute raised before the Dy. Labour Commissioner ended in failure. Hence, the reference.

4. In the written statement, the Party II has stated that the entire reference is vague and imaginary. The Party II has permanently closed its workshops undertakings at Fatorda and Mapusa. The demands made by Party I are bad in law, illegal and unjustified. Party I has not made out any case and therefore the entire demands and reference be rejected.

5. The Party I filed a rejoinder at Exhibit 9 denying the case put forth by Party II in the written statement.

6. Issues came to be framed at Exhibit 25.

7. In the course of further proceedings, the parties arrived at an amicable settlement and filed consent terms at Exhibit 28.

8. The Consent terms read as follows:

(1) In view of the settlement in reference No. IT/30/09, IT/37/09, IT/5/11 and IT/2/13, Complaint No. C-IT/37/10 and Approval Applications No. A-IT/42/11 and A-IT/43/11, and since all the workmen have given up their claims for employment, matters in connection with the employment and non employment and conditions of labour having been settled in above matters and since no more employee- employer relationship exists between the workmen concerned in the above reference, complaint and applications, the union/ workmen do not press their demands as contained in the reference.

9. The above Consent terms are signed by Shri Humberto Cardozo, Shri Manuel Vaz and Shri Hillary Fernandes for Workmen/Party I, so also Shri Puti Gaonkar, General Secretary, Gomantak Mazdoor Sangh and Adv. M. S. Bhandodkar for Employer/ Party II. I have gone through the records of the case and the above consent terms and I am convinced that the consent terms filed by the parties are just and fair and are in the interest of the Workmen/Party I and Employer/Party II and therefore, the same are accepted.

10. In view of above, I pass the following:

ORDER

- 1) The reference stands disposed of in view of the consent terms filed by the parties, at Exhibit 28.
- 2) No order as to costs.
- 3) Inform the Government accordingly.

Sd/-
(Vincent D'Silva)
Presiding Officer,
Industrial Tribunal and
Labour Court.

Notification

No. 28/1/2016-LAB/98

The following award passed by the Industrial Tribunal and Labour Court at Panaji-Goa on 09-12-2016 in reference No. IT/22/03 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.

Georgina Saldanha, Under Secretary (Labour).

Porvorim, 22nd February, 2017.

IN THE INDUSTRIAL TRIBUNAL AND
LABOUR COURT
GOVERNMENT OF GOA
AT PANAJI

(Before Mr. Vincent D'Silva, Hon'ble Presiding Officer)

Ref. No. IT/22/03

Shri Dinesh V. Velingkar,
Near Primary School,
Mangueshi, Goa.

... Workman/Party I

V/s

M/s. Murudeshwar Ceramics Ltd.,
G-20, Angarki Bldg.,
Ponda-Goa.

... Employer/Party II

Workman/Party I represented by Ld. Adv. Mrs. Suvarna Naik.

Employer/Party II represented by Ld. Adv. Shri S. M. Tendulkar along with Ld. Adv. Shri Sarvesh Naik.

AWARD

(Delivered on this the 9th day of the month of December of the year 2016)

By Order dated 04-04-2003, bearing No. 28/11/2003-LAB/108, the Government of Goa in exercise of powers conferred by Section 10 (1)(d) of the Industrial Disputes Act, 1947 (for short The Act), has referred the following dispute to this Tribunal for adjudication.

"(1) Whether the action of the management of M/s. Murudeshwar Ceramics Ltd., Hubli, having their branch at Ponda-Goa, in terminating the services of Shri Dinesh V. Velingkar (Mktg. Executive), with effect from 22-08-2002, is legal and justified?

(2) If not, what relief the workman is entitled to?"

2. Upon receipt of the reference, it was registered as IT/22/03 and registered A/D notices were issued to both the parties. Pursuant to service of notices, Party I filed a Claim statement at Exhibit 4 and Party II filed a Written statement at Exhibit 13.

3. In short, the case of the Party I is that he was a workman employed with Party II at its unit at Ponda and was appointed on probation for a period of six months w.e.f. 8-10-2001 as a Sales Executive on a fixed salary of Rs. 4000/- per month. The Party I worked for about 11 months and during the said period he had not received either a letter of extension of probation period or confirmation of services in the organization. The employer had not conducted appraisal test and had also not made the performance report during the period of 11 months service in the said organization. The employer had issued him one warning memo dated 8-6-2002 during the period of 11 months advising him to improve his performance and that he would be kept on close observation of his performance and activities. There was no other memo sent to him regarding his performance, however on 20-8-2002 without any reason, the management forced him to resign his services and on the same date faxed him a termination letter. The workman had raised a dispute before the Assistant Labour Commissioner, Ponda on 23-8-2002 for injustice done on him by the management by illegally terminating his services.

4. In the written statement at Exhibit 6, the Party II has stated that the Government of Goa is not the Appropriate Government to refer any dispute to the Tribunal. The Party II is a company duly registered under Companies Act having registered office at Murudeshwar Bhavan, Gokula

Road, Hubli and its factory at Krishnapur Village, Hubli, Karnataka. The Regional and Administrative office of Party II is also at Hubli. The Party I was employed at Hubli and was placed under Dy. General (Marketing) at Hubli and was directed to report at the office at Hubli. The Party I joined at Hubli and his salary and other amounts due and payable under the appointment letter were paid by the Accounts Department, Hubli. The Party I, though was initially stationed at Goa, all his activities were supervised and controlled by Hubli office of Party II. The termination letter was issued at Hubli by Dy. General Manager, Hubli and therefore the Government of Goa has no jurisdiction to refer the dispute to the Tribunal.

5. The Party I was never a workman as defined in Industrial Disputes Act, 1947 and is not entitled for any relief under the Act. The duty and responsibility while in employment of Party I was supervisory and promotive in nature and required initiative to promote sales. The Party I was employed as Sales Executive which required skilled work and creative ideas to supervise and control the business. The Party I vide its application dated 31-8-2001 addressed to Party II at Hubli applied for the post of Sales Executive and the Party II appointed him as a Sales Executive upon the terms and conditions mentioned in the appointment letter and was directed to report at Hubli. The Party I during the period of employment was unable to discharge the duty to the satisfaction of Party II and was always negligent which prompted Party II to extend his probation and consequently, the services of Party I were terminated and therefore, the claim of Party I be rejected.

6. The Party I filed a rejoinder denying the case put forth by Party II in the written statement. The Party I has claimed that his services were in Goa and was stationed at Goa as Sales Executive. He also claimed that he is a permanent resident of Mangueshi, Goa and is entitled to institute a case/ /dispute before the Court/within the jurisdiction where the workman resides. All the letters were addressed to him by Party II at his residential address at Mangueshi, Goa and that he was working under Area Manager posted at Goa and was directed to sign attendance register and to inform day-to-day sales and other activities to Area Manager, Ponda, Goa. The Party II deliberately and intentionally avoided to issue a confirmation letter even after the prescribed work period. The Dy. General Manager has no power and authority to terminate the services.

7. Issues framed at Exhibit 16 are as follows:

- (1) Whether the Party I proves that he was a "Workman" within the meaning of Sec. 2(s) of the I.D. Act, 1947?
- (2) Whether the Party I proves that termination of his services is illegal and unjustified?
- (3) Whether the Party I proves that the appropriate Government was Government of Karnataka?
- (4) Whether the Party II proves that this Tribunal has no jurisdiction to adjudicate upon the dispute?
- (5) Whether the Party II proves that the services of the Party I were terminated during probation period for unsatisfactory performance?
- (6) What relief? What Award?

8. In the course of evidence Party I Shri Dinesh Velingkar examined himself as witness No. 1 and produced on record a copy of appointment letter at Exb. W-1, a copy of letter dated 26-9-2001 at Exb. W-2, a copy of pay slip at Exb. W-3, a copy of warning memo at Exb. W-4, a copy of reply to warning memo at Exb. W-5 and a copy of termination letter dated 21-08-2001. On the other hand, the Party II examined Shri Anand Shetty as their witness and produced on record a copy of appointment letter dated 8-10-2001 at Exb. 29, copy of complaints dated 23-8-2002 and dated 4-10-2002 filed before the ALC, Ponda at Exb. 30 & 31 respectively, a copy of notice dated 3-9-2002 issued by ALC, Ponda at Exb. 32, a copy of reply dated 4-10-2002 to ALC, Ponda at Exb. 33, a copy of minutes of conciliation proceedings dated 20-12-2002 at Exb. 34 and a copy of extract of resolution passed by Party II authorizing him to depose, etc in the matter at Exb. 35.

9. Heard arguments. Notes of written arguments came to be placed on record by the parties.

10. I have gone through the records of the case and have duly considered the submissions made by the learned advocates for Parties. I am reproducing herewith the issues along with their findings and reasons thereof.

Sr. No.	Issues	Findings
1	2	3

1.	Whether the Party I proves that he was a "Workman" within the meaning of Sec. 2(s) of the I. D. Act, 1947?	In the affirmative
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1	2	3
2. Whether the Party I proves that termination of his services is illegal and unjustified?	In the negative	
3. Whether the Party II proves that the appropriate Government was Government of Karnataka?	In the negative	
4. Whether the Party II proves that this Tribunal has no jurisdiction to adjudicate upon the dispute?	In the negative	
5. Whether the Party II proves that the services of the Party I were terminated during probation period for unsatisfactory performance?	In the affirmative	
6. What relief? What Award?	As per order below.	

REASONS

Issue No. 1:

11. Ld. Adv. Mrs. Suvarna Naik for the Party I has submitted that Party I workman worked on probation for 11 months without any extension letter or confirmation letter from the management. Even though Party II has designated Party I as Sales Executive but no power and authority was given to him. The designation without power has no meaning and therefore he does not fall in the category of management but in the category of workman. The Party II deliberately and intentionally avoided issuing a confirmation letter even after the prescribed work period. He was employed as Sales Executive only after considering his skilled work and creative ideas.

12. Ld. Adv. Shri S. M. Tendulkar for Party II has submitted that Party I was never a workman as defined under Industrial Disputes Act, 1947. The duty and responsibility while in employment with Party I was supervisory and promotive in nature and required initiative to promote sales. The Party I was employed as Sales Executive which required skilled work and creative ideas to supervise and control the business. The nature of business of Party I clearly show that Party I does not fit into the definition of a "workman" and therefore no reference could be validly considered.

13. It is well settled that for a person to be a "workman" under the Act, he must be employed to do the work of any of the categories mentioned

in Section 2(s) of the Industrial Disputes Act, 1947. It would therefore be useful to consider the definition of workmen given in section 2(s) of the Industrial Disputes Act, 1947. The definition reads as under:-

Section 2(s). "Workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person.

14. In the present case, the workman Shri Dinesh Velingkar has claimed that he joined his duties at Hubli on 8-10-2001 pursuant to the letter at Exb. W-2. He has however not specified the nature of duties which he was performing in terms of appointment letter dated 8-10-2001 at Exb. W-1 nor there is any annexure to appointment letter specifying the nature of duties which the workman had to perform. The workman has produced on record Warning Memo at Exb. W-4 which stipulates the shortfalls regarding his performance during 8 months of duty with Party I wherein it has been stated that he had not increased business to the company and also fared poorly in activities like, enquiry generation, follow-up, reporting to H.O. letters and has not improved his performance in achieving his target nor generated enquiries and the reports submitted by him are just like activity chart and not sales report, although he was informed about how to write sales report giving all details asked for and other shortfalls.

15. The above Warning memo clearly shows the nature of duty the Party I/workman had to perform including achieving the sales target, making enquiries, furnishing sales report, responding to I.O.Ms, circulars sent by H.O., following instructions from H.O., planning for days sales activities, taking prior appointment, informing the Area Manager, reporting to the Area Manager about days happenings, which are indication that the nature of the duty of the Party I Workman is of clerical type involving manual, skilled, technical, operational or supervisory work which the Party I was doing during his employment with Party II. Therefore, considering the nature of duty which was expected from Party I which is reflected in

Warning memo at Exb. W-4, it is more than clear that the Party I was performing the duty of clerical in nature and therefore covered by the definition of workman given in Section 2(s) of the Industrial Disputes Act, 1947. The Party I therefore proved that he was a “workman” within the meaning of Section 2(s) of Industrial Disputes Act, 1947 and therefore Issue No. 1 is answered in affirmative.

Issue Nos. 2 & 5:

16. Ld. Adv. Mrs. Suvarna Naik for the Party I has submitted that the termination of services of the workman employed by Party II was illegal and unjustified. The employer did not conduct appraisal test nor made performance report during the period of 11 months service in the above named organization. The employer had issued only one warning memo dated 8-6-2002 for period of one month advising him to improve his performance and that he was kept on close observation of his performance and activities and that the said period of one month was completed on 8-7-2002 after which there was no other memo issued to him regarding his performance. The employer without any reason thereafter on 20-8-2002 forced him to resign his service and on the same day faxed him the termination letter without giving him reasonable opportunity to represent his case thereby denying him natural justice. The workman was on probation for 11 months without any extension letter or confirmation letter from the management and as per law if the workman puts in attendance of 240 days in one organization without break in service then the workman automatically gets confirmed in the organization. In support of her contention, she relied upon the case of **The State of Punjab vs. Dharam Singh, 1968 3 SCR 1**.

17. Per contra, Ld. Adv. S. M. Tendulkar for the Party II has submitted and rightly so that the Party I was placed under probation for a period of six months from the date of joining duty and the said probation period could be extended further till the Party I was issued a letter in writing confirming him in service and that during the probation period the Party II could terminate the services of Party I without assigning any reason and/or without notice and/or compensation. Discernibly, Clause 1 of the appointment letter at Exb. W-1 dated 8-10-2001 clearly states that Party I would be on probation for a period of six months from the date of joining duty and during the probation the services can be terminated without assigning any reason and/or without notice and/or compensation. Importantly, in the said clause it is

stated that the Party I would be confirmed in services of the company only if he is intimated to that effect in writing. The Party I in his cross examination has admitted that as per the appointment letter dated 8-10-2001 at Exb. W-1, he was on probation for a period of six months from the date of joining duty and that he was never given any letter by Party II stating that he was confirmed in the services of the company.

18. The Workman/Party 1 also admitted that he had signed the appointment letter at Exb. W-1 for having accepted the terms and conditions of the said appointment letter. The documents and evidence on record clearly point out that the Party I was initially appointed for the period of six months and that his services could be confirmed only if he was intimated to that effect in writing. Admittedly, the Party I was never issued any letter in writing by Party II indicating the confirmation of the services in the company. The Party I has accepted the terms and conditions of the appointment letter which clearly states that his services would be confirmed only if he is intimated in writing by the company. There was admittedly no letter of confirmation issued to Party I by the company. It therefore cannot be said that the services of Party I was confirmed as claimed by Party I. It therefore follows that the Party I was on probation during his services with Party II.

19. The next question is whether the termination of Party I is illegal and unjustified and whether the services were terminated for unsatisfactorily performance. The Appointment letter at Exb. W-1 clearly indicates that during the period of probation the services of Party I could be terminated without assigning any reasons and/or without notice and/or without compensation. The Party I was issued a warning memo dated 8-6-2002 which has not been replied to by him. His services were terminated by Party II from 21-8-2002 and he admitted that he did not reply to the termination letter. The termination letter at Exb. W-6 shows that the management was displeased with his performance inspite of their warning memo listing out therein various deficiencies and that they are therefore constrained to terminate his services w.e.f. 22-8-2002. The termination letter at Exb W-6 cannot be termed illegal as reasonable opportunity was given to Party I to improve his performance. He was issued warning memo as well as inter office memo at Exb. W-5 dated 18-6-2002 and was kept on close observance on his performance and activities. He has not produced on record any evidence contrary to the memos issued to him to improve his performance. The workman inspite of opportunity

and warnings given to him, failed to show any improvement nor replied to the memo dated 8-6-2002 or termination letter dated 22-8-2002. Moreover, the Party II as per terms and conditions of appointment letter dated 8-6-2001 was not required to give any reason for termination of service since the Party I was under probation period.

20. The documents and evidence on record are indication of the fact that termination of the services of the Party I Workman was legal and justified as the termination letter clearly states that since the management was not satisfied with the performance of Party I, the services were terminated and was also offered salary of one month in lieu of notice period which was paid to him. The services of Party I were terminated during probation period for the reasons mentioned in the said termination letter after following the principles of natural justice and therefore the submission of Party I that there were no other memos; no appraisal tests; no performance reports or that he was forced by Party II to resign without giving opportunity to represent himself or there has been violation of principle of natural justice cannot be accepted. Moreover, the claim of Party I of Rs. 50,000/- by way of compensation also cannot sustain which Party II is not liable to pay. The services of Party I are lawfully terminated as the performance of Party I who was under probation was found unsatisfactory and therefore the claim of Party I cannot be granted. Hence, the issue No. 2 is answered in negative and issue No. 5 is answered in the affirmative.

Issue Nos. 3 & 4:

21. Ld. Adv. S. M. Tendulkar for the Party II has submitted that the Tribunal has no territorial jurisdiction to entertain, try and dispose of the dispute between Party I and Party II as industrial dispute has arisen outside the jurisdiction of the Court, more so when the Party II is a company duly registered under Companies Act and is having registered office, its factory so also regional and administrative office at Hubli, Karnataka. The Party I is employed at Hubli and placed under Dy. General (Marketing) at Hubli. The Party I had joined at Hubli as per appointment letter. The salary and other amounts due and payable under the appointment letter were paid by the Accounts Department at Hubli and all his activities were supervised and controlled by the Hubli office of Party II. The termination letter by Party II was also issued at Hubli and therefore the Appropriate Government under the Industrial Dispute Act

would be Government of Karnataka and not Government of Goa. In support to his contention, he relied upon cases of (1) **J. & J. Dechane Distributors vs. State of Kerala and others, 1974 II L.L.J. 9** and (2) **Association of Medical Representatives (M.&V.) vs. Industrial Tribunal, Madhya Pradesh, Indore and another, 1966 I L.L.J. 614.**

22. Per contra, Ld. Adv. Mrs. Suvarna Naik for the Party I has submitted that the Party I was a permanent resident of Mangueshi, Goa and all the correspondence were addressed to Party I at his residential address including appointment letter, warning memo and termination letter. The Party I was working under Area Manager posted at Goa and was directed to sign attendance register every day in the morning and in the evening and to inform day-to-day sales and activities to Area Manager at Ponda and was directed to handover all the records and belongings of the company to one Mr. Ratan Gajendragad, Area Manager, Goa and therefore the Appropriate Government is the Government of Goa and not the Government of Karnataka. In support of her contention, she relied upon the cases of (1) **Pritam Singh vs. Presiding Officer, Labour Court, 2004 0 Supreme (P&H) 638** and (2) **Lohia Starlinger Limited and Anr. vs. Govt. of NCT of Delhi and Ors., 2006(3) SCT 214 (Delhi).**

23. Needless to mention, the provisions of the Industrial Dispute Act need to be interpreted liberally to achieve the legislative intent. The provisions of the Act are silent with respect to an occurrence of a cause of action, yet the principles laid down for determining territorial jurisdiction of a Civil Court can ordinarily be borrowed and pressed into service for seeking reference to an industrial dispute. Even, if part of cause of action has arisen in the territory of a State, its Government is competent to refer the dispute and if the facts culminating into occurrence of "cause of action" are scattered in the territories of more than one State, it is open to the aggrieved party to approach any one of the State Governments for getting the dispute referred. That being the case even an industrial dispute and occurrence of an industrial dispute does not necessarily depend only upon the situs of the employment where the worker was employed or where the order of dismissal of his service, suspension or retrenchment is received as observed in the case of Pritam Singh, supra.

24. The Hon'ble High Court of Bombay in **Lalbai Tricumlal Mills vs. Vin (D.M) and Ors. 1956(I) LLJ 557** has held that the Act did not deal with

the cause of action nor did it indicate what factors will confer jurisdiction upon the court and consequently the well known tests of a jurisdiction would require to be complied with to which the court or tribunal would have jurisdiction in the matter. It also held that a Court or Tribunal would have jurisdiction if the parties reside within jurisdiction or if the subject-matter of the dispute substantially arose within jurisdiction.

25. The workman, Shri Dinesh Velingkar has produced on record the appointment letter dated 8-10-2001 addressed to him at his residential address at Mangueshi. There is no dispute that Party I is a permanent resident of Mangueshi-Goa and all the correspondence were addressed to his residential address at Mangueshi and that he was stationed at Goa as Sales Executive on behalf of Party II for achieving the sales target of the product of Party II and that he was relieved from office for failing to achieve the targets. The cause of action therefore had arisen in the territory of State of Goa as he was working on behalf of Party II in Goa. Moreover, the Party I resided within the jurisdiction of State of Goa and the subject matter of dispute substantially arose within the jurisdiction of State of Goa and therefore, it was open to Party I to approach any of the State Governments for getting the dispute referred and therefore the State of Goa is competent to refer dispute to this Tribunal. The contention of Ld. Adv. Shri S. M. Tendulkar and the reliance placed on the above citations turned on its own facts and therefore are not applicable to the case at hand. The Tribunal has therefore territorial jurisdiction to adjudicate the dispute referred by the Government being the Government of Goa and not the Government of Karnataka. It is, therefore, issue No. 3 & 4 are answered in negative.

26. In the result, I pass the following:

ORDER

1. It is hereby held that the action of the management of M/s. Murudeshwar Ceramics Ltd., Hubli, having their branch at Ponda-Goa, in terminating the services of Shri Dinesh V. Velingkar (Mrkg. Executive), with effect from 22-08-2002, is legal and justified. The Party I, is therefore not entitled to any relief.
2. No order as to costs.
3. Inform the Government accordingly.

Sd/-
(Vincent D'Silva)
Presiding Officer,
Industrial Tribunal and
Labour Court.

Notification

No. 28/1/2016-Lab/Part-IV/79

The following compromise memorandum of settlement signed on 12-11-2016 before the National Lok Adalat in case No. P-IT/50/16 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

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

Georgina Saldanha, Under Secretary (Labour).

Porvorim, 22nd February, 2017.

NATIONAL LOK ADALAT

COMPROMISE MEMORANDUM OF SETTLEMENT
IN CASE No. P-IT/50/16 FILED UNDER
SECTION 33 (1) OF THE INDUSTRIAL
DISPUTES ACT, 1947

Case No. P-IT/50/16

M/s. Elsteel Modular Products
India Pvt. Ltd.,
Plot No. 3, Phase 3,
Honda Industrial Estate,
Satari Goa 403530 Applicant/Party I
V/s

Shri Sarvesh Malik,
H. No. 194, Near Petrol Pump,
Pratap Nagar, Sanquelim-Goa Opponent/Party II

MAY IT PLEASE YOUR HONOUR

Dispute in brief is that pursuant to the suspension orders dated 28-09-2016 made by the Company M/s. Elsteel Modular Products (I) Pvt. Ltd., Honda, Satari Goa, suspending the workmen namely, S/Shri Sanjay Hirlekar, Sarvesh Malik, Vithal Gawas, Pratap Nagvekar, Pravin Naik, Rajendra Narulkar, Amit Ekawade, Rupesh Rawal, Kiran Sawant, Prakash Gaonkar, Pundalik Dessai, Vishwas Malik and Mahadev Jaiwant Narvekar (For short the said workmen) pending permission of the Hon'ble Industrial Tribunal of Goa, Panaji in reference No. IT/21/2016, the Gomantak Mazdoor Sangh, Ponda Goa espoused the cause of the said workmen before the company vide its letter dated 02-10-2016. The Union also endorsed a copy of the said notice to this office i.e. the Assistant Labour Commissioner and Conciliation Officer, Mapusa for intervention. The union/said workmen challenged their suspension pending permission and payment of subsistence allowance @ 50% of the last drawn wages. The Union also gave a notice of strike by all the workmen w.e.f. 17-10-2016 if the matter of the said workmen is not resolved.

A notice for discussion was served on the management of the Company and the Union to appear before this office on 07-10-2016. The management and the union alongwith the said workmen attended the discussions accordingly on 7-10-16, 13-10-16, 14-10-16, 20-10-16, 25-10-16 and 28-10-16. The matter is admitted was admitted in conciliation and further discussions were held. The management had contended that the suspension of the said workmen was pending permission to dismiss the said workmen. The applications dated 28-9-16 have been simultaneously filed by the company before the Industrial Tribunal of Goa, Panaji before whom the main adjudication on Charter of demands by the Union is pending.

The proposals were exchanged between the parties on the settlement of the dispute of the Union/said workmen amicable. The management stated that the management shall not take back the said workmen and that they are ready to settle the matter of the said workmen on monetary basis.

The said workmen and the union had separate discussions on the proposals given by the company in respect of the settlement of the dispute of the said workmen on monetary terms. The management has also contended that the criminal complaint filed by the Union/workmen has to be withdrawn before setting the matter.

The union informed this office that the said workmen as well as the workmen of the Company have agreed and decided to settle the dispute on terms spelt out below.

TERMS OF COMPROMISE SETTLEMENT

1. It is agreed between the parties that the workmen of M/s. Elsteel Modular Products India Pvt. Ltd., Honda Goa, namely, S/Shri Sanjay Hilekar, Sarvesh Malik, Vithal Gawas, Pratap Nagvekar, Pravin Naik, Rajendra Narulkar, Amit Ekawade, Rupesh Rawal, Kiran Sawant, Prakash Gaonkar, Pundalik Dessai, Vishwas Malik and Mahadev Jaiwant Narvekar shall be deemed to have resigned from the service w.e.f. 28-10-16.

2. It is agreed between the parties that each of the workmen above named shall be paid an amount of Rs. 4,50,000/- (Rupees four lakhs & fifty thousand only) in full and final settlement of their legal dues, except gratuity and leave encashment, Bonus and earned wages which will be paid separately on the last drawn wages as on 31-8-2016. It is agreed between the parties that all the said workmen shall be issued bonafide service certificate.

3. It is agreed between the parties that in view of Clauses (1) and (2) above named the applications

filed by the Company, for permission to dismiss the said workmen, shall be withdrawn.


4. It is agreed and declared by the Union and the said workmen that the amount payable by the company to the said workmen in the manner hereinabove provided for are in full and final settlement and satisfaction of all the claims of the said workmen against the Company including claims for compensation for loss of office or otherwise whatsoever.


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6. It is agreed between the parties that the said amount payable to the said workmen shall be paid on or before 15-11-2016.

Signed on this 12th day of November, 2016.


Signature of the Applicant
Anilkumar R. Jaiswar
(Head HR & Admn)


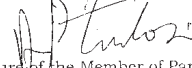
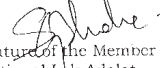

Signature of the Opponent


Signature of the Advocate
For the Applicant
(Shri Prashant Agrawal)


Signature of the Representative
For the Opponent
(Shri Puti Gaonkar)

A W A R D

The matter is amicably settled as above before the Lok Adalat held on 12th day of November, 2016

1. 
Signature of the Presiding Officer of
The Panel of National Lok Adalat
2. 
Signature of the Member of Panel
of National Lok Adalat
3. 
Signature of the Member of Panel
of National Lok Adalat

Notification

No. 28/1/2016-Lab/Part-IV/80

The following compromise memorandum of settlement signed on 12-11-2016 before the National Lok Adalat in case No. P-IT/49/16 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

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

Georgina Saldanha, Under Secretary (Labour).
Porvorim, 22nd February, 2017.

NATIONAL LOK ADALAT
 COMPROMISE MEMORANDUM OF SETTLEMENT
 IN CASE No. P-IT/49/16 FILED UNDER SECTION
 33 (1) OF THE INDUSTRIAL
 DISPUTES ACT, 1947

Case No. P-IT/49/16

M/s. Elsteel Modular Products
 India Pvt. Ltd.,
 Plot No. 3, Phase 3,
 Honda Industrial Estate,
 Satari Goa (403530) ... Applicant/Party I
 V/s

Shri Rupesh Pandurang Rawal,
 H. No. 40, Dhab-Dhaba,
 Bicholim Goa ... Opponent/Party II

MAY IT PLEASE YOUR HONOUR

Dispute in brief is that pursuant to the suspension orders dated 28-09-2016 made by the Company M/s. Elsteel Modular Products (I) Pvt. Ltd., Honda, Satari Goa, suspending the workmen namely, S/Shri Sanjay Hirlekar, Sarvesh Malik, Vithal Gawas, Pratap Nagvekar, Pravin Naik, Rajendra Narulkar, Amit Ekawade, Rupesh Rawal, Kiran Sawant, Prakash Gaonkar, Pundalik Dessai, Vishwas Malik and Mahadev Jaiwant Narvekar (For short the said workmen) pending permission of the Hon'ble Industrial Tribunal of Goa, Panaji, in reference No. IT/21/2016, the Gomantak Mazdoor Sangh, Ponda Goa espoused the cause of the said workmen before the company vide its letter dated 02-10-2016. The Union also endorsed a copy of the said notice to this office i.e. the Assistant Labour Commissioner and Conciliation Officer, Mapusa for intervention. The Union/said workmen challenged their suspension pending permission and payment of subsistence allowance @ 50% of the last drawn wages. The Union also gave a notice of strike by all the workmen w.e.f. 17-10-2016 if the matter of the said workmen is not resolved.

A notice for discussion was served on the management of the Company and the Union to appear before this office on 07-10-2016. The management and the union alongwith the said workmen attended the discussions accordingly on 7-10-16, 13-10-16, 14-10-16, 20-10-16, 25-10-16 and 28-10-16. The matter is admitted was admitted in conciliation and further discussions were held. The management had contended that the suspension of the said workmen was pending permission to dismiss the said workmen. The applications dated 28-9-16 have been simultaneously filed by the company before the Industrial Tribunal of Goa, Panaji before whom the main adjudication on Charter of demands by the Union is pending.

The proposals were exchanged between the parties on the settlement of the dispute of the Union/said workmen amicable. The management stated that the management shall not take back the said workmen and that they are ready to settle the matter of the said workmen on monetary basis.

The said workmen and the union had separate discussions on the proposals given by the Company in respect of the settlement of the dispute of the said workmen on monetary terms. The management has also contended that the criminal complaint filed by the union/workmen has to be withdrawn before settling the matter.

The union informed this office that the said workmen as well as the workmen of the Company have agreed and decided to settle the dispute on terms spelt out below.

TERMS OF COMPROMISE SETTLEMENT


1. It is agreed between the parties that the workmen of M/s. Elsteel Modular Products India Pvt. Ltd., Honda Goa, namely S/Shri Sanjay Hirlekar, Sarvesh Malik, Vithal Gawas, Pratap Nagvekar, Pravin Naik, Rajendra Narulkar, Amit Ekawade, Rupesh Rawal, Kiran Sawant, Prakash Gaonkar, Pundalik Dessai, Vishwas Malik and Mahadev Jaiwant Narvekar shall be deemed to have resigned from the service w.e.f. 28-10-16.
2. It is agreed between the parties that each of the workmen above named shall be paid an amount of Rs. 4,50,000/- (Rupees four lakhs & fifty thousand only) in full and final settlement of their legal dues, except gratuity and leave encashment, bonus and earned wages which will be paid separately on the last drawn wages as on 31-8-2016. It is agreed between the parties that all the said workmen shall be issued bonafide service certificate.
3. It is agreed between the parties that in view of Clauses (1) and (2) above named the applications filed by the Company, for permission to dismiss the said workmen, shall be withdrawn.
4. It is agreed and declared by the Union and the said workmen that the amount payable by the company to the said workmen in the manner hereinabove provided for are in full and final settlement and satisfaction of all the claims of the said workmen against the Company including claims for compensation for loss of office or otherwise whatsoever.

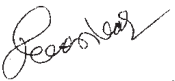
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6. It is agreed between the parties that the said amount payable to the said workmen shall be paid on or before 15-11-2016.

Signed on this 12th day of November, 2016.


Signature of the Applicant
Anilkumar R. Jaiswar
(Head HR & Admn)


Signature of the Opponent


Signature of the Advocate
For the Applicant
(Shri Prashant Agrawal)


Signature of the Representative
For the Opponent
(Shri Puti Gaonkar)

A W A R D

The matter is amicably settled as above before the Lok Adalat held on 12th day of November, 2016

1. Signature of the Presiding Officer of
The Panel of National Lok Adalat

2. Signature of the Member of Panel
of National Lok Adalat

3. Signature of the Member of Panel
of National Lok Adalat

Notification

No. 28/1/2016-Lab/Part-IV/81

The following compromise memorandum of settlement signed on 12-11-2016 before the National Lok Adalat in case No. P-IT/48/16 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

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

Georgina Saldanha, Under Secretary (Labour).

Porvorim, 22nd February, 2017.

NATIONAL LOK ADALAT

COMPROMISE MEMORANDUM OF SETTLEMENT
IN CASE No. P-IT/48/16 FILED UNDER SECTION
33 (1) OF THE INDUSTRIAL
DISPUTES ACT, 1947

Case No. P-IT/48/16

M/s. Elsteel Modular Products
India Pvt. Ltd.,
Plot No. 3, Phase 3,
Honda Industrial Estate,
Satari Goa (403530) ... Applicant/Party I
V/s

Shri Rajendra Dharma Narulkar,
H. No. 101, Dhab-Dhaba,
Bicholim Goa ... Opponent/Party II

MAY IT PLEASE YOUR HONOUR

Dispute in brief is that pursuant to the suspension orders dated 28-09-2016 made by the Company M/s. Elsteel Modular Products (I) Pvt. Ltd., Honda, Satari Goa, suspending the workmen namely S/Shri Sanjay Hirlekar, Sarvesh Malik, Vithal Gawas, Pratap Nagvekar, Pravin Naik, Rajendra Narulkar, Amit Ekawade, Rupesh Rawal, Kiran Sawant, Prakash Gaonkar, Pundalik Dessai, Vishwas Malik and Mahadev Jaiwant Narvekar (For short the said workmen) pending permission of the Hon'ble Industrial Tribunal of Goa, Panaji, in reference No. IT/21/2016, the Gomantak Mazdoor Sangh, Ponda Goa espoused the cause of the said workmen before the company vide its letter dated 02-10-2016. The Union also endorsed a copy of the said notice to this office i.e. the Assistant Labour Commissioner and Conciliation Officer, Mapusa for intervention. The Union/said workmen challenged their suspension pending permission and payment of subsistence allowance @ 50% of the last drawn wages. The Union also gave a notice of strike by all the workmen w.e.f. 17-10-2016 if the matter of the said workmen is not resolved.

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
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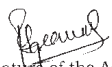
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Signed on this 12th day of November, 2016.


Signature of the Applicant
Anilkumar R. Jaiswar
(Head HR & Admn)

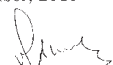
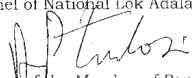


Signature of the Opponent


Signature of the Advocate
For the Applicant
(Shri Prashant Agrawal)


Signature of the Representative
For the Opponent
(Shri Puti Gaonkar)

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The Panel of National Lok Adalat
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Notification

No. 28/1/2016-Lab/Part-IV/82

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

Georgina Saldanha, Under Secretary (Labour).
Porvorim, 22nd February, 2017.

NATIONAL LOK ADALAT

**COMPROMISE MEMORANDUM OF SETTLEMENT
IN CASE No. P-IT/47/16 FILED UNDER SECTION
33 (1) OF THE INDUSTRIAL
DISPUTES ACT, 1947**

Case No. P-IT/47/16

M/s. Elsteel Modular Products
India Pvt. Ltd.,
Plot No. 3, Phase 3,
Honda Industrial Estate,
Satari Goa (403530)

... Applicant/Party I

V/s

Shri Amit Anand Ekwade,
H. No. 92, Van New Wada,
Maulingem, Bicholim Goa ... Opponent/Party II

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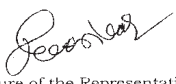
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(Head HR & Admn)



Signature of the Opponent



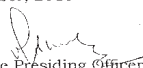


Signature of the Advocate
For the Applicant
(Shri Prashant Agrawal)



Signature of the Representative
For the Opponent
(Shri Puti Gaonkar)

A W A R D

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The Panel of National Lok Adalat
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Signature of the Member of Panel
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3. 
Signature of the Member of Panel
of National Lok Adalat

Department of Law & Judiciary

Law (Establishment) Division

**Notification by the High Court of Judicature
Appellate Side, Bombay.**

No. A-1205/G/2017/680

In exercise of the powers conferred by sub-section (3) of Section 9 of the Code of Criminal Procedure, 1973 (No. 2 of 1974), the High Court is pleased to appoint the following Assistant Sessions Judges as the Additional Sessions Judges to exercise jurisdiction in the Courts of Sessions with immediate effect.

Name of the Judicial Officers and present posting

Sr. No.	Name of Judicial Officers
1.	Ms. Vijaya V. Ambre, Ad hoc District Judge-2 & Assistant Sessions Judges (F.T.C.), Panaji.
2.	Ms. Bela N. Naik, Ad hoc District Judge-1 & Assistant Sessions Judge (FTC), North Goa, Mapusa.

High Court, Bombay, *Mangesh S. Patil*

Dated: 16th February, 2017. Registrar General

Department of Transport

Directorate of Transport

Notification

No. D. Tpt/EST/1997/(PF) 2015/441

Read: Notification No. D.Tpt/EST/2002/2012/1619
dated 26-04-2012.

Government is pleased to accept the resignations tendered by Shri Jose Luis Carlos Almeida, Vasco as Chairman on the Board of Directors of Kadamba Transport Corporation Ltd.

Consequently said Shri Jose Luis Carlos Almeida, Vasco ceased to be the Chairman on the Board of Directors of Kadamba Transport Corporation Ltd. with effect from 16-01-2017.

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

Sunil Masurkar, Director & ex officio Joint Secretary (Transport).

Panaji, 22nd February, 2017.

Notification

No. D. Tpt/EST/1997/(PF) 2016/445

In pursuance of Article 68 read with Article 78 of the Articles of Association of the Kadamba Transport Corporation Limited, the Government is pleased to appoint Shri Dharmendra Sharma, IAS, Secretary (Transport) as Chairman of the Kadamba Transport Corporation Limited w.e.f. 16-01-2017 vice Shri Jose Luis Carlos Almeida, former Chairman of Kadamba Transport Corporation Limited.

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

Sunil Masurkar, Director & ex officio Joint Secretary (Transport).

Panaji, 22nd February, 2017.

www.goaprintingpress.gov.in

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