

Panaji, 3rd September, 2009 (Bhadra 12, 1931)

SERIES II No. 23

OFFICIAL GAZETTE

GOVERNMENT OF GOA



Note:- There are two Extraordinary issues to the Official Gazette, Series II No. 22 dated 27-8-2009, as follows:-

- (1) Extraordinary dated 28-8-2009 from pages 577 to 578 regarding Order from Department of Home (Home—General Division).
- 2) Extraordinary (No. 2) dated 2-9-2009 from pages 579 to 580 regarding Notice from Department of Panchayati Raj and Community Development (Directorate of Panchayats).

GOVERNMENT OF GOA

Department of Finance

Revenue & Control Division

Notification

No. 4/5/2005-Fin(R&C)(69)

In exercise of the powers conferred by sub-section (2) of Section 13 of the Goa Value Added Tax Act, 2005 (Act 9 of 2005) (hereinafter referred to as the "said Act"), the Government of Goa hereby appoints the persons mentioned in column (2) of the Schedule annexed hereto (hereinafter called as the "said Schedule") and give them the designations as specified in the corresponding entry in column (3) of the said Schedule, for carrying out the purposes of the said Act, with effect from the date of their joining the post as indicated in column (4) against their names.

SCHEDULE

Sr. No.	Name of the officer/official	Designation	Date of joining the post
1	2	3	4
1)	Shri Diogo Fernandes	Commercial Tax Officer	22-02-2008
2)	Smt. Asha Harmalkar	Commercial Tax Officer	22-02-2008
3)	Shri Jeinuddin Sheikh	Commercial Tax Officer	11-04-2008

1	2	3	4
4)	Shri Ismail Sheikh	Commercial Tax Officer	11-04-2008
5)	Smt. Swati Dalvi	Commercial Tax Officer	11-04-2008
6)	Shri Maria Alice Pires	Commercial Tax Officer	11-04-2008
7)	Smt. Dipali Naik	Commercial Tax Officer	11-04-2008
8)	Shri Ulhas Naik	Commercial Tax Officer	11-04-2008
9)	Shri Aleixo Vaz	Commercial Tax Officer	11-04-2008
10)	Smt. M. C. Varella	Commercial Tax Officer	11-04-2008
11)	Smt. Violet Gomes	Commercial Tax Officer	11-04-2008
12)	Smt. Darshani S. Dessai	Commercial Tax Officer	23-09-2008
13)	Shri Chandresh C. Kunkalkar	Commercial Tax Officer	24-09-2008
14)	Smt. Gracinda Cardozo	Asstt. Commercial Tax Officer	12-11-2007
15)	Smt. Surekha Nagvekar	Asstt. Commercial Tax Officer	12-11-2007
16)	Smt. Adeline Pereira	Asstt. Commercial Tax Officer	12-11-2007
17)	Shri Prakash Naik	Asstt. Commercial Tax Officer	12-11-2007
18)	Shri Gaurish Khedekar	Asstt. Commercial Tax Officer	01-02-2008
19)	Shri Sudesh Bhonsle	Asstt. Commercial Tax Officer	01-02-2008
20)	Smt. Priti Mandrekar	Asstt. Commercial Tax Officer	01-02-2008
21)	Smt. Shilpa H. P. P. Dessai	Asstt. Commercial Tax Officer	01-02-2008

1	2	3	4	1	2	3	4
22)	Ms. Pallavi Patil	Asstt. Commercial Tax Officer	01-02-2008	46)	Shri Amey P. Naik	Commercial Tax Inspector	01-02-2008
23)	Shri Gajanan Bhonsle	Asstt. Commercial Tax Officer	01-02-2008	47)	Kum. Vandana Bhave	Commercial Tax Inspector	01-02-2008
24)	Shri Janardhan Shetye	Asstt. Commercial Tax Officer	26-03-2008	48)	Smt. Vivita Ambe	Commercial Tax Inspector	01-02-2008
25)	Shri Uttam Kazari	Asstt. Commercial Tax Officer	22-04-2008	49)	Kum. Sukanti Pilgaonkar	Commercial Tax Inspector	01-02-2008
26)	Smt. Maria Lourdes	Asstt. Commercial Tax Officer	22-04-2008	50)	Smt. Sandhya R. Kamat	Commercial Tax Inspector	01-02-2008
27)	Smt. Gina D'Souza	Asstt. Commercial Tax Officer	22-04-2008	51)	Shri Deepak Kerkar	Commercial Tax Inspector	22-04-2008
28)	Smt. Zulmira Dias	Asstt. Commercial Tax Officer	22-04-2008	52)	Smt. Beena Shirodkar	Commercial Tax Inspector	22-04-2008
29)	Shri Augusto Ribeiro	Asstt. Commercial Tax Officer	22-04-2008	53)	Shri Menino Fernandes	Commercial Tax Inspector	22-04-2008
30)	Vivita Ambe	Asstt. Commercial Tax Officer	30-04-2008	54)	Kum. Ashwini Nevrekar	Commercial Tax Inspector	30-04-2008
31)	Smt. Geeta Gaonkar	Asstt. Commercial Tax Officer	20-05-2008	55)	Kum. Kirti Kerkar	Commercial Tax Inspector	30-04-2008
32)	Shri Melwyn Faleiro	Asstt. Commercial Tax Officer	26-05-2008	By order and in the name of the Governor of Goa.			
33)	Shri Rajesh Shetkar	Asstt. Commercial Tax Officer	11-06-2008	<i>Vasanti H. Parvatkar</i> , Under Secretary, Fin (R&C).			
34)	Shri Deepak Gawas	Asstt. Commercial Tax Officer	11-06-2008	Porvorim, 31st August, 2009.			
35)	Shri Dhondu Bandekar	Commercial Tax Inspector	12-11-2007	◆◆◆			
36)	Shri Ankush Kunkolienkar	Commercial Tax Inspector	12-11-2007	Department of Labour			
37)	Shri Tukaram Sawant	Commercial Tax Inspector	12-11-2007	—			
38)	Shri Bhikaji Kamat	Commercial Tax Inspector	12-11-2007	Order			
39)	Shri Santosh Shirodkar	Commercial Tax Inspector	12-11-2007	No. 28/35/2007-LAB			
40)	Smt. Geeta Malo	Commercial Tax Inspector	12-11-2007	Whereas the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. Andrew Telecommunication India Private Limited, Pilerne, Bardez-Goa, and their workmen represented by the Goa Trade and Commercial Workers' Union, in respect of the matter specified in the Schedule hereto (hereinafter referred to as the "said dispute").			
41)	Shri Mohanlal Kundaikar	Commercial Tax Inspector	12-11-2007	And whereas, the Government of Goa considers it expedient to refer the said dispute for adjudication.			
42)	Shri Atchut Raut	Commercial Tax Inspector	12-11-2007	Now, therefore, 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) (hereinafter referred to as the "said Act"), the Government of Goa hereby refers the said dispute for adjudication to the Industrial			
43)	Shri Subhash Gurav	Commercial Tax Inspector	01-02-2008				
44)	Kum. Laximi Lawande	Commercial Tax Inspector	01-02-2008				
45)	Shri Atish Mandrekar	Commercial Tax Inspector	01-02-2008				

Tribunal of Goa at Panaji-Goa, constituted under Section 7-A of the said Act.

Office of the Commissioner, Labour and Employment

SCHEDULE

“(1) Whether the action of the management of M/s. Andrew Telecommunication India Private Limited, Pilerne, Bardez-Goa, in refusing payment of bonus at the rate of 20% for the Accounting year 2005-2006, to its workmen represented by the Goa Trade and Commercial Workers’ Union (AITUC), Panaji, Goa, is legal and justified?

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

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

B. S. Kudalkar, Under Secretary (Labour).

Porvorim, 20th August, 2009.

Order

No. 28/22/2008-LAB

Whereas the Government of Goa is of the opinion that an industrial dispute exists between M/s. M.R.F. Ltd., Tisk, Usgao-Goa and their workman, Shri Johnny Vaz, Machinist, represented by the Goa M.R.F. Union, in respect of the matter specified in the Schedule hereto (hereinafter referred to as the “said dispute”);

And whereas, the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, 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) (hereinafter referred to as the “said Act”), the Government of Goa hereby refers the said dispute for adjudication to the Industrial Tribunal of Goa at Panaji-Goa, constituted under Section 7-A of the said Act.

SCHEDULE

“(1) Whether the action of M/s. M.R.F. Ltd., Tisk, Usgao-Goa, in suspending Shri Johnny Vaz, Machinist, for two days without wages, by way of punishment, is legal and justified?

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

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

B. S. Kudalkar, Under Secretary (Labour).

Porvorim, 20th August, 2009.

Order

No. CLE/(RIA-05)/2008/2724

Read: Order No. CLE/(RIA-05)/2008/5509 dated 10-11-2008.

Order No. CLE/(RIA-05)/2008/5859 dated 2-12-2008.

In partial modification of the above orders, the following Officers are hereby appointed as Assistant Public Information Officers for area of jurisdiction shown against their names to deal with the applications received from the public under The Right to Information Act, 2005.

Employment Exchange

Sr. No.	Name of the Officer & designation	Assistant Public Information Officer	Area of operation
1	2	3	4
1.	Shri Sunil Gaonkar, Employment Counseling Officer (In his absence) Smt. Agnela Correia, Asstt. Employment Officer	Assistant Public Information Officer	North Goa District/ /Jurisdiction.
2.	Shri Rajay Naik, Senior Asstt. Employment Officer (In his absence) Shri Balchandra Kenkre, Asstt. Employment Officer	Assistant Public Information Officer	South Goa District/ /Jurisdiction.

V. B. N. Raikar, Commissioner, Labour and Employment.

Panaji, 14th August, 2009.

Notification

No. 28/1/2009-LAB

The following award passed by the Industrial Tribunal-cum-Labour Court-I, at Panaji-Goa on 16-04-2009 in reference No. IT/65/2004 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.

B. S. Kudalkar, Under Secretary (Labour).

Porvorim, 12th June, 2009.

IN THE INDUSTRIAL TRIBUNAL
AND LABOUR COURT
AT PANAJI

(Before Smt. Anuja Prabhudessai, Hon'ble
Presiding Officer)

Ref. IT/65/2004

Shri Mohammad Ibrahim,
C/o Franky Pereira,
Xirro, Carmona-Goa.
V/s

... Workman/Party I

M/s. Royal Goan Beach
Resort P. Ltd.,
M/s. Haathi Mahal Resort
Hotel, Mobor,
Cavelossim-Goa.

... Employer/Party II

Workman/Party I represented by Shri B. B. Naik.

Employer/Party II represented by Adv. M. S.
Bandodkar.

AWARD

By order dated 6-12-2004, the Government of Goa, in exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication.

"(1) Whether the action of the management of M/s. Royal Goan Beach Resort P. Ltd., M/s. Haathi Mahal Resort Hotel, Cavelossim, in terminating the services of Shri Mohammad Ibrahim, Gardener, with effect from 21-4-2003, is legal and justified?

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

2. Notices were issued to both parties. The Party I filed his claim statement at Exb. 4. The Party II filed its written statement at Exb. 5. The rejoinder of the Party I is at Exb. 6.

3. The Party I was in service of the Party II as a Gardener from 1-2-2000 till the date of his termination i.e. till 24-4-2003. The Party I has stated that he was employed by the Party II to carry out permanent nature of work. The Party I further stated that in order to deprive him permanency and the facilities of permanent workmen, the Party II engaged in unfair labour practice by giving artificial breaks and by forcing him to sign a contractual appointment. The Party I stated that he was assured by the Party II that his services would be regularized. However, instead of regularizing his services, the Party II terminated his services w.e.f. 24-4-2003. The Party I has stated

that he had rendered continuous services of 240 days in the twelve months preceding his termination. The Party I has stated that the Party II has violated Section 25-F of the Industrial Disputes Act, 1947. The Party I has stated that Party II had engaged more than 110 workmen despite which Party II did not seek permission from the appropriate Government and his thereby violated provisions of Chapter V-B of the Industrial Disputes Act, 1947. The Party I, therefore, claimed that his termination is illegal and unjustified and he has sought re-instatement in service with full back wages with continuity in service.

4. The Party II has stated that the appointment of Party II was for a fixed term period specified in the contractual agreement which was accepted by the Party I. The Party II has denied that the Party I was appointed on a regular post or that he was assured that he would be regularized. The Party II further stated that the termination of the Party I was on account of non-renewal of the contract of appointment and as such, the provisions of Sec. 25-F are not applicable. The Party II has further stated that the Party I is gainfully employed and that he is not entitled for any reliefs.

5. Based on the aforesaid pleadings, following issues were framed at Exb. 7:

ISSUES

1. Whether the Party I proves that he was employed with the Party II as a Gardener on the regular post continuously from 1-2-2000 till the date of his termination?
2. Whether the Party I proves that the termination of his services by the Party II is illegal and unjustified?
3. Whether the Party II proves that the appointment of the Party I with Party II was for fixed term period?
4. Whether the Party II proves that the termination of the services of the Party I is the result of non-renewal of contract of employment?
5. Whether the Party II proves that the Party I is gainfully employed?
6. Whether the Party I is entitled to any relief?
7. What Award?

6. The matter was posted for evidence. However, during the pendency of the proceedings, the Party I as well as the Representative of the

Party II remained present before the Tribunal on 2-4-2009 alongwith their Representative/Advocate and stated that they have settled the matter amicably. The parties have filed the consent terms at Exb. 9. These terms are duly signed by the parties and the said terms are acceptable to them. In my opinion, these terms are in the interest of the workman and hence these terms are taken on record and the Order is passed as under:-

ORDER

1. It is agreed between the parties that the management of M/s. Royal Goan Beach Resort at Haathi Mahal, Mobor, Cavelossim, Salcete, Goa shall pay in total a sum of Rs. 30,141/- (Rupees Thirty thousand one hundred forty one only) to Shri Mohammad Ibrahim by way of 3 installments:

- (a) 1st installment of Rs. 10,000/- (Rupees Ten thousand only) bearing cheque No. 12534 dated 1-4-2009 drawn on HDFC Bank, payable at par.
- (b) 2nd installment of Rs. 10,000/- (Rupees Ten thousand only) bearing cheque No. 12507 dated 20-4-2009 drawn on HDFC Bank payable at par.
- (c) 3rd installment of Rs. 10,141/- (Rupees Ten thousand, one hundred forty one only) bearing cheque No. 012509 dated 18-4-2009 drawn on HDFC Bank payable at par.

2. The above amount of Rs. 30,141/- (Rupees Thirty thousand one hundred forty one only) shall include all his claims arising out of the present reference No. IT/65/2004 and his employment, including any claims of earned wages, bonus, gratuity, leave encashment, retrenchment compensation, ex-gratia etc., or any other claim which can be computed in terms of money.

3. It is agreed that Shri Mohammad Ibrahim shall accept the said amount as mentioned in the clause (1) hereinabove in full and final settlement of all his claims arising out of the present reference and arising out of his employment including any claim of earned wages, bonus, gratuity, leave encashment, retrenchment compensation, ex-gratia, etc., or any other claim which can be computed in terms of money, in complete satisfaction of all his claims including the claim made in the present reference No. IT/65/2004 and further confirm that he shall have no claim of whatsoever nature against the company including any claim of reinstatement and/or re-employment.

No order as to costs. Inform the Government accordingly.

Sd/-
(Anuja Prabhudessai),
Presiding Officer,
Industrial Tribunal
& Labour Court.

Notification

No. 28/1/2009-LAB

The following award passed by the Industrial Tribunal-cum-Labour Court-I, at Panaji-Goa on 28-03-2009 in reference No. IT/16/1996 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.

B. S. Kudalkar, Under Secretary (Labour).

Porvorim, 12th June, 2009.

IN THE INDUSTRIAL TRIBUNAL
AND LABOUR COURT
AT PANAJI

(Before Smt. Anuja Prabhudessai, Hon'ble
Presiding Officer)

Ref. IT/16/1996

Shri Manguesh S. Pednekar,
H. No. 1, Gufirbhatt, Santan,
Taulim, PO: Goa Velha,
Ilhas-Goa.

... Workman/Party I

V/s

M/s. A. G. Poy Raiturkar,
Rua de Abade Faria,
PO: Box No. 23,
Margao-Goa.

... Employer/Party II

Workman/Party I represented by Adv. P. J. Kamat.
Employer/Party II represented by Adv. Gaurish B. Kamat.

AWARD

(Passed on this 28th day of March, 2009)

By order dated 26-3-96, the Government of Goa in exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication.

Whether the action of the employer, Shri A. G. Poy Raiturkar, Margao-Goa, in terminating the services of Shri Manguesh S. Pednekar, Supervisor, with effect from 1-4-93 is legal and justified?

If not, to what relief the workman is entitled?

2. On receipt of the reference, notices were issued to both the parties. The Party I has filed his claim statement at Exb. 4 and the Party II has filed its written statement at Exb. 5. The rejoinder of the Party I is at Exb. 6.

3. The Party I was in employment of the Party II as a supervisor since 19-9-89 on salary of Rs. 300 per month. The Party I has stated that though he was designated as a supervisor, his main duties were to plant coconut and other saplings, water and manure the plantation, clear the bushes and wild growth etc., The Party I has stated that vide notice dated 1-3-93, he was notified that his services stand terminated w.e.f. 1-4-93. The Party I has stated that about 7 to 8 months prior to his termination, Sanjay Raiturkar had obtained his signatures on the revenue stamp affixed on twelve blank pages stating that the same were required to pay his pending salary. The Party I has stated that the Party II neither paid his wages nor paid compensation. The Party I stated that the Party II has not complied with the provisions of Sec. 25-F of the Act and that his termination is illegal and unjustified. The Party I has therefore, sought reinstatement with all consequential benefits.

4. The Party II has stated that as a Supervisor, the main duty of the Party I was to arrange and engage local labourers/helpers for carrying on various agricultural operations. The Party II denied that Party I had himself done all manual work such as planting, watering and manuring saplings, cutting bushes etc. The Party II has denied that the signatures of Party I were obtained on blank papers. The Party II has stated that the services of the Party I were terminated w.e.f. 1-4-93 and he was offered all the legal dues such as compensation and wages for the period from 1-3-93 to 31-3-93 in addition to ex-gratia payment of Rs. 500/- which the Party I refused to receive. The Party II has stated that the portion of the property wherein there is plantation was sold to Olivia D'Souza and that the remaining unsold portion is a barren/hilly land. The Party II has stated that the Party I was residing as a mundkar in the portion of the property sold to Olivia D'Souza and by virtue of the sale, the Party I becomes the mundkar of said Olivia D'Souza. The Party II has further stated

that the services of the Party I were terminated on account of the closure of the place of work/transfer of the property by way of sale and as such the termination is legal.

5. Based on the aforesaid pleadings, the following issues were framed.

ISSUES

1. Whether the Party I proves that the Party II did not comply with the provisions of Sec. 25-F of the I. D. Act, 1947 and hence the termination of his services is illegal?
2. Whether the Party I proves that the action of the Party II in terminating his services from 1-4-93 is illegal and unjustified?
3. Whether the Party II proves that the termination of the services of the Party I is on account of closure of place of work and/or sale of the property where the Party II was employed?
4. Whether the Party I is entitled to any relief?
5. What Award?

6. Both parties have adduced oral and documentary evidence in support of their respective claims. Learned Advocate, Shri P. J. Kamat had filed written arguments on behalf of the Party I and learned Advocate, Shri G. B. Kamat has filed written arguments on behalf of the Party II. I have perused the records and considered the arguments advanced by the respective advocates and my findings on the aforesaid issues are as under:-

7. *Issue Nos. 1, 2 and 3:* All the issues are taken up together as the same are interconnected. It is not in dispute that the Party II owned a property known as 'Solacer' or 'Gujira Bhat' situated at Santan, Telaulim, Curca Goa. By letter dated 20-9-89 (Exb.W-1), the Party I was appointed as a supervisor on payment of salary of Rs. 300/- per month. The Party I has deposed that though he was appointed as a supervisor, he was doing manual work such as planting, watering and manuring the plants. Whereas, the Party II has stated that the Party I was not doing the said work personally but his duty was to arrange the labourers and to get the said work done. The Party I has placed on record letter dated Nil at Exb. W-2. This letter was admittedly addressed to the Party I by A. Furtado, the attorney of the Party II and by this letter the Party I was required to clean bushes and wild growth and clear the boundaries. This letter fortifies the contention of the Party I that though he was designated as a supervisor, he

was actually doing the manual work. Be that as it may, the Party II has not disputed that Party I was paid salary of Rs. 300/- and that, though he was designated as a supervisor, he was in fact a 'workman' within the meaning of Sec. 2(S) of the Act, and as such, the question whether the Party I was personally doing the work or getting the work done through the labourers is not material.

8. It is not in dispute that the services of the Party I were terminated vide letter dated 1-3-93 at Exb. W-3. The question is regarding the legality of the termination. The Party I has claimed that the Party II had not paid his legal dues/compensation and has thereby violated the provisions of Sec. 25-F of the Act, whereas, the Party II has stated that the services of the Party I were terminated on account of the closure/transfer of the properties that the Party was offered all the dues.

9. Learned Advocate, Shri P. J. Kamat has argued that the Party II had not sold the entire property but had sold only a portion of the property and as such the services of the Party I could not be terminated on the ground of the sale of the property. He has further argued that the letter of termination at Exb. W-3 does not indicate that any amount towards retrenchment compensation/ex-gratia payment was offered to the Party I. Learned Advocate, Shri P. J. Kamat has further argued that Party II has not adduced any evidence to prove that the compensation was offered and that the Party I had refused to accept the same. Learned Advocate, Shri Kamat has further argued that the contention of the Party II that the compensation was offered by the Attorney Furtado cannot be believed as the Power of Attorney at Exb. E-1 show that the said Furtado was an attorney only since 1999. Learned Advocate, Shri Kamat has argued that even if the Party I had refused to accept the compensation, the Party II was required to send the same by registered post. He has argued that the Party II had failed to pay compensation or send the same by post. Hence the termination is illegal.

10. Learned Advocate, Shri G. B. Kamat has argued that the portion of the property which had plantations was sold by three sale deeds dated 12-2-93 at Exb. E-3 colly and in view of the sale of the property, the services of the Party I were no longer required and hence terminated vide letter at Exb. W-3. Learned Advocate, Shri G. B. Kamat has argued that the term closure denotes closing down as place of employment or part thereof. He has relied upon the judgement in the case of District Red Cross Society v/s Babita Arora (2007 (5) ALL MR 473. He has further argued that since the services of the Party I were terminated on

account of the closure, the relevant provision applicable in section 25-FFF and not Section 25-F of the Act and under Section 25-FFF of the Act, Payment of notice pay and retrenchment compensation is not a condition precedent and non payment of compensation does not render the termination void or illegal. Learned Advocate, Shri G. B. Kamat has further argued that the Party II had offered the compensation and it was not imperative that the same should have been sent by the Regd. Post. He has relied upon the judgment in the case of Laxman Ramchandra Mai v/s Executive Engineer, Irrigation Department, Sangli, reported in 2000 (4) LLN 769.

11. As stated earlier, it is not in dispute that the Party II was the owner of the property 'Solacer' situated at Santan, Telaulim and that vide letter dated 20-9-89 (Exb. W-1) the Party II had appointed Party I as the supervisor of the Plantation. It is not in dispute that Party II has sold major part of the said property vide sale deeds at Exb. E-3 colly. The case of Party I is that the Party I was appointed as a supervisor in respect of the entire property, i.e. including the unsold portion of the property. Whereas to Party II has stated that the Party I was the supervisor only of the portion of the property which was under cultivation and which portion is the subject matter of the sale at Exb. E-3 colly. It may be mentioned that Party I has not adduced any evidence as regards the nature of the property. His evidence does not indicate that the entire property was under cultivation. As against this, Shri A. Furtado, the Attorney of the Party II has deposed that the major part of the property 'Solacer' consists of coconut plantation and the remaining portion is barren hilly land. He has deposed that no cultivation is possible in the said barren hilly land. It was suggested to this witness that the entire property was used for cultivation and that no part of it was barren. Needless to state that the witness Shri Furtado has denied this suggestion. It is pertinent to note that apart from the said bare suggestion the Party I has not adduced any evidence to prove that the entire property was under cultivation/plantation. He has not stated what type of trees are in the remaining unsold portion of the property, the nature of the agricultural operations carried out in the said portion and who is looking after the said plantation. Consequently, the Party I has failed to adduce any evidence to disprove the evidence of Shri A. Furtado and this leads to the inference that the property 'Solacer' was partly under cultivation/plantation and a part of the property was barren, uncultivable hilly land.

12. The letter dated 20-9-89 (Exb. W-1) clearly indicates that the Party II had appointed Party I as a supervisor in the plantation in Santan, Telaulim. This appointment letter itself indicates that Party I was not appointed as a supervisor of the entire property but was appointed as a supervisor only of the land under plantation. Vide three sale deeds at Exb. E-3 colly, the genuineness of which is not disputed, the land under plantation has been sold and vide letter dated 1-3-98 at Exb. W-3, the Party I was informed that his services were no longer required in view of the sale of the property.

13. It is pertinent to note that there is clear distinction between transfer and closure. In case of closure, the business completely ceases to run but in case of transfer the business continues in the hand of transferee. In the instant case, there is no evidence to prove that the business is totally closed down. On the contrary, the evidence on record indicates that the undertaking has only changed hands—such transfer does not entail closure. Hence the termination of services of Party I was not on account of closure but was on account of the transfer of the property/undertakings and as such the provisions under Sec. 25-FFF of the Act would not apply but the relevant provisions applicable as under 25-FF of the Act which provide, inter-alia, that where the ownership or management of an undertaking is transferred, whether by agreement or operation of law, from the employer in relation to that undertaking to a new employer, every workman, who satisfies the test prescribed in that section shall be entitled to notice and compensation in accordance with the provisions of Sec. 25-FF as if the workman had been retrenched. The proviso of this section excludes its operation, where, in spite of the transfer, the service of the workman has not been interrupted, the terms and conditions of service are not less favourable after transfer than they were before such transfer and transfer is bound under the terms of the transferer to pay the workman, in the event of retrenchment compensation on the basis that their service had been continuous and had not been interrupted by the transfer. In the instant case, the condition prescribed under clauses (a)(b) and (c) of the proviso are not applicable. As stated earlier, the property 'Solacer' at Santan, Telaulim comprises of plantation and barren land. The Party I was appointed as a supervisor only in respect of the plantation, hence only the said portion of the land which was under plantation has to be construed as an 'undertaking' within the meaning of Sec. 25-FF of the Act. Since there is no evidence to

prove that there was any activity connected with agriculture or agricultural operations in the barren hilly portion of the land, the said portion of the land cannot be considered as an industry or within the meaning of Sec. 2(j) or an 'undertaking' within the meaning of Sec. 25-FF of the Act. Consequently, the fact that the Party II has not sold the said barren portion of the land, will not render the transfer invalid or termination illegal.

14. The entire portion of the land under plantation in respect of which Party I was appointed as a supervisor has been transferred and the services of the Party I were terminated on the ground of the transfer and consequently, the Party I was entitled for compensation specified in Sec-25FF of the Act. The Party I has deposed that he was not paid any compensation, whereas, Shri Furtado has deposed that on 29-3-92, the Party I had come to the office and that he was offered compensation and that he had refused to accept the same. Needless to state that the Party I has denied the said statement. It is to be noted that the termination notice at Exb. W-3 does not indicate that the Party II had offered to pay any compensation to the Party I. The Party II had also not drawn any cheque nor a demand draft and had not forwarded the same to the party I. This being the case, apart from the bare statement of the witness Furtado, there is absolutely no evidence to prove that Party II had offered any compensation to the Party I. The statement made by Shri Furtado was denied by the Party I and since it was a word of the workman against the word of an employer, the word of the workman has to be acceptable. Reliance is placed on the case of G. K. Medeker V/s Zenith Safe Manufacturing Co. & Ors. (1996, 1 CLR 172). This being the case, it is held that Party II had failed to pay compensation stipulated in Sec. 25-FF to the Party I. In the case of Maruti Dog Ltd., V/s Ram Lal & Ors., 2005(2) SCC-638, the Apex Court has held that "*How far and to what extent the provisions of Section of the 1947 Act would apply in case of transfer of undertaking or closure thereof is the question involved in this appeal. A plain reading of the provisions contained in Section 25FF and Section 25FFF of the 1947 Act leaves no manner of doubt that Section 25F thereof is to apply only for the purpose of computation of compensation and or no other. The expression "as if" used in Section 25FF and Section 25FFF of the 1947 Act is of great significance. The said term merely envisages computation of compensation in terms of Section 25F of the 1947 Act and not the other consequences flowing therefrom. Both Section 25FF and Section 25FFF provide for payment of*

compensation only, in case of transfer or closure of the undertaking. Once a valid transfer or a valid closure comes into effect, the relationship of employer and employee takes effect. Compensation is required to be paid to the workman as a consequence thereof and for no other purpose”.

It is thus clear that termination of service of an employee in case of transfer of an undertaking does not amount to retrenchment within the meaning of Sec. 2(oo) of the Act and payment of compensation is not a condition precedent for valid transfer. This section only confers right on the workman to receive compensation 'as if' the workmen are retrenched u/s 25F of the Act, hence the termination cannot be said to be illegal or void for non payment of compensation. It is however to be noted that though the section does not make the payment of compensation a condition precedent, it does not absolve the liability of the transferor to make the payment within a reasonable time. In the instant case, there is no evidence to prove that Party II had either offered to pay or paid the compensation to the Party I. Though the termination cannot be said to be illegal on the ground of non payment of compensation, in my considered view, the workman cannot be deprived of the compensation payable u/s 25FF of the Act.

To sum up, the evidence on record indicates that the services of the Party I were terminated on account of the transfer of an undertaking. The termination cannot be said to be illegal either because a part of the property was sold or because compensation was not paid. In terms of Sec. 25FF of the Act, the Party I is entitled for notice pay and compensation in accordance with the provisions of Sec. 25F, as if the Party I had been retrenched. In the instant case, Party I was given one month's notice (at Exb. W-3), indicating the reasons of termination of service, however he has not been paid compensation even though he was in continuous service for over one year. Hence, the Party II is liable to pay compensation equivalent to fifteen days average pay for every completed year of continuous service or any part thereof in excess of six months. The records indicate that Party I was in service from 20-9-89 till 1-4-94, on payment of Rs 300/- per month. The Party I had put in 4 years and over six months of service. The Party I is, therefore, entitled for compensation of Rs. 750/-. The Party I is also entitled for costs of Rs. 500/-. Issues 1, 2 and 3 are answered accordingly.

Under the circumstances and in view of discussion Supra, I pass the following order.

ORDER

It is held that the termination of services of Shri Mangesh Pednekar, w.e.f. 1-4-93 was on account of transfer of the undertaking and hence legal and justified. The Party I is entitled for Rs. 750/- towards compensation u/s 25FF of the Act. Compensation is to be paid within a period of two months from the date of the award failing which, it shall carry simple interest at the rate of 9% per annum till the date of the payment.

The cost are assessed at Rs. 500/-

Inform the Government accordingly.

Sd/-
(Anuja Prabhudessai),
Presiding Officer,
Industrial Tribunal
& Labour Court.

Notification

No. 28/1/2009-LAB

The following award passed by the Industrial Tribunal-cum-Labour Court-I, at Panaji-Goa on 16-04-2009 in reference No. IT/61/2004 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.

B. S. Kudalkar, Under Secretary (Labour).

Porvorim, 15th June, 2009.

IN THE INDUSTRIAL TRIBUNAL
AND LABOUR COURT
AT PANAJI

(Before Smt. Anuja Prabhudessai Hon'ble
Presiding Officer)

Ref. IT/61/2004

Shri John D'Costa,
Senior Resort Attendant,
Calvaddo, Cavellossim Goa. ... Workman/Party I
V/s

M/s. Royal Goan Beach
Resort P. Ltd.,
M/s. Haathi Mahal Resort
Hotel, Mobor,
Cavellossim-Goa. ... Employer/Party II

Workman/Party I represented by Shri B. B. Naik.
Employer/Party II represented by Adv. M. S. Bhandodkar.

AWARD

By order dated 6-12-2004, the Government of Goa in exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication.

“(1) Whether the action of the management of M/s. Royal Goan Beach Resort P Ltd., M/s. Haathi Mahal Resort Hotel, Cavellissim in terminating the services of Shri John D’Costa, Senior Resort Attendant with effect from 27-11-2003, is legal and justified?

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

2. Notices were issued to both parties. The Party I filed his claim statement at Exb. 5. The Party II filed its written statement at Exb. 6. The rejoinder of the Party I is at Exb. 7.

3. The Party I was in service of the Party II as a Senior Resort Attendant from 4-12-1999 till the date of his termination i.e. till 27-11-2003. The Party I has stated that he was employed by the Party II to carry out permanent nature of work. The Party I further stated that in order to deprive him permanency and the facilities of permanent workmen, the Party II engaged in unfair labour practice by giving artificial breaks and by forcing him to sign a contractual appointment. The Party I stated that he was assured by the Party II that his services would be regularized. However, instead of regularizing his services, the Party II terminated his services w.e.f. 27-11-2003. The Party I has stated that he had rendered continuous services of 240 days in the twelve months preceding his termination. The Party I has stated that the Party II has violated Section 25-F of the Industrial Disputes Act, 1947. The Party I has stated that Party II had engaged more than 110 workmen despite which Party II did not seek permission from the appropriate Government and his thereby violated provisions of Chapter V-B of the Industrial Disputes Act, 1947. The Party I, therefore, claimed that his termination is illegal and unjustified and he has sought reinstatement in service with full back wages with continuity in service.

4. The Party II has stated that the appointment of Party II was for a fixed term period specified in the contractual agreement which was accepted by the Party I. The Party II has denied that the

Party I was appointed on a regular post or that he was assured that he would be regularized. The Party II further stated that the termination of the Party I was on account of non-renewal of the contract of appointment and as such, the provisions of Sec.25-F are not applicable. The Party II has further stated that the Party I is gainfully employed and that he is not entitled for any reliefs.

5. Based on the aforesaid pleadings, following issues were framed at Exb. 8:

ISSUES

1. Whether the Workman/Party I proves that he was employed with the Employer/Party II as a Senior Resort Attendant on permanent post continuously from 4-12-1999 till the date of his termination?
2. Whether the Workman/Party I proves that the termination of his services by the Employer/Party II w.e.f. 27-11-2003 is illegal and unjustified?
3. Whether the Party II proves that the appointment of the Workman/Party I with the Employer/Party II was for fixed term period?
4. Whether the Employer/Party II proves that the termination of the services of the Workman/Party I is the result of Non-renewal of contract of employment?
5. Whether the Employer/Party II proves that the Workman/Party I is gainfully employed?
6. Whether the Workman/Party I is entitled to any relief?
7. What Award?

6. The matter was posted for evidence. However, during the pendency of the proceedings, the Party I as well as the Representative of the Party II remained present before the Tribunal on 2-4-2009 alongwith their Representative/Advocate and stated that they have settled the matter amicably. The parties have filed the consent terms at Exb.11. These terms are duly signed by the parties and the said terms are acceptable to them. In my opinion, these terms are in the interest of the workman and hence these terms are taken on record and the Order is passed as under:-

ORDER

1. It is agreed between the parties that the management of M/s. Royal Goan Beach

Resort at Haathi Mahal, Mobor, Cavelossim, Salcete-Goa, shall pay in total a sum of Rs. 21,030/- (Rupees Twenty one thousand, thirty only) to Shri John D'Costa by way of 2 installments:

- (a) 1st installment of Rs. 10,000/- (Rupees Ten thousand only) bearing cheque No. 12560 dated 1-4-2009 drawn on HDFC Bank, payable at par.
- (b) 2nd installment of Rs. 11,030/- (Rupees Eleven thousand thirty only) bearing cheque No. 12494 dated 20-4-2009 drawn on HDFC Bank payable at par.

2. The above amount of Rs. 21,030/- (Rupees Twenty one thousand, thirty only) shall include all his claims arising out of the present reference No. IT/61/2004 and his employment, including any claims of earned wages, bonus, gratuity, leave encashment, retrenchment compensation, ex-gratia etc. or any other claim which can be computed in terms of money.

3. It is agreed that Shri John D'Costa shall accept the said amount as mentioned in the clause (1) hereinabove in full and final settlement of all his claims arising out of the present reference and arising out of his employment including any claim of earned wages, bonus, gratuity, leave encashment, retrenchment compensation, ex-gratia, etc. or any other claim which can be computed in terms of money, in complete satisfaction of all his claims including the claim made in the present Reference No. IT/61/2004 and further confirm that he shall have no claim of whatsoever nature against the company including any claim of reinstatement and /or re-employment.

No order as to costs. Inform the Government accordingly.

Sd/-
(Anuja Prabhudessai),
Presiding Officer,
Industrial Tribunal
& Labour Court.

Notification

No. 28/1/2009-LAB

The following award passed by the Industrial Tribunal-cum-Labour Court-I, at Panaji-Goa on 23-04-2008 in reference No. IT/63/01 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.

B. S. Kudalkar, Under Secretary (Labour).

Porvorim, 15th June, 2009.

IN THE INDUSTRIAL TRIBUNAL-
-CUM-LABOUR COURT-I
AT PANAJI

(Before Smt. Anuja Prabhudessai, Hon'ble
Presiding Officer)

Ref. IT/63/01

Shri Narayan S. Gawas,
Bhasoniwada, Navelim,
Sanquelim, Goa.

... Workman/Party I

V/s

M/s. Automobile Corp., of
Goa Ltd.,
Honda,
Satari, Goa.

... Employer/Party II

AWARD

(Delivered on this 23rd day of April, 2008)

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication

- “(1) Whether the action of the management of M/s. Automobile Corporation of Goa Ltd., Honda, Satari, Goa in dismissing from services Shri Narayan S. Gawas, with effect from 13-1-2000, is legal and justified?
- (2) If not, to what relief the workman is entitled?”

2. On receipt of the reference IT/63/01 was registered. Notices were issued to the parties. Pursuant to which the Party I had filed its statement of claim at Exb. 3 and its written statement at Exb. 5. The Party I has also filed its rejoinder at Exb. 6.

3. The Party I was employed with the Party II. He was served with a show cause notice dated 6-12-1996 stating that on 5-12-1996 while leaving the factory premises he was found carrying away raxin material belonging to the company. It was stated that the said act constitutes misconduct under the modal standing orders. The Party I was asked to show cause as to why disciplinary action should not be taken against him. The Party I had submitted his reply to the show cause notice.

He had denied having taken away any material belonging to the company. He had stated that the said rexin was kept by some unknown person in the shelf near the security gate.

4. The Party II did not accept the explanation given by the Party I and issued a notice of enquiry cum charge sheet dated 25-6-1997. An enquiry was conducted in respect of the charges levelled against the Party I. The Inquiry Officer held the Party I guilty of the charges levelled against him. After giving notice of the proposed punishment and after considering the reply given by the Party I, the Party II dismissed the Party I vide dismissal order dated 13-1-2000.

5. The Party I claims that the charges levelled against him are false and fabricated. The Party I has stated that the enquiry is not conducted in fair and proper manner and that the Inquiry Officer has not followed the principles of natural justice. The Party I has stated that there is no evidence to prove the charges levelled against him and that the findings of the Inquiry Officer are not based on the material on record. The Party I has alleged that the punishment awarded is of severe nature and that the dismissal is illegal, improper and unjustified. The Party I has therefore sought re-instatement with full back wages and continuity in service.

4. The Party II has denied that false charges were leveled against him. The Party II has stated that the Party I was found taking away rexine belonging to the company. The Party II has further stated that the reply given by the Party I to the show cause notice was not satisfactory and hence charge sheet was issued and that the inquiry was conducted in respect of the charges levelled against Party I. The Party II has further stated that the Party I had participated in the inquiry and he was given full opportunity to defend himself and he was represented by experienced Senior Labour Consultant. The Party II has further stated that the principles of natural justice were duly followed and after the Inquiry Officer had held the Party I guilty of charges levelled against him, a notice was served on Party I to show cause against proposed punishment. The Party II has stated that it had considered the reply given by the Party I, and on considering the gravity of the misconduct so also the past conducts of the Party I, it had dismissed the Party I vide dismissal order dated 13-1-2000. The Party II has stated that the dismissal is just and proper and does not warrant any interference. Consequently, the Party I is not entitled to any reliefs.

5. Following issues were framed:

1. Whether the Party I proves that the domestic enquiry held against him is not fair, proper and impartial?

2. Whether the charges of misconduct levelled against the Party I are proved to the satisfaction of the Tribunal by acceptable evidence?

3. Whether the Party I proves that the action of the Party II in dismissing him from service w. e. f. 13-1-2000 is illegal and unjustified ?

4. Whether the Party I is entitled to any relief?

5. What order?

6. The matter was posted for evidence on 22-5-2008. Both the Parties along with their Advocates/Representatives appeared before the Tribunal and filed consent terms at Exb. 10. Both the parties have submitted that this terms are acceptable to them and that the dispute should be disposed in accordance with the terms filed. I have perused the terms at Exb. 10 and I am satisfied that the terms are in the interest of the workman. I therefore pass the consent award in terms of the settlement dated 22-5-08 at Exb. 10.

ORDER

1. It is agreed between the parties that the Management of M/s. Automobile Corporation of Goa Ltd shall pay a sum of Rs.1,00,000/- (Rupees one lakh only) to Narayan S. Gauns by cheque No. 401815 dated 12th January, 2008 drawn on HDFC Bank, Panaji, Branch which shall include all his claims arising out of employment, including claims of earned wages, bonus, leave encashment etc. if any or any other claim/sum which can be computed in terms of money.

2. It is agreed by Mr. Narayan S. Gauns/Party I that he shall accept the amount mentioned in the clause (1) in full and final settlement of all his claims arising out of the employment, including claim of earned wages, bonus, leave encashment etc. if any or any other claim/sum which can be computed in terms of money, in complete satisfaction of all the claims made in the present Reference and further confirm that he shall have no claim of whatsoever nature against the company including any claim of re-instatement or/and re-employment.

No order as to cost. Inform the Government accordingly.

Sd/-

(A. Prabhudessai),
Presiding Officer,
Industrial Tribunal-cum-
-Labour Court-I.

Notification

No. 28/1/2009-LAB

The following award passed by the Industrial Tribunal-cum-Labour Court-I, at Panaji-Goa on 20-03-2009 in reference No. IT/36/01 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.

N. S. Dharwadkar, Under Secretary (Labour).

Porvorim, 18th June, 2009.

 IN THE INDUSTRIAL TRIBUNAL-
 -CUM-LABOUR COURT-I
 AT PANAJI

(Before Smt. Anuja Prabhudessai, Hon'ble
 Presiding Officer)

Ref. No. IT/36/01

Shri Bhimgoundda Dondappa Patil,
 Rep. by the Secretary,
 Goa Trade and Commercial,
 Panaji-Goa. ... Workman/Party I
 V/s

M/s. Atlantic Spinning and
 Weaving Mills Ltd.,
 Xeldem, P. O. Quepem-Goa. ... Employer/Party II

Workman/Party I – Adv. Suhas Naik.

Employer/Party II – Adv. G. K. Sardessai.

AWARD

(Passed on this 20th day of March, 2009)

1. By order dated 4-6-01, the Government of Goa, in exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the I. D. Act, 1947 has referred the following dispute to this Tribunal for its adjudication.

“(1) Whether the action of the management of M/s. Atlantic Spinning and Weaving Mills Ltd., Xeldem, Quepem-Goa, in terminating the services of their Operator (Sidder), w.e.f. 22-11-2000, is legal and justified?

2. On receipt of the reference, notices were issued to both parties. The Party I has filed claim statement at Exb. 4 and the Party II has filed

written statement at Exb. 5. The rejoinder of the Party I is at Exb. 7.

3. The Party I was employed with the Party II. On 29-10-2000 he had applied for leave as his wife was admitted in ESI hospital. The Party I has stated that his leave was sanctioned. The wife of the Party I delivered a baby on 30-10-2000. However, since the condition of the baby was serious, the wife of the Party I and the child were shifted to GMC, Bambolim. They were discharged only on 7-11-2000. The Party I has stated that there was no one to take care of his wife and the child and as such he had to stay home till 21-11-2000. The Party I has stated that he had informed the Factory Manager about the same and had requested to extend the leave. The Party I has stated that he had reported for work on 22-11-2000 but he was refused employment. The Party I raised an industrial dispute. The conciliation proceedings initiated by the Deputy Labour Commissioner ended in failure. The Party I has stated that the Party II had not conducted any enquiry and had not paid any compensation. The Party I has stated that the termination is arbitrary and illegal and has sought re-instatement with consequential benefits.

4. The Party II has stated that the Party I had remained absent from work from 28-10-2000 without any intimation or leave. The Party II has stated that the Party I had sent a letter dated 22-11-2000 wherein he had alleged refusal of employment. The Party II, vide reply dated 19-1-01, denied the allegations and advised the Party I to report for work immediately. The Party I was also informed that he was marked absent from 28-10-2000 and would not be entitled for wages till the time he reports for work. The Party I had received the said reply dated 19-1-01, despite which the Party I did not report for work. The Party II has further claimed that the Party I is gainfully employed and that he is not entitled for any relief.

5. Based on the aforesaid pleadings, the following issues were framed.

1. Whether the Party I proves that the claim statement filed on his behalf by the Union is legal and proper?
2. Whether the Party I proves that the Party II terminated his service with effect from 22-11-00?
3. Whether the Party I proves that the termination of his service by the Party II is illegal and unjustified?

4. Whether the Party II proves that the Party I remained absent from 28-10-00 and did not report to work inspite of asking him to report for work vide letter dated 19-1-01?

5. Whether the Party II proves that the Party I is gainfully employed?

6. Whether the Party I is entitled to any relief?

7. What Award?

6. The matter was posted for evidence but the Party I did not adduce any evidence. On 23-7-08, Learned Adv., Shri S. Naik, who is representing the Party I filed an application at Exb. 16 stating that the Party I is already reinstated in service and only the question of back wages was to be adjudicated. Shri S. Naik has closed the evidence of the Party I on the ground that the workman has not contacted him from the date of re-instatement. The aforesaid statement clearly indicates that the Party I has already been reinstated in service. The fact that the Party I has chosen not to lead any evidence on the issue of back wages clearly indicates that the Party I is not interested in any further relief. Hence, I pass the following order.

ORDER

1. The dispute between the parties is already resolved and the reference does not survive.

7. Inform the Government accordingly.

Sd/-
(Anuja Prabhudessai),
Presiding Officer,
Industrial Tribunal-cum-
-Labour Court.

Notification

No. 28/1/2009-LAB

The following award passed by the Industrial Tribunal-cum-Labour Court-I, at Panaji-Goa on 31-03-2009 in reference No. IT/81/98 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.

N. S. Dharwadkar, Under Secretary (Labour).

Porvorim, 18th June, 2009.

IN THE INDUSTRIAL TRIBUNAL- -CUM-LABOUR COURT AT PANAJI

(Before Smt. Anuja Prabhudessai, Hon'ble
Presiding Officer)

Ref. No. IT/81/98

Shri Subhash Pandhari Prabhu,
M-168, Housing Board Colony,
Porvorim, Bardez-Goa. ... Workman/Party I
V/s

Shri Vijaykumar P. Kamat &
6 Other Partners,
Veling,
Mardol-Goa. ... Employer/Party II

Workman/Party I – Adv. A. Thally.

Employer/Party II – Adv. G. B. Kamat.

AWARD

(Passed on this 31st day of March, 2009)

1. By order dated 24-8-98, the Government of Goa has referred the following dispute in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 for adjudication of this Tribunal.

(1) "Whether the action of the management of M/s. Jai Bharat Transport Company, Veling, Mardol-Goa in terminating the services of the workman Shri Subash P. Prabhu, Conductor, with effect from 15-1-98, is legal and justified?"

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

2. Notices were issued to both parties. The Party I filed his claim statement at Exb. 3 and the Party II filed its written statement at Exb. 5. The Rejoinder of the Party I is at Exb. 6

3. The Party I has stated that w.e.f. 15-3-78, he was engaged as a conductor on Bus 'Morning Star' bearing No. GDS 2023, which was plying the Panaji-Karwar route. Initially he was paid salary of Rs. 1,500/- per month. Besides allowance of Rs. 10/- per day. The Party I stated that since 1979 the Party II started deducting a monthly sum of Rs. 100/- from the salary towards Provident Fund. The Party I has stated that in the year 1993, he was earning salary of Rs. 5,600/- per month with allowance of Rs. 25/- per day. The Party I has stated that the Party II did not pay his salary from August, 1997 vide letter dated 29-12-97 informed the

Party I that it had decided to close down the business and call upon the Party I to submit certain documents in respect of the bus. The Party II vide letter dated 6-1-98 informed that services of the Party I shall stand terminated w.e.f. 15-1-98. In the said letter the Party II alleged that the Party I had not submitted the bills regarding repairs carried out to the bus. The Party I has stated that he had replied to letters dated 29-12-98 & 6-1-98 vide reply dated 12-1-98 where he had informed the Party II that the document sought were not in his possession and the bills were already submitted from time to time. The Party I has stated that the said bus still plying on the same route and that the ground of closure is false. The Party I therefore claimed that his termination is illegal and he has sought re-instatement with full back-wages. Alternatively the Party I has claimed an amount of Rs. 7,12,100 towards salary from August, 1997-January, 1998, daily allowance, gratuity, Provident Fund and loans.

4. The Party II has denied that the Party I was working as a conductor since 1998. The Party II has stated that the Party I was employed as a bus conductor from 1971 and that initially he was paid a fix pay of Rs. 100/- per month with allowance of Rs. 10/- per day. The Party II has also denied that the salary of the Party I was increased to, Rs. 5,600 per month and that it had deducted Rs. 100 per month from the salary of the Party I towards Provident Fund. The Party II has stated that the Party I used to attend the administrative work before the Road Transport Authorities pertaining to the said bus and that it had entrusted to him some signed blank letterheads to facilitate the said work. The Party II has stated that the Party I has fabricated letters dated 10-3-78, 22-3-79, 25-3-93 on the said signed blank letterheads. The Party II has stated that it had closed down its business activity from 1-12-97 and the services of the Party I were terminated w.e.f. 15-1-98 subsequently. Undertaking was transferred to a third party who is subsequently running the said business. The Party II denied that the termination is illegal and unjustified and further stated that the Party I is not entitled for any relief.

5. Based on the aforesaid pleadings, the following issues were framed.

1. Whether the Party I proves that he was employed with the Party II as a conductor from 15-3-1978 and his last drawn salary was Rs. 5,600/- p.m. and was also paid allowance of Rs. 25/- per day?
 2. Whether the Party I proves that the action of the Party II in terminating his services w.e.f. 15-1-1998 is illegal and unjustified?
 3. Whether the Party II proves that it closed its business of running motor transport undertaking from 1-12-1997 and hence terminated the services of the Party I from 15-1-1998?
 4. Whether the Party I is entitled to any relief?
 5. What Award?
6. Learned Adv., Shri Thally has argued on behalf of the Party I and Learned Adv. Shri Kamat has argued on behalf of the Party II. I have perused the records and considered the arguments advanced by the respective advocates and my findings on the aforesaid issues are as under:
7. *Issue 1:* Learned Adv., Shri Thally has argued that the evidence of the Party I vis-à-vis the documents at Exb. W-4 & W-6 amply prove that the Party I was employed by the Party II as a conductor since 15-3-1978 on a salary of Rs. 1,500 per month with allowance of Rs. 10/- per day and that in the month of March, 1993, the salary of the Party I was increased to Rs. 5,600/- per month with allowance of Rs. 25/- per day. He has further argued that the letter at Exb. W-5 also proves that since April, 1979 the Party II had deducted the Provident Fund. He has argued that these letters at Exb. W-4, W-5 & W-6 were admittedly signed by Shri Vijay Kumar Kamat & his father, the Partners of the Party II. He has argued that the Party II has failed to prove that the said letters are fabricated.
8. Learned Adv., Shri. Kamat has argued that the Party I has himself admitted in his cross examination that he was in employment of the Party II prior to 15-3-1978 and this itself indicates that the appointment letter at Exb. W-4 is fabricated. He has further argued that the Party I had filed an application under Sec. 33-C (2) being LCC 15/98 which has been decided vide judgment dated 17-9-2003 at Exb. E-4. In the said judgment a clear finding has been given that the said letters are fabricated. This judgment has not been challenged & has attained finality and operates as res judicata. Consequently the Party I cannot reargue the said issue.
9. It is not in dispute that the Party I was in employment of the Party II as a conductor. The dispute is about the date of appointment and the salary paid to the Party I. The Party I has deposed that he was appointed w.e.f. 15-3-1978 by appointment letter at Exb. W-4 on salary of Rs. 1,500/- p.m.

with allowances of Rs. 10/- per day. He has deposed that vide letter dated 25-3-96 his salary was increased to Rs. 5600/- p.m. It is to be noted that the Party I has admitted in his cross-examination that he was in continuous service of the Party II as conductor since 1971. Since the Party I was admittedly employed as a conductor since 1971, there was no reason for issuing any fresh appointment letter in the year 1978 and calling upon the Party I to report for duty w.e.f. 15-3-78. The Party II has produced the wage register for the period from April, 1982 to May, 1990 at Exb. E-1 colly. The Party I has admitted having signed the said wage register. The said wage register indicates that in the month of April, 1982, the Party I was paid salary of Rs. 8/- per day. The Party I was paid total amount of Rs. 340/- for the month of April, 1982. This register clearly indicates that the Party I was paid salary of Rs. 100/- per month in addition to the payment allowance of Rs. 8/- per day. This register falsifies the claim of the Party I that, in the year 1978 he was paid salary of Rs. 1,500/- p.m. Party I has stated that his signature was obtained on the said wage register and that he was not aware of the contents of the same. It is difficult to believe that a person who knows to read and write would continue to sign on the revenue stamp papers for years together without trying to find out the contents of the register. The Party I has also not stated any reason for the Party II to show the payment of less amount of salary if in fact he was paying a higher salary. The said wage register also shows that the driver was paid salary of Rs. 300/- p.m. and the other conductor, Ramesh Pandya was paid Rs. 100/- p.m. It is not the case of the Party I that he was paid higher salary than the other conductor and the driver. The Party I has also not examined the other conductor to prove that he was also paid a higher salary and that a lesser amount was shown in the wage register. This being the case the Party I has failed to prove that the wage register which is duly signed by him is fabricated. This wage register falsifies the claim of the Party I that he was paid salary of Rs. 1,500/- p.m. and this fact supports the claim of the Party II that the letter at Exb. W-4 is fabricated.

10. The Party I has not adduced any evidence to prove that the Party II was covered under the Provident Fund Act and consequently there was no question of deducting any amount from the salary of the Party I towards payment of provident fund. Similarly the contention of the Party I that the Party II would increase his salary four fold also cannot be believed. It is pertinent to note that the Party I had filed an application under Sec. 33-(c) of

the I. D Act, wherein he had claimed Rs. 71,150/- towards the notice pay, leave encashment and salary. The said application being LCC 15/98 was disposed of by my learned predecessor vide judgment dated 17-9-2003. The issues which are raised in the present proceedings regarding the date of the appointment and salary paid to the Party I and the genuineness of the letter dated 10-3-78 at Exb. W-4, letter dated 22-3-79 at Exb. W-5 and letter dated 25-3-93 at Exb. W-6 was also raised in the said proceedings. After considering the evidence adduced by the parties, my learned predecessor has given a clear and categorical finding that the said letters at Exb. W-4, W-5 and W-6 are fabricated. It has been held that the Party I was employed on fixed basic pay of Rs. 100/- p.m. in addition to daily allowance of Rs. 34/-. The Party I has not challenged the said judgment and as such the same has attained finality and consequently the Party I is estopped from re-agitating the same issues in these proceedings. In view of the above, it is held that the Party I was employed with the Party II as a conductor, but he was appointed prior to 15-3-78 and he was paid salary of Rs. 100/- p.m. with allowance of Rs. 34/ per day. Issue No. 1 is answered accordingly.

11. *Issues 2 & 3:* These issues are taken up together since they are interconnected. Learned Adv., Shri A. Thally has argued that the Party I was never issued any warning, memo or charge sheet. He has argued that, prior to 29-12-92 the Party II had also not informed him that the business would be closed or transferred. He has argued that the certificate issued by the RTO & KTC at Exb. W-12 & W-13 prove that the said bus is operating on the same route and this falsifies the case of closure.

12. Learned Adv., Shri Kamat has argued that the agreement dated 1-4-88 at Exb. E-3 proves that the business was transferred. He has further argued that the certificates at Exb. 12 & 13 do not state who was operating the said bus and as such the said certificates do not prove that the Party I was running the said business. He has further argued that the evidence adduced by the Party I itself shows that the bus was off the road from 22-8-97, the Party II had not obtained Fitness Certificate and sought cancellation of permit. Learned Adv., Shri Kamat has argued that the evidence on record amply proves that the business was closed & hence the termination cannot be said to be illegal.

13. The Party I has disputed the genuineness of the closure. In support of this contention, he has relied upon the certificates at Exb W-12 & W-13. The certificate at Exb. W-12 which is issued by the

Director of Transport, Panaji states that the bus bearing No. GDS 2023 owned by M/s. Jai Bharat Transport Company is covered by stage carriage permit to operate on Panaji-Karwar route and that the bus is plying on the said route. The certificate at Exb. W-13 which is issued by the Deputy General Manager (TRF) KTC, also states that the bus No. GDS 2023 is plying on Panaji-Karwar route and departure from KTC Panaji bus stand is at 12.40 hours. It may be mentioned here that the Party II has not disputed that the said bus is plying on the Panaji-Karwar route. The contention of the Party II is that it has closed the business w.e.f. 22-8-97 and transferred the business to Chandrakant Shet by agreement dated 1-4-98. Shri Vijay Kumar Kamat, one of the partners of the Party II has produced the said agreement dated 1-4-98 at Exb. E-3. The Party I has not challenged the genuineness of the said agreement at Exb. E-3. The said agreement clearly indicates that the management of the bus No. GDS 2023 was transferred to Chandrakant Shet on payment of royalty of Rs. 4,000/- p.m. The certificate at Exb. W-12 and W-13 relate to the period subsequent to the entrustment of the bus to Chandrakant Shet vide agreement at Exb. E-3. The said certificates do not state who was operating the said bus. As stated earlier, the bus was entrusted to Chandrakant Shet w.e.f. 1-4-98 and the inference that has to be drawn is that the said bus was being operated by Chandrakant Shet. This being the case, the said certificates do not prove that the bus No. GDS 2023 was being operated by the Party II at any time after 1-12-97.

14. It is also pertinent to note that the Party I had placed on record letter dated 24-12-97 at Exb. W-8. In the said letter the Party I had stated that the bus 'Morning Star' was kept off the road for four months since 22nd August, '97, though the same was made ready for inspection. This letter itself indicates that the bus was not plying on the route from August, '97 to November, '97 and the Party II had also not obtained Fitness Certificate for plying the said bus. The Party II vide letter dated 29-12-97 at Exb. W-7 had informed the Party I that it had decided to close to business on account of frequent breakdowns and heavy losses sustained by them. The Party II had requested the Party I to surrender all the documents in his possession. The Party I had replied to the said letter vide reply dated 12-1-98 at Exb. W-3. The Party I had not claimed that the reasons of closure were not genuine. With regards to the documents sought he had stated that one of the partners of the Party II had given to him a copy of the permit dated

6-6-97 alongwith letter dated 15-12-97 addressed to the Director of Transport, Panaji, to cancel the same. The Party I had stated that he had submitted the said letter to the Transport Authority. The previously mentioned letter clearly indicates that the Party II was no longer interested in operating the bus and had sought cancellation of the permit. The letter dated 6-1-98 at Exb. W-1 whereby the services of the Party I were terminated also stated that the business was closed w.e.f. 1-12-97. In his reply to this letter vide reply dated 12-1-98 at Exb. W-2 the Party I had not disputed genuineness of the closure. The Party I has also not adduced any evidence to show that the Party II had sought renewal of permit of obtained the Fitness Certificate and that it is operating the bus despite the agreement at Exb. E-3. Consequently the Party I has failed to prove that the closure is not genuine and that his termination is illegal. Hence issue No. 2 is answered in the negative and the issue No. 3 is answered in the affirmative.

15. The business of the Party II was closed and the termination of the Party I was on account of the closure and is not illegal and consequently the Party I is not entitled for relief of re-instatement. The Party I had also claimed that in the alternative he is entitled for Rs. 7,12,100/- towards salary from August, '97, daily allowance etc. The Party I had also raised a similar claim in LCC 15/98 wherein the claim of the Party I was partly allowed and the Party II was directed to pay to the Party I Rs. 7,246/-. This being the case, the Party I is not entitled for any additional amount or any other relief. Issue No. 4 is answered accordingly.

16. Under the circumstances and in view of discussion supra, I pass the following order.

ORDER

1. The action of the management of M/s. Jai Bharat Transport Company in terminating the services of the Party I w.e.f. 15-1-98 is held to be legal and justified.

2. The Party I is not entitled for any relief. No order as to costs.

Inform the Government accordingly.

Sd/-
(Anuja Prabhudessai),
Presiding Officer,
Industrial Tribunal-cum-
-Labour Court.

Notification

No. 28/1/2009-LAB

The following award passed by the Industrial Tribunal-cum-Labour Court-I, at Panaji-Goa on 20-03-2009 in reference No. IT/59/96 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.

N. S. Dharwadkar, Under Secretary (Labour).

Porvorim, 18th June, 2009.

 IN THE INDUSTRIAL TRIBUNAL-
 -CUM-LABOUR COURT
 AT PANAJI

(Before Smt. Anuja Prabhudessai, Hon'ble
 Presiding Officer)

Ref. No. IT/59/96

Shri Avinash H. Madkaikar,
 Betim, Verem,
 Bardez-Goa.

... Workman/Party I

V/s

M/s. Goa Urban Co-opt. Bank Ltd.,
 Head Office,
 P. O. 135,
 Panaji-Goa.

.... Employer/Party II

Workman/Party I – Adv. Subhash Naik.

Employer/Party II – Adv. G. K. Sardessai.

AWARD

(Passed on this 20th day of March, 2009)

1. In exercise with the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Dispute Act, 1947 (Central Act 14 of 1947), the Government of Goa by order dated 1-11-1996 bearing No. IRM/CON/(78)/95, referred the following dispute for adjudication of this Tribunal.

“1. Whether the action of the management of M/s. Goa Urban Co-operative Bank Ltd., Panaji, in terminating the services of Shri Avinash H. Madkaikar, Peon, with effect from 20-6-1991 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/59/96 and registered A.D.

notices were issued to the parties. In pursuance of the said notice, the parties put in their appearance. The Workman/Party I (for short 'workman') filed his statement of claim at Exb. 4. The facts of the case in brief as pleaded by the workman are that he was employed as a Peon with the employer/Party II (for short 'employer') since the year 1976 and his services were confirmed with effect from 6-9-1977. He worked as Peon at Margao, Cavelossim, Nagarcem and Porvorim branches of the employer. Sometime in the year 1986, he fell sick and as a result, he had to avail leave very often. On 10-5-1990 he was issued a charge sheet alleging that he had unauthorisedly remained absent from 14-10-1989 and he did not report for duty until the date of issuing of the charge sheet. On 24-7-1990, the workman informed the employer that he could not remain present from 14-10-1989 because he was sick and he submitted a doctor's certificate in proof of his illness. The employer conducted inquiry against him in respect of the said charge sheet. Adv., Shri Rohit Lobo was appointed as an Inquiry Officer and Adv., Shri Girish Sardessai represented the management. The workman has claimed that he was not allowed to be represented by any one in the inquiry though he had requested that he should be permitted to be represented by an advocate. The management examined the witness in support of the charges and after completing the inquiry, the Inquiry Officer submitted his findings holding him guilty of the charges. The workman received a show cause notice dated 8-4-1991 from the employer asking him to show cause as to why he should not be dismissed from service. By letter dated 9-4-1991, the workman replied that he could not attend duty due to his severe illness and requested that he may be given one more opportunity to serve the employer. By letter dated 20-6-1991 the employer informed him that his services stood terminated with immediate effect. The workman contended that all the employees are the members of Goa Urban Co-operative Bank Employees Union and the management has signed settlement with the said union from time to time, which governs the wages and service conditions of the employees. He contended that in the said settlement, misconducts are categorized into minor misconducts and major misconducts and the punishment to be imposed for minor misconducts and major misconducts are different. He contended that unauthorized absence is a minor misconduct and the maximum punishment, which could be imposed, was withholding of annual increment. He contended that the charge sheet dated 10-5-1990 did not mention whether the misconducts alleged against him are minor or major

misconducts. He contended that the inquiry against him was conducted in violation of the principles of natural justice. He contended that the findings given by the Inquiry Officer are perverse. He contended that an inquiry was conducted in violation of the provisions of the settlement and the punishment of the termination of the services imposed on him is highly unjust and disproportionate to the misconducts alleged against him. The workman contended that the termination of the services by the employer is illegal and unjustified and as such he is entitled to re-instatement in service with full back wages.

3. The employer filed written statement at Exb. 6. The employer stated that the charge sheet was issued to the workman for his unauthorized absence as the workman had continued to remain absent unauthorisedly without prior sanction or permission from 14-10-1989 till the date of the charge sheet. The employer stated that from the period from July, 1986 to August, 1989 the workman had remained unauthorisedly absent from time to time and though several opportunities were given to him, he remained irregular in his attendance and repeatedly remained absent from duty. The employer stated that an inquiry was conducted into the charge sheet issued to the workman and the Inquiry Officer after considering the evidence on record submitted his reasoned findings dated 11-3-1991 holding the workman guilty of the charges of misconducts. The employer stated that the management considered the said findings of the Inquiry Officer and being satisfied that the inquiry was conducted in accordance of the principles of natural justice, concurred with the findings of the Inquiry Officer dated 11-3-1991. The employer stated that the past service records of the workman were also considered by the management and in view of the gravity of the proved misconducts the management came to the conclusion that the workman should be dismissed from service and the board resolution dated 13-3-1991 was passed in that respect. The employer stated that by letter dated 8-4-1991 the workman was asked to show cause as to why he should not be dismissed from service. The Employer considered the explanation dated 9-4-1991 given by the workman but the same was not found to be satisfactory. Hence, the management decided to dismiss the workman from service and accordingly by letter dated 20-6-1991 the services of the workman were terminated with immediate effect. The employer stated that the inquiry was conducted against the workman impartially and in accordance with the principles of natural

justice. The employer stated that the request of the workman that he should be allowed to be represented by an Advocate was allowed by the Inquiry Officer. In the proceedings dated 2-7-1990, the workman did not secure the presence of the advocate. The employer denied that the charges levelled against the workman in the charge sheet were minor misconducts. The employer stated that habitual unauthorized absence is a major misconduct and the appropriate punishment was the punishment of dismissal from service. The employer stated that the charge sheet issued to the workman clearly spelled out the misconduct with which the workman was charged. The employer denied that the unauthorized absence of the workman was on account of his sickness or that it was substantiated by the doctor's certificate. The employer denied that the inquiry was conducted by the Inquiry Officer in violation of the principles of natural justice. The employer denied that the findings given by the Inquiry Officer dated 11-3-1991 are perverse or that the charges levelled in the charge sheet dated 10-5-1990 are not true. The employer denied that the punishment of termination of service imposed upon the workman is highly unjust or it is disproportionate. The employer denied that the termination of the services of the workman is illegal or unjustified. The employer denied that the workman is entitled to any relief.

4. Based on the aforesaid pleadings, the following issues were framed.

1. Whether the Party I proves that the domestic enquiry held against him is not fair and proper?
2. Whether the charge of misconduct levelled against the workman is proved to the satisfaction of the Tribunal by sufficient evidence?
3. Whether the Party I proves that the termination of his services by the Party II w.e.f. 20-6-1991 is illegal and unjustified?
4. Whether the Party I is entitled to any relief?
5. What Award?

5. Issues No. 1 & 2 were treated as preliminary issues. Both parties had adduced evidence on these issues. After considering the evidence on record and on considering the arguments advanced on behalf of the respective parties My Lnd. Predessorgave his findings on these two issues vide Order dated 11-06-2004, wherein the inquiry held against the Party I was held to be fair and

proper and charges of misconduct levelled against the Party I were held to be proved to the satisfaction of the Tribunal. Parties were called upon to adduce evidence on issue No. 3. The Party I has not adduced on this issue.

6. Shri Subhash Naik has argued on behalf of the Party I. He has argued that the misconduct which is stated to have been proved, does not warrant major penalty of dismissal. Whereas Learned Adv., Shri Chawdikar has argued that the penalty is not shockingly disproportionate and does not warrant interference. I have perused the records and considered the arguments advanced by the respective parties.

7. At the outset, it may be mentioned that in the case of Bharat Forge Company Ltd. v/s. Uttam Manohar Nakate, 2005 (2) SCC 489, the Apex Court has held that "it is trite that the Labour Court or the Industrial Tribunal, as the case may be, in terms of the provisions of the Act, must act within the four corners thereof. The industrial courts would not sit in appeal over the decision of the employer unless there exists a Statutory Provision in this behalf. Although its jurisdiction is wide but the same must be applied in terms of the provisions of the Statute and no other. If the punishment is harsh, albeit a lesser punishment may be imposed, but such an order cannot be passed on an irrational or extraneous factor and certainly not on a compassionate ground."

8. In the case of Mahindra & Mahindra Ltd. v/s. N. B. Narawade, 2005 (3) SCC 134 the Apex Court has held that the discretion which can be exercised under 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 the 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.

9. In the instant case, the Party I was charged for remaining unauthorizedly absent from 8-7-86 to 5-8-86, 28-8-96 to 19-9-86, 30-9-86 to 20-10-86, 28-10-86 to 17-11-86, 22-12-86 to 29-1-87, 11-3-87 to 31-3-87, 1-4-87 to 20-4-87, 21-4-87 to 25-5-87 & 8-4-88 to 30-8-89 and thereby committing misconduct under clause XII (e), (f), (m), (n), (o) of the settlement/service rules. The said charges are held to be proved.

10. In the case of L & T Komatsu Ltd., v/s. N. Udaykumar reported in 2008(1) SCC 224 the Apex Court has reiterated that habitual absenteeism is gross violation of discipline.

11. Reverting to the facts of the present case, as stated earlier, the Party I has been held guilty of habitual unauthorized absence. The contention of Shri Subhash Naik that it is a minor misconduct cannot be accepted as the charge under clause XII (f), which is held to be proved is a major misconduct under the settlement/service rule. Needless to emphasize that such habitual unauthorized absence affects office discipline. Hence, penalty imposed cannot be said to be harsh of shockingly disproportionate. The Party I has not adduced any evidence to prove existence of any mitigating circumstances which warrant interference with the penalty. This being the case, the Party I has failed to prove that the order of termination is illegal and unjustified. Consequently, the Party I is not entitled for any relief. Hence, issue Nos. 3 & 4 are answered in the negative.

12. Under the circumstances and in view of discussion supra, I pass the following order.

ORDER

1. The action of the management of M/s. Goa Urban Co-operative Bank Ltd., Panaji, in terminating the services of Shri Avinash H. Madkaikar, Peon, w.e.f. 20-6-91 is held to be legal & justified.
2. The Party I is not entitled for any relief.

Inform the Government accordingly.

Sd/-
(Anuja Prabhudessai),
Presiding Officer,
Industrial Tribunal-cum-
-Labour Court.

Department of Panchayati Raj and Community Development

Directorate of Panchayats

Notification

No. 26/25/DP/DPC/N/2009

In exercise of the powers conferred by Section 239 of the Goa Panchayat Raj Act, 1994 (Goa Act 14 of 1994), and in supersession of the Government

Notification No. 26/25/DP/DPC/N/2006 dated 28-09-2006, published in the Official Gazette, Extraordinary No. 3, Series II, No. 26, dated 29-09-2006, the Government of Goa is pleased to re-constitute the District Planning Committee for the North District, consisting of the following members and permanent invitees, namely:

**Sr. Names of the Members
No.**

- | | |
|---|-----------------------------|
| 1) Adhyaksha of North Goa Zilla Panchayat | ... Ex officio Chairperson. |
| 2) Shri Shripad Naik, Member of Parliament (Lok Sabha) | ... Member. |
| 3) Mayor of the Corporation of the City of Panaji | ... Member. |
| 4) Shri Tulshidas Prabhu, Member of North Goa Zilla Panchayat | ... Member. |
| 5) Shri Antonio Silveira, Member of North Goa Zilla Panchayat | ... Member. |
| 6) Shri Kishor Narvekar, Member of North Goa Zilla Panchayat | ... Member. |
| 7) Shri Freddy Fernandes, Member of North Goa Zilla Panchayat | ... Member. |
| 8) Shri Pradeep Patekar, Member of North Goa Zilla Panchayat | ... Member. |
| 9) Abelina Menezes, Member of North Goa Zilla Panchayat | ... Member. |
| 10) Shri Dnyaneshwar Kambli, Member of North Goa Zilla Panchayat | ... Member. |
| 11) Shri Sitaram Gaude, Member of North Goa Zilla Panchayat | ... Member. |
| 12) Smt. Shubada Sawaikar, Member of North Goa Zilla Panchayat | ... Member. |
| 13) Dr. Sainath Kashiram Chanekar, Councillor of Pernem Municipal Council | ... Member. |

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|--|-------------------------|
| 14) Shri Anand Pundalik Bhaidkar, Councillor of Mapusa Municipal Council | ... Member. |
| 15) Smt. Rajaram A. Gaonkar, Councillor of Bicholim Municipal Council | ... Member. |
| 16) Shri Brahmanand Dessai, Councillor of Sanquelim Municipal Council | ... Member. |
| 17) Shri Abdul Munir Beig, Councillor of Valpoi Municipal Council | ... Member. |
| 18) Shri Kishor K. Naik, Councillor of Ponda Municipal Council | ... Member. |
| 19) All members of the Legislative Assembly of Goa whose constituencies lie within the North Goa District. | ... Permanent invitees. |

The Chief Executive Officer of the North Goa Zilla Panchayat shall be the Secretary of the District Planning Committee for the North Goa District.

Every Panchayat, Zilla Panchayat and Municipal Councils/Corporation falling within the area of North Goa District shall, at the beginning of every Five Year Plan period, prepare a Five Year Plan and by the end of January of every year, prepare an Annual Plan and submit it to the said District Planning Committee for the North Goa District. The said District Planning Committee shall consolidate the plans prepared by the Zilla Panchayat, Panchayats and Municipal Councils/Corporation in the district and prepare a draft development plan for the district as a whole.

The District Planning Committee for the North Goa District shall, in preparing the draft development plan,—

(a) have regard to,

- (i) the matters of common interest between the Zilla Panchayat, Panchayats and Municipal Councils/Corporations in the district including special planning, sharing of water and other physical and natural resources, the integrated development of infrastructures and environmental conservation;

(ii) the extent and type of available resources, whether financial or otherwise;

(b) consult such institutions and organizations as the Government may, by order, specify.

The Chairman of the District Planning Committee for the North Goa District shall forward the development plan, as recommended by the said Committee, to the Government of Goa.

The expenditure of the meetings of the District Planning Committee for the North Goa District shall be met from the funds provided to the North Goa Zilla Panchayat by the Government towards recurring and non-recurring expenditure for administration.

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

Menino D'Souza, Director of Panchayat and ex officio Joint Secretary.

Panaji, 17th August, 2009.

Notification

No. 26/25/DP/DPC/S/2009

In exercise of the powers conferred by Section 239 of the Goa Panchayat Raj Act, 1994 (Goa Act 14 of 1994), and in supersession of the Government Notification No. 26/25/DP/DPC/S/2006 dated 28-09-2006, published in the Official Gazette, Extraordinary No. 3, Series II, No. 26, dated 29-09-2006, the Government of Goa is pleased to re-constitute the District Planning Committee for the South Goa District, consisting of the following members and permanent invitees, namely:

Sr. Names of the Members No.

- | | | |
|---|-----|----------------------------|
| 1) Adhyaksha of South Goa Zilla Panchayat | ... | Ex officio
Chairperson. |
| 2) Shri Francisco Sardinha, Member of Parliament (Lok Sabha) | ... | Member. |
| 3) Shri Shantaram L. Naik, Member of Parliament (Rajya Sabha) | ... | Member. |
| 4) Chairperson of Margao Municipal Council | ... | Member. |
| 5) Smt. Nelly J. Rodrigues, Member of South Goa Zilla Panchayat | ... | Member. |

- | | | |
|--|-----|---------------------|
| 6) Shri Pradeep Tukaram Dessai, Member of South Goa Zilla Panchayat | ... | Member. |
| 7) Shri Remegio Piedade Jose, Francis Fernandes, Member of South Goa Zilla Panchayat | ... | Member. |
| 8) Shri Govind Vithal Sawant, Member of South Goa Zilla Panchayat | ... | Member. |
| 9) Smt. Filomena Egas, Countinho, Member of South Goa Zilla Panchayat | ... | Member. |
| 10) Shri Daya Tuko Pagui, Member of South Goa Zilla Panchayat | ... | Member. |
| 11) Shri Romalda Judas Agnelo Fernandes, Councillor of Sanguem Municipal Council | ... | Member. |
| 12) Shri Narayan D. Gaonkar, Councillor of Quepem Municipal Council | ... | Member. |
| 13) Smt. Betty Judith Rocha Pereira, Councillor of Curchorem-Cacora Municipal Council | ... | Member. |
| 14) Shri Devendra D. Dessai, Councillor of Cuncolim Municipal Council | ... | Member. |
| 15) Shri John Joao Gonsalves, Councillor of Margao Municipal Council | ... | Member. |
| 16) Smt. Rohini P. Parab, Councillor of Mormugao Municipal Council | ... | Member. |
| 17) Shri Diwakar Pagi, Councillor of Canacona Municipal Council | ... | Member. |
| 19) All members of the Legislative Assembly of Goa whose constituencies lie within the North Goa District. | ... | Permanent invitees. |

The Chief Executive Officer of the South Goa Zilla Panchayat shall be the Secretary of the District Planning Committee for the South Goa District.

Every Panchayat, Zilla Panchayat and Municipal Councils falling within the area of South Goa

District shall, at the beginning of every Five Year Plan period, prepare a Five Year Plan and by the end of January of every year, prepare an Annual Plan and submit it to the said District Planning Committee for the South Goa District. The said District Planning Committee shall consolidate the plans prepared by the Zilla Panchayat, Panchayats and Municipal Councils in the district and prepare a draft development plan for the district as a whole.

The District Planning Committee for the South Goa District shall, in preparing the draft development plan,—

- (a) have regard to,
 - (i) the matters of common interest between the Zilla Panchayat, Panchayats and Municipal Councils in the district including special planning, sharing of water and other physical and natural resources, the integrated development of infrastructures and environmental conservation;
 - (ii) the extent and type of available resources, whether financial or otherwise;
- (b) consult such institutions and organizations as the Government may, by order, specify.

The Chairman of the District Planning Committee for the South Goa District shall forward the development plan, as recommended by the said Committee, to the Government of Goa.

The expenditure of the meetings of the District Planning Committee for the South Goa District shall be met from the funds provided to the South Goa Zilla Panchayat by the Government towards recurring and non-recurring expenditure for administration.

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

Menino D'Souza, Director of Panchayat and ex officio Joint Secretary.

Panaji, 17th August, 2009.

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Department of Revenue

Notification

No. 23/25/2009-RD

Whereas it appears to the Government of Goa (hereinafter referred to as "the Government") that the land specified in the Schedule hereto

(hereinafter referred to as the "said land") is likely to be needed for public purpose, viz. Land Acquisition for improvement of water supply to village Talaulim Curca, Tiswadi Taluka.

Now, therefore, the Government hereby notifies under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act") that said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contract for the disposal of the said land by sale, lease, mortgage, assignment, exchange or otherwise or any outlay commenced or improvements made thereon without the sanction of the Collector appointed under paragraph 4 below, after the date of the publication of this notification, will under clause (seventh) of Section 24 of the said Act be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette and in two daily newspapers and public notice thereof shall be given in due course. If the acquisition is abandoned wholly or in part, the fact will also be notified in the same manner.

4. The Government further appoints under clause (c) of Section 3 of the said Act, the Dy. Collector (LA), North Goa District, Panaji-Goa to perform the functions of a Collector, North Goa District, Panaji-Goa under the said Act in respect of the said land.

5. The Government also authorizes under sub-section (2) of Section 4 of the said Act, the following Officers to do the acts, specified therein in respect of the said land.

1. The Collector, North Goa District, Panaji-Goa.
2. The Dy. Collector (LA), North Goa District, Panaji-Goa.
3. The Executive Engineer, W.D. III (PHE), P.W.D., St. Inez, Panaji-Goa.
4. The Director of Settlement and Land Records, Panaji-Goa.

6. A rough plan of the said land is available for inspection in the Office of the Dy. Collector (LA),

North Goa District, Panaji-Goa for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE

(Description of the said land)

Taluka: Tiswadi Village: Talaulim

Survey No./ /Sub-Div. No.	Name of the person believed to be interested	Area in sq. mts.
1	2	3

108 Part O: Church of Talaulim. 1260

Boundaries :

North : Road.

South : S. No. 108.

East : S. No. 107/2, 108.

West : Road.

Total: 1260

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

D. M. Redkar, Under Secretary (Revenue-I).

Porvorim, 26th August, 2009.



Department of Science, Technology &
Environment

Order

No. 5/20/87/STE/P-II/770

Read: Notification No. 5/20/87-STE/(Part-II)/
/239 dated 08-06-2009.

In exercise of the powers conferred by sub-section (1) and (2) of Section 4 of the Water (Prevention and Control of Pollution) Act, 1974 (Central Act 6 of 1974), the Government of Goa has re-constituted the Goa State Pollution Control Board (GSPCB) vide above read Notification dated 08-06-2009 and appointed Dr. Simon N. De Souza, Ex. Dy. Director//Scientist 'F', National Institute of Oceanography, Dona Paula Goa as the full time Chairman of the Board. Dr. Simon N. De Souza has

joined his duties and taken over charge as Chairman (GSPCB) w.e.f. 09-06-2009 (b.n.).

2. The terms and conditions of the appointment of Dr. Simon N. De Souza, Chairman (GSPCB) shall be as follows:

- (i) He shall be made a payment of sum of Rs. 80,000/- (Rupees Eighty thousand only) per month including the amount received by him as his pension.
- (ii) He shall be entitled to draw TA/DA as admissible to the Commissioner cum Secretary to Government of Goa when required to go out of Head Quarters on official duty.
- (iii) He shall be entitled to all other benefits, perks, allowances, medical reimbursement etc., to which the Commissioner cum Secretary to Government of Goa is entitled.
- (iv) He shall in the matter in respect of which no specific provisions has been made in these terms and conditions, be governed by the Rules and Regulations which are applicable to a Government Servant of equal status.
- (v) He shall be provided with the office in the GSPCB at Panaji and required office staff namely Personal Secretary (one), Personal Assistant (one), Driver (one) and Peon (one).
- (vi) He shall employ himself efficiently and diligently and to the best of his ability to the service of the GSPCB and that he shall devote his whole time to the duties assigned to him and shall not engage directly or indirectly, in any trade or business on his own.

3. The expenditure on the above shall be borne from the funds of GSPCB.

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

Michael M. D'Souza, Director ex/officio Joint
Secretary (STE).

Saligao, 14th August, 2009.

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