

Panaji, 6th June, 2019 (Jyaistha 16,1941)

SERIES II No. 10

# OFFICIAL GAZETTE



# GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

Note:- There are three Extraordinary issues to the Official Gazette, Series II No. 9 dated 30-05-2019 as follows:—

- (1) Extraordinary dated 01-06-2019 from pages 161 to 162 regarding Notification from Goa Legislature Secretariat.
- (2) Extraordinary (No. 2) dated 03-06-2019 from pages 163 to 164 regarding Notification from Goa Legislature Secretariat.
- (3) Extraordinary (No. 3) dated 04-06-2019 from pages 165 to 166 regarding Notification from Goa Legislature Secretariat.

## GOVERNMENT OF GOA

Department of Co-operation

Office of the Registrar of Co-operative Societies

### Order

No. 1-4-2016/EST/RCS/Part-II/672

On recommendations of the Departmental Promotion Committee conveyed by the Goa Public Service Commission, Panaji vide letter No. COM/II/11/11(1)/2015/67 dated 15-05-2019, the Government is pleased to promote the following officials to the post of Co-operative Officer/Special Auditor, Group "B" (Non-Gazetted) in the establishment of Registrar of Co-op. Societies in the pay of Rs. 35,400/- to Rs. 1,12,400/- (Pay Matrix Level 6) on regular basis with immediate effect and post them in the offices mentioned in Col. No. 4 against their names.

Sr. No.	Name of the officials	Present posting of the officials	Transfer on promotion to the post of Co-operative Officer/ /Special Auditor	Budget Head	Remarks
1	2	3	4	5	6
1.	Smt. Sangita S. Naik	O/o the Registrar of Co-op. Societies, Headquarters, Panaji	O/o the Registrar of Co-op. Societies, Headquarters, Panaji	2425-Co-operation, 00, 001-Direction and Administration, 03-Direction (Plan), 01-Salaries	She shall continue to hold the charge of Co-operative Officer/ /Special Auditor given to her on ad hoc promotion vide order No. 1-4-76-EST/RCS/Part-I/414 dated 02-05-2016.
2.	Shri Savio Neto	O/o the Asstt. Registrar of Co-op. Societies, Central Zone, Panaji	O/o the Asstt. Registrar of Co-op. Societies, South Zone, Margao	2425-Co-operation, 00, 001-Direction and Administration, 02-Superintendence (Non-Plan), 01-Salaries	Shri Savio Neto shall continue with the charge of the Sr. Auditor/Sr. Inspector/ /Special Recovery Officer after joining to the post of

1	2	3	4	5	6
					Co-operative Officer/ /Special Auditor in respective office till post of Sr. Auditor/Sr. Inspector/Special Recovery Officer are filled.
3.	Shri Hemant S. Khedekar (ST)	O/o the Asstt. Registrar of Co-op. Societies, Ponda Zone, Ponda	O/o the Registrar of Co-op. Societies, Headquarters, Panaji	2425–Co-operation, 00, 001–Direction and Administration, 03–Direction (Plan), 01–Salaries	Shri Hemant S. Khedekar shall continue with the charge of the Sr. Auditor/Sr. Inspector/ /Special Recovery Officer after joining to the post of Co-operative Officer/ /Special Auditor in respective office till post of Sr. Auditor/Sr. Inspector/Special Recovery Officer are filled.
4.	Shri Rama S. Parab	O/o the Asstt. Registrar of Co-op. Societies, North Zone, Mapusa	O/o the Asstt. Registrar of Co-op. Societies, North Zone, Mapusa	2425–Co-operation, 00, 001–Direction and Administration, 02–Superintendence (Non-Plan), 01–Salaries	Shri Rama S. Parab shall continue with the charge of the Sr. Auditor/Sr. Inspector/ /Special Recovery Officer after joining to the post of Co-operative Officer/ Special Auditor in respective office till post of Sr. Auditor/Sr. Inspector/Special Recovery Officer are filled.
5.	Kum. Geeta S. Naik	O/o the Asstt. Registrar of Co-op. Societies, Quepem Zone, Quepem	O/o the Registrar of Co-op. Societies, Central Zone, Panaji	2425–Co-operation, 00, 001–Direction and Administration, 02–Superintendence (Non-Plan), 01–Salaries	Kum. Geeta S. Naik shall continue with the charge of the Sr. Auditor/Sr. Inspector/ /Special Recovery Officer after joining to the post of Co-operative Officer/ Special Auditor in respective office till post of Sr. Auditor/Sr. Inspector/Special Recovery Officer are filled.

1	2	3	4	5	6
6.	Shri Amey Dhakankar	O/o the Registrar of Co-op. Societies, Headquarters, Panaji	O/o the Registrar of Co-op. Societies, Headquarters, Panaji	2425–Co-operation, 00, 001–Direction and Administration, 03–Direction (Plan), 01–Salaries	Shri Amey Dhakankar shall continue with the charge of the Sr. Auditor/Sr. Inspector Special Recovery Officer after joining to the post of Co-operative Officer/Special Auditor in respective office till post of Sr. Auditor/Sr. Inspector/Special Recovery Officer are filled.
7.	Shri Raju Magdum (PD)	O/o the Asstt. Registrar of Co-op. Societies, Ponda Zone, Ponda	O/o the Asstt. Registrar of Co-op. Societies, Ponda Zone, Ponda	2425–Co-operation, 00, 101–Audit of Co-operatives, 01–Audit (Non-Plan), 01–Salaries	Shri Raju Magdum shall continue with the charge of the Sr. Auditor/Sr. Inspector/Special Recovery Officer after joining to the post of Co-operative Officer/Special Auditor in respective office till post of Sr. Auditor/Sr. Inspector/Special Recovery Officer are filled.
8.	Shri Devdatta S. Naik	O/o the Registrar of Co-op. Societies, Headquarters, Panaji	O/o the Registrar of Co-op. Societies, Headquarters, Panaji	2425–Co-operation, 00, 001–Direction and Administration, 03–Direction (Plan), 01–Salaries	Shri Devdatta S. Naik shall continue with the charge of the Sr. Auditor/Sr. Inspector Special Recovery Officer after joining to the post of Co-operative Officer/Special Auditor in respective office till post of Sr. Auditor/Sr. Inspector/Special Recovery Officer are filled.
9.	Shri Manguesh Phadte	O/o the Asstt. Registrar of Co-op. Societies, South Zone, Margao	O/o the Asstt. Registrar of Co-op. Societies, Quepem Zone, Quepem	2425–Co-operation, 00, 001–Direction and Administration, 02–Superintendence (Non-Plan), 01–Salaries	Shri Manguesh Phadte shall continue with the charge of the Sr. Auditor/Sr. Inspector/Special Recovery Officer after joining to the post of Co-operative Officer/Special Auditor in

1	2	3	4	5	6
					respective office till post of Sr. Auditor/Sr. Inspector/Special Recovery Officer are filled.

The above officials may exercise their option for fixation of pay under F.R. 22(1)(a)(1) within one month from the date of issue of this order.

They shall be on probation for a period of two years from the date of joining.

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

*Menino D'Souza*, Registrar & ex officio Addl. Secretary (Co-op. Societies).

Panaji, 27th May, 2019.

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Department of Education, Art & Culture

Directorate of Higher Education

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Order

No. 8/1/2017-Filling/Principal/1002

Read: (1) Memorandum No. 8/1/2017-Filling/  
/Principal/5115 dated 21-01-2019.

On the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/I/5/78(4)/2016/301 dated 20-12-2018, Government is pleased to appoint Dr. Mahesh Surendra Pai to the tenure post of Principal (Group "A" Gazetted) in Goa College of Home Science, Panaji-Goa under Directorate of Higher Education on temporary basis in the Pay Matrix Level 14 (Pay Band-4, Rs. 37400-67000+Academic Grade Pay of Rs. 10,000/-+Spl. Allowance of Rs. 2,000/- (pre-revised) with immediate effect.

The above appointment is for a term of five years only from the date of joining to the said post and as per the terms and conditions contained in the Memorandum cited above, subject to the verification of character and antecedents by the District Magistrate, North Goa District, Panaji-Goa.

Dr. Mahesh Surendra Pai shall be on probation for a period of one year extendable by a maximum period of one year in case of unsatisfactory performance.

Dr. Mahesh Surendra Pai has been declared medically fit by the Medical Board.

The above appointment is made against the vacancy occurred due to revival of the post of Principal in Goa College of Home Science, Panaji-Goa vide Order No. 8/3/2016-DHE/Revival-Princp/1308 dated 03-08-2016.

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

*Prasad G. Volvoikar*, Under Secretary (Higher Education).

Porvorim, 30th May, 2019.

Goa Legislature Secretariat

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Order

No. LA/Admn./2019/287

On approval of the Governor of Goa, in terms of Rule 4 (1) of the Goa Legislature Secretariat (Recruitment and Conditions of Service) Rules, 1988, Ms. Namrata Ulman, Joint Secretary, Legislature shall hold the charge of Secretary, Legislature on officiating basis w.e.f. 29 May, 2019 (F.N) in addition to her own duties, until further orders.

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

*U. D. Bicholkar*, Committee Officer (Goa Legislature Secretary).

Porvorim, 29th May, 2019.

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Department of Inland Waterways

(Captain of Ports)

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Order

No. A 11022/2018/H.S. (Prom)/COP/35

On the recommendation of the Departmental Promotion Committee as conveyed by the Goa Public Service Commission vide letter No. COM/II/11/13(1)/2019/416 dated 14-03-2019, the Government is pleased to promote Shri Ram Asare M. Gupta, Deputy Hydrographic Surveyor of this Department to the post of Hydrographic Surveyor, Group 'A' Gazetted, on regular basis in the Level 11 of Pay Matrix (Rs. 15600-39100+GP Rs. 6,600/- in pre-revised) plus other allowances to be fixed as per rules with immediate effect.

The promotion is made against the vacancy occurred due to retirement on superannuation of Shri Sagar Chandra Rai, ex-Hydrographic Surveyor of this Department on 31-12-2018.

The pay of the above Officer shall be fixed in terms of provision of F. R. 22(1)(a)(1) and he shall exercise option within one month from the date of issue of this order.

The expenditure towards the pay and allowances shall be debited under the Budget Head: 3051-Ports & Lighthouses, 02-Minor Ports, 103-Dredging and Surveying, 03-Hydrographic Survey Organisation (NP), 01-Salaries.

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

*Capt. James Braganza*, Captain of Ports and ex Officio Joint Secretary.

Panaji, 27th May, 2019.

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Department of Home

Home—General Division

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**Order**

No. 2/40/2017-HD(G)/1553

Sanction of the Government is hereby accorded for appointment of Shri Nandan Motilal Shirsat as Chartered Accountant for assisting in the investigation of Mapusa Police Station Crime No. 411/2018 u/s 408, 420 IPC on per day/per sitting remuneration of Rs. 3,000/- (Rupees three thousand only) for a limited period of 07-15 days, subject to availability of funds and adherence of Rules in force.

This issues with the concurrence of Finance (Rev. & Cont.) Department vide their U.O. No. 1400045105 dated 18-04-2019.

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

*Neetal P. Amonkar*, Under Secretary (Home).

Porvorim, 29th May, 2019.

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Office of the Director General of Police

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**Order**

No. CA-I/256(Vol.I)/PSI(RM)/4672/2019

Dist. Order No. 421

On the recommendation of the Departmental Promotion Committee as conveyed by the Goa Public Service Commission vide their letter No. COM/II/11/37(2)/2019/29 dated 22-04-2019 which has been forwarded by the Home Department, Government of Goa, vide letter No. 1/51/2017-HD(G)/1480 dated 20-05-2019, the Police Establish-

ment Board is pleased to promote on regular basis, the below mentioned Assistant Sub-Inspector (Engine Mechanic)/Assistant Sub-Inspector (Radio Mechanic) to the post of Police Sub-Inspector (Radio Mechanic) (Group 'B', Non-Gazetted) in the Pay Scale of ₹ 9,300-34,800+Grade Pay ₹ 4,200/- (Pay Matrix Level-6 (₹ 35,400-1,12,400) of 7th Pay Commission), with immediate effect:-

Sr. No.	Designation & name	Place of posting
1.	ASI (EM), Shri Tukaram Ganpat Naik	SPCR, Panaji.
2.	ASI (RM), Shri Atmaram Raghuvir @ Raghunath Mapari	Wireless Workshop, Panaji.

2. They shall be on probation for a period of two years.

3. They shall exercise option for fixation of pay on promotion, if so desired, within a period of one month from the date of issue of this order.

*S. M. Prabhudessai*, Superintendent of Police (HQ).

Panaji, 31st May, 2019.

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Department of Labour

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**Notification**

No. 28/2/2019-LAB/340

The following award passed by the Labour Court-II, at Panaji-Goa on 10-05-2019 in Case No. Ref. LC-II/IT/10/18 is hereby published as required under Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

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

*A. S. Mahatme*, Under Secretary (Labour).

Porvorim, 29th May, 2019.

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IN THE LABOUR COURT-II

GOVERNMENT OF GOA

AT PANAJI

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

Case No. Ref. LC-II/IT/10/18

Shri. Vishant Kamat,  
R/o. F-3, Building 2/A2,  
Kurtarkar Vatika,  
Shantinagar, Ponda-Goa. .... Workman/Party-I  
V/s

M/s Mohit Ispat (I) Pvt. Ltd.,  
 Navelim Industrial Estate,  
 Navelim Village,  
 Bicholim-Goa. .... Employer/Party-II

Workman/Party-I marked as Ex-parte.  
 Employer/Party-II represented by Adv. Shri G.K.  
 Sardessai.

Panaji, Dated: 10-05-2019

#### AWARD

1. In exercise of the powers conferred by Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa, by Order dated 14-06-2018, bearing No. 28/8/2018-LAB/385, referred the following dispute for its adjudication to this Labour Court-II of Goa.

*“(1) Whether the action of M/s Mohit Ispat Limited, Plot No. 1, Navelim Industrial Estate, Navelim Village, Bicholim Goa, in terminating the services of Shri Vishant R. Kamat, with effect from 13-09-2017, is legal and justified?”*

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

2. On receipt of the reference, a case was registered under No. IT/10/18 and registered A/D notice was issued to the Parties. In pursuance to the said notice, the Parties put in their appearance. The Workman/Party-I (for short 'Workman'), filed his Statement of Claim on 13-08-2018 at Exb-5. The facts of the case in brief as pleaded by the Workman are that he worked as a 'Transport Supervisor' for the Employer/Party II (for short "Employer"). He stated that the Employer is run over by Mr. Harshvardhan Mithal and Mr. Ajinkya Mithal as directors. He stated that he had been posted as Transport Manager for the period from 15-05-2017 till 13-09-2017 without issuing him any appointment letter. He stated that he was allotted various work on a monthly salary of Rs. 40,000/-. He stated that Mr. Harshvardhan Mithal had appointed him as Transport Supervisor with oral agreement and without issuing any appointment letter. He stated that when he went to ask the manager about his appointment letter, the Manager refused to give him by stating that they are not giving any appointment letter to the labourer/workers in their factory. He stated that he was told that if he is not agreeable to this term, then he should search for employment elsewhere and that most of the workers/labourers in their factory are outsiders. He stated that the Employer factory is carrying out its business negligently and without taking proper precautions that too

endangering the human life, dust and coal particles from the Employer factory spread over in the village, there is no waste treatment plant and all the waste from the factory deliberately released in the nearby river, which creates water pollution. He stated that when he brought the said fact to the notice of the General Manager of the Employer, he was told not to interfere with its management, otherwise they will remove him from the service. He stated that the General Manager of the Employer started making allegations against him without any proof and started complaining against him to the Director.

3. He stated that on 13-09-2017, the Director of the Employer called him and told him not to come for the service hence forth and that his service has been terminated. He submitted that his termination from service is without giving him prior notice, memo or any show cause notice and as such it is illegal. He stated that he had requested the Employer number of times to pay his earned wages for the said month, however, the Employer failed to do so deliberately and on the contrary, threatened him with the dire consequences.

4. He stated that he challenged the illegal termination of his services by raising a dispute before the Asstt. Labour Commissioner, North Goa, vide his representation dated 19-09-2017. He stated that both the parties were directed to appear before the Asstt. Labour Commissioner on 27-09-2017. He stated that the Employer also filed its reply denying that he was working in their factory and that his services were terminated illegally. He stated that thereafter both the parties have come for amicable settlement as the Employer agreed to take the Workman in service and as such he has withdrawn the complaint in a belief that the Employer would take him back in service. He stated that when he went to join the duty, he was made to stop outside the gate for six hours and told him not to enter into the premises of the Employer or else they would file criminal complaint against him. He stated that the Manager of the Employer told him that they would not take him back in service and would also not pay his wages for two months. The Workman therefore prayed that the Employer be directed to pay to him, his earned wages for the period from 13-09-2017 till 13-08-2018 for an amount of Rs. 4,80,000/- with interest and further directed the Employer to pay compensation of Rs. 1,00,000/- to him for causing great hardships, inconvenience, mental agony and financial loss.

5. The Employer resisted the claim of the Workman by filing its written statement on 13-11-2018. The Employer, as and by way of its



preliminary objections, submitted that the reference filed by the Workman is bad-in-law and not maintainable, that the Party I is not a 'workman' as defined u/s 2 (s) of the I.D. Act as he was performing the duties of managerial in nature, that the present dispute raised by the Party I is not an 'industrial dispute' as defined under the I.D. Act, that there is non-application of mind by the Appropriate Government and that the reference is therefore null and void.

6. Without prejudice to its aforesaid contention, the Employer stated that it is a private limited company and is involved in the production of thermo mechanically treated (TMT) iron rods. The Employer stated that there are around 500 workers working in its company on shift basis. The Employer stated that there is a transport department headed by "Transport Manager" to manage the activities of the transport department and to make sure there is smooth movements of trucks carrying raw materials and finished goods. The Employer stated that the Party I was appointed as a Transport Manager with monthly salary of Rs. 40,000/- w.e.f. 15-05-2017. The Employer stated that the entire transport department was under the control of the Party I and the workmen in that department used to report to the Party I. The Employer stated that the nature of duties of the Party I as a Transport Manager were preparation of daily report about details of raw material received and finished goods, purchase, maintenance, registration etc. of the Company vehicle, control over the staff under his command, sanctioning of leave and other facilities, action to be taken in case of accident and breakdown, maintenance of records of transport department of the company, day to day preparation of program for transportation of goods and reporting to managing Director on day to day basis about transport activities. The Employer stated that at the time of appointment, the Party I was given six months' time to show his efficiency and capability as a Transport Manager. The Employer stated that at that time, he was informed that the management would review his performance and would decide future cause of action. The Employer stated that any staff whether a shop floor worker or a management staff is bound to follow the rules and regulations of the organization and co-operate with other office mates within the premises. The Employer stated that the Party I used to constantly argue with his colleagues, Mr. Vikas Saini, Factory Manager. The Employer stated that the said Mr. Vikas Saini made a complaint to the Managing Director against the Party I. The Employer stated that the Managing Director therefore called the

Party I in his cabin and advised him to improve his behaviour or to vacate the place occupied by him. The Employer stated that even after a warning by the Managing Director, the Party I did not improve his behaviour. The Employer stated that the Party I continued to argue with his colleague and thereafter threatened Shri. Vikas Saini, the Factory Manager by saying that he would kill him outside the factory and threatened to hurt his family members as well. The Employer stated that the Party I also threatened Shri. Sanjay Kumar, its Store Keeper regarding verification of maintenance bill etc. The Employer stated that Mr. Vikas Saini had also filed a complaint with the Bicholim Police Station against the Party I on 28-09-2017. The Employer stated that since the Party I did not improve his behaviour, the management relieved him from his duties as a Transport Manager by clearing all his dues via cheque dated 13-09-2017. The Employer denied the overall pleadings as pleaded by the Party I and prayed for dismissal of the present reference.

7. That on and from 30-11-2018, neither the Party I nor Adv. Shri. Kashinath Sawant Dessai remained present on the scheduled date of hearings, thereby showed his disinterest in the matter. The court, after giving him ample opportunities, marked an ex-parte against the Party I. The Party I also did not file any rejoinder to the written statement of the Employer.

8. Based on the pleadings filed by the respective parties framed the following issues.

1. Whether the Workman/Party I proves that he is a 'workman' within the meaning of Section 2 (s) of the I.D. Act, 1947?
2. Whether the Workman/Party I proves that the action of the Employer in terminating his services w.e.f. 13-09-2017 is illegal and unjustified?
3. Whether the Employer/Party II proves that the reference is bad-in-law, in view of the preliminary objections raised in para (a), (c), (d) and (e) of the written statement?
4. Whether the Workmen are entitled for any relief?
5. What Order? What Award?

9. My findings to the aforesaid issues are as under:

- |                     |                       |
|---------------------|-----------------------|
| (a) Issue No.1      | : In the negative.    |
| (b) Issue No. 2     | : In the negative.    |
| (c) Issue No. 3     | : In the negative.    |
| (d) Issue No. 4 & 5 | : As per final order. |

## REASONS:

I have heard the oral arguments of Ld. Adv. Shri. A. Carvalho h/f Adv. Shri. G.K. Sardessai appearing for the Employer. The Workman as well as his Adv. Shri Kashinath Sawant Dessai remained absent. I have carefully perused the entire records and proceedings of the present case. I have also carefully considered the oral submissions made by the Ld. Shri A. Carvalho h/f Adv. Shri G. K. Sardessai appearing for the Employer and is of the considered opinion as under:

10. In the case of **V.N.S. Engineering Services v/s. Industrial Tribunal of Goa, Daman and Diu and Anr.**, reported in 1987 II LLN 968, the Hon'ble High Court of Bombay has held that *"there is nothing in the Industrial Disputes Act, 1947 that indicates a departure from the general rule that he who approaches a court for relief should prove his case i.e. the obligation to lead evidence to establish an allegation. The test being that he who does not lead evidence, must fail. The Hon'ble High Court of Bombay further held that the provisions of Rule-10-B of the I.D. (Central Rules), 1957 which requires the party raising a dispute to file a statement of demands relating only to the issue in the order of reference for adjudication within 15 days from the receipt of the order of reference and forward copies to the opposite party involved, clearly indicates that the party who raises the industrial disputes is bound to prove the contention raised by him and an Industrial Tribunal or Labour Court would be erring in placing the burden of proof on the other party to the dispute"*.

11. In the case of **V. K. Raj Industries v/s Labour Court (I) and Ors. reported in 1981 (29) FLR, 194**, the Allahabad High Court has held that *"the proceedings before the Industrial Tribunal are judicial in nature, even though the Indian Evidence Act, is not applicable to the proceeding before the Industrial Court, but the principle underlying the said Act are applicable."* The High Court further held that *"it is well settled that if a party challenges the validity of an order and if no evidence is produced, the party invoking the jurisdiction must fail. The High Court has also held that if the Workman fails to appear or to file written statement or produce evidence, the dispute referred by the Government cannot be answered in favour of the Workman and he will not be entitled any relief"*.

12. The principle laid down by the Hon'ble High Court in its respective case still holds good. Applying the law laid down by the Hon'ble High Court, in the instant case, the order of reference has been issued by the Government of Goa at the instance of the workman, who has raised the present dispute pertaining to the legality and justifiability of the action of the Employer in terminating his service w.e.f. 13-09-2017 and the relief he is entitled to. The Workman filed his statement of claim setting forth his grounds of attack. The said pleadings made by the Workman, in his claim statement has been denied by the Employer in its written statement filed in the present proceedings. Therefore, it was mandatory for the Workman to prove his case that the action of the Employer in terminating his services w.e.f. 13-09-2017 is illegal and unjustified and therefore entitled for the relief. However, neither the Workman nor the Employer has lead any evidence either oral or documentary in support of their pleadings respectively. Consequently, the parties failed to prove their case as pleaded. Hence, it is held that the Workman failed to prove that the action of the Employer in terminating his services w.e.f. 13-09-2017 is illegal and unjustified. The Employer also failed to prove that the reference is bad-in-law for any reasons as stated in its written statement by way of preliminary objections. Hence, in the absence of any evidence, it is held that the action of the Employer in terminating his services w.e.f. 13-09-2017 is legal and justified. The Workman is therefore not entitled to any relief. The issue No. 1 to 4 are therefore answered in the negative.

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

## Order

1. In the absence of any evidence on record, it is held that the action of M/s Mohit Ispat Limited., Navelim Industrial Estate, Navelim Village, Bicholim Goa, in terminating the services of Shri Vishant R. Kamat, with effect from 13-09-2017, is legal and justified.
2. The workman, Shri. Vishant R. Kamat is not entitled to any relief.
3. No order as to costs.

Inform the Government accordingly.

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



**Notification**

No. 28/2/2019-LAB/Part-I/343

The following Judgment passed by the Labour Court-II, at Panaji-Goa on 25-04-2019 in Case No. LC-II/LCC/12/2019 is hereby published as required under Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

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

A. S. Mahatme, Under Secretary (Labour).

Porvorim, 29th May, 2019.

THE LABOUR COURT – II

GOVERNMENT OF GOA

AT PANAJI

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

Case No. LC-II/LCC/12/2019

Shri Chandrashekhar V. Devdhar,  
C/o. Shri. Sanjay Vaze,  
Raj Colony, Sucorro,  
Porvorim, Bardez-Goa. .... Applicant

V/s

M/s. Lelesys Infotech Pvt. Ltd.,  
1st Floor, H.No.1813/1,  
Opp. Goa Board,  
Alto Porvorim, Goa. .... Opponent

Workman/Party-I represented by Adv. Mrs. R.A. Dublay.

Opponent absent, marked as Ex-parte.

Panaji, Dated: 25-04-2019.

**JUDGMENT**

1. This judgment shall determine the claim application of the Applicant dated 15-01-2019 filed u/s 33-C (2) of the I.D. Act, 1947.

2. By the present claim application, the Applicant claimed an amount of Rs. 4,64,808/- (Rupees four lakhs sixty four thousand eight hundred eight only) towards his unpaid salaries, gratuity, compensation etc.

3. The registered A/D notice issued to the Opponent returned back with postal endorsement "intimated" "unclaimed returned to sender". The Opponent is therefore presumed to be duly served as "intimated" "unclaimed returned to sender" is a good service of summons. The Opponent has however, failed to remain present on the scheduled

date of hearings without any justifiable cause. The court after giving ample opportunities to the Opponent, marked an ex-parte order against him and ex-parte proceedings were conducted.

4. This court framed the following issues on 29-03-2019 at Exb.5.

1. Whether the Applicant proves that he is entitled to receive from the Opponent a sum of Rs. 4,64,808/- (Rupees four lakhs sixty four thousand eight hundred eight only) towards his unpaid salaries, gratuity, compensation?

2. What order?

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

(a) Issue No.1 : In the Affirmative.

(b) Issue No. 2 : As per final order.

**REASONS:**

Issue No. 1:

I have heard the oral arguments of Ld. Adv. Mrs. R. A. Dublay appearing for the Applicant. I have carefully perused the entire records of the present case. I have also carefully considered the oral submissions advanced by the Ld. Advocate appearing for the Applicant.

**(a) Unpaid Salaries:**

In order to prove his case, the Applicant has examined himself and produced on record certain documentary evidence in support of his oral evidence. The evidence on record indicates that the Applicant was continuously working with the Opponent as 'Sr. Software Developers' from 01-05-2008 till 30-06-2017. The evidence on record indicates that the monthly salary of the Applicant was Rs. 35,000/- (Rupees Thirty five thousands only) p.m. The evidence on record indicates that the Applicant has not been paid his monthly earned wages for the period from November, 2016 till June, 2017 i.e. for the period of eight months. Thus, the total unpaid salaries comes to Rs. 2,80,000/- (Rupees Two lakhs eighty thousand only @ Rs.35000/-p.m.).

**(b) Gratuity:**

The Applicant claimed gratuity. The Applicant is entitled for the gratuity under the Payment of Gratuity Act, 1972. Provisions have been made in the said legislations for the payment of gratuity. The said legislation is complete code containing detailed provisions covering all the essential features of the scheme for payment of Gratuity. For the enforcement of its provisions, the act provides for the appointment of a controlling authority for administering the act. He has been invested with an amplitude of power for the full discharge of his

responsibilities under the Act. Any error committed by him can be corrected in appeal by the Appropriate Government or an Appellate Authority particularly constituted under the Act.

In view of above, this Labour Court II has no jurisdiction to decide the gratuity under Section 33-C (2) of the I.D. Act, 1947.

**(c) Compensation:**

The Applicant claimed compensation of Rs. 1,00,000/- (Rupees one lakh only) from the Opponent. The Applicant has however, miserably failed to point out any provisions of law by which this court is empowered to grant the compensation to the Applicant. Hence, the claim of the Applicant towards compensation of Rs. 1,00,000/- is hereby rejected.

In view of above and with regards to the facts and circumstances of the case, I pass the following order:

Order

1. The claim application of the Applicant dated 15-01-2019 is hereby partly allowed. Consequently, it is held that the Opponent, M/s. Lelesys Infotech Pvt. Ltd., is hereby directed to pay to the Applicant, Shri Chandrashekhar V. Devdhar a total sum of Rs. 2,80,000/- (Rupees two lakhs eighty thousand only) towards his unpaid salaries along with simple interest @10% p. a. from the date of its maturity till its actual realization.
2. No order as to cost.

Pronounced in the Open Court.

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

**Notification**

No. 28/2/2019-LAB/341

The following Award passed by the Labour Court-II, at Panaji-Goa on 29-04-2019 in Case No. LC-II/C-IT/01/2019 is hereby published as required under Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

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

A. S. Mahatme, Under Secretary (Labour).  
Porvorim, 29th May, 2019.

THE LABOUR COURT – II  
GOVERNMENT OF GOA  
AT PANAJI

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

Case No. LC-II/C-IT/01/2019

Shri Dayanand Kambli,  
Driver, Badge No. 4799,  
Vasco depot, KTC Ltd. .... Workman/Party-I  
V/s

M/s. Kadamba Transport Corporation Ltd.,  
Paraise de Goa,  
Alto-Porvorim, Goa. .... Employer/Party-II.

Workman/Party-I represented by Adv. Shri A. Kundaikar.

Employer/Party-II represented by Adv. Shri P. Agarwal.

Panaji, Dated: 29-04-2019

**AWARD**

1. This Award, shall determine the complaint dated 04-12-2018 filed by the Workman u/s 33-A of the I.D. Act, 1947.

2. It is the case of the Party I/ Workman (for short, the Workman) in brief that the Government of Goa, by its order dated 30-09-2014, was pleased to refer the Industrial Dispute in exercise of the powers conferred by clause (d) of sub-section (1) of Section (10) of the I.D. Act, 1947 for adjudication to the Industrial Tribunal as to whether there is an anomaly in his pay fixation made by the Employer/ Party-II (for short "Employer") thereby depriving monetary benefits w.e.f. July, 2007 to him and that if the answer to the said issue is in affirmative, than what relief he is entitled to. He stated that pursuant to the said order, the reference was registered under No. REF/LC-II/IT/07/2014 and the matter is pending for its adjudication before this Labour Court II. He stated that during the pendency of the reference before the Labour Court, the management of the Employer was pleased to extend the monetary benefits of Seventh Central Pay Commission to all its employees w.e.f. 01-11-2018 in terms of its BOD decision taken vide resolution No. 93/17. He stated that the Employer filed the terms of settlement in case No. IT/REF/37/12 which was duly signed by the Managing Director of the Employer. He stated that by the said terms of settlement, the punishment order dated 18-03-1998 for stoppage of two annual increments was revoked. He stated that on the basis of the said terms of settlement, the

Hon'ble Industrial Tribunal was pleased to pass an award dated 09-05-2013 incorporating terms of settlement. He stated that the said award was also published in terms of the I.D. Act. He stated that despite of the award of the Hon'ble Industrial Tribunal, the Employer has failed to comply with the award. He stated that he therefore raised a dispute before the Labour Commissioner, which ended in failure. He stated that pursuant to which the reference is pending for adjudication before the Labour Court. He stated that the Employer appeared before the conciliation officer and filed its reply dated 26-11-2013 duly signed by its Managing Director. He stated that the Employer, vide its reply dated 26-11-2013, admitted that the punishment of stoppage of annual increments of 1998 and 1999 has been revoked with prospective effect i.e. from 09-05-2013 and accordingly, he is eligible for financial up-gradation under the Modified Assured Career Progression Scheme (MACPS) which is presently effective in the Employer Corporation. He stated that the General Manager of the Employer, by its order dated 09-11-2018, deferred the benefits of the revised pay commission of the employees as shown in the Annexure-A, wherein his name is appearing and the entitlement of the seventh pay commission was deferred till the dispute pending before the Labour Court is resolved/settled.

3. He submitted that the General Manager of the Employer is therefore liable for the violation of the service conditions and necessary action deemed fit against him. He submitted that neither he was given personal hearing nor sought any personal explanation before denying the benefits of the extension of the seventh central pay recommendation. He stated that the Employer failed to seek approval of the Labour Court II before deferring the implementation of seventh Central pay commission as the adjudication was pending before the Labour Court. He submitted that the action of the General Manager of the Employer amounts to victimization and unfair labour practice. He submitted that the General Manager failed to appreciate that though some disputes are pending before the Labour Court/Labour Commissioner, the General Manager selectively deferred the implementation of the benefits of seventh central pay commission to pressurize him. He submitted that the said act of the General Manager is vindictive and has no right of whatsoever nature to pass the impugned order altering the service conditions to his prejudice. He submitted that the General Manager of the Employer acted in abuse of process of law during the pendency of the

proceedings pending before the Labour Court II and therefore liable for action for violation of provisions of section 33-A of the I.D. Act. The Workman therefore prayed that the complaint be allowed and an award be passed holding that the deferring of the seventh central pay commission is illegal and consider him for the eligibility of the seventh central pay commission from the date of entitlement with consequential benefits in accordance with the seventh pay commission and to initiate proceedings against the General Manager of the Employer u/s 31 for contravention of provision of Section 33 of the said Act.

4. The matter was fixed for filing written statement of the Employer on 06-03-2019, however, Ld. Adv. Shri P. Agarwal, representing the Employer, filed an application for direction to produce the documents relied upon by the Complainant in his list of documents as the same are neither filed in the court nor produced to them and that the said documents are required for filing its effective reply/ /written statement. The matter was therefore fixed for filing reply of the workman on 27-03-2019.

5. On 27-03-2019, Ld. Adv. Shri A. Kundaikar appearing for the Workman as well as Ld. Adv. Shri P. Agarwal remained present. Ld. Adv. Shri. A. Kundaikar, appearing for the workman filed reply to the application of the Employer at Exb. 6. The Workman, as and by way of its reply, submitted that he has filed complaint u/s 33-A of the I.D. Act along with the list of documents namely terms of settlement, award dated 09-05-2013, reply dated 26-11-2013 filed before the ALC by the Employer, order dated 30-09-2014 and order dated 09-11-2018 passed by the General Manager. He submitted that except the award dated 09-05-2013 all the documents have been issued by the Employer and are in their possession. He submitted that on receipt of notice of this Hon'ble Labour Court II, the representative of the Employer appeared and sought time. The representative of the Employer thereafter appeared before this court and filed the present application in question and as such the application is not within the mandate of the said act. The workman therefore prayed for dismissal of the application for production of documents of the Employer. The matter was thereafter fixed for arguments on 15-04-2019.

6. On 15-04-2019, Ld. Adv. Shri A, Kundaikar appearing for the Workman as well as Ld. Adv. Shri P. Agarwal remained present. Ld. Adv. Shri A. Kundaikar, appearing for the workman filed an application for withdrawal of the complaint filed u/s 33-A of the I.D. Act, 1947 at Exb. 8 and

submitted that the complaint filed by him be dismissed as withdrawn. No objection given by the Ld. Adv. Shri P. Agarwal appearing for the Employer. It is the workman, who has filed the present complaint claiming violation of service conditions, desires to withdraw his complaint, I have no other alternative rather than to allow the application for withdrawal of the complaint filed by the workman. Hence, I allow the application for withdrawal of the complaint. Consequently, the complaint dated 04-12-2018 filed by the complainant shall stand dismissed as withdrawn.

In view of the above, I pass the following Order.

ORDER

1. The present Complaint filed by the Complainant u/s 33-A of the Industrial disputes Act, 1947 stands dismissed as withdrawn.
2. The Workman is not entitled to any relief.
3. No Order as to Cost.

Inform the Government accordingly.

*Sd/-*  
(Suresh N. Narulkar)  
Presiding Officer,  
Labour Court-II.

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**Notification**

No. 28/2/2019-LAB/Part-I/342

The following Judgement passed by the Labour Court-II, at Panaji-Goa on 03-05-2019 in Case No. Ref. LC-II/LCC/01/08 is hereby published as required under Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

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

A. S. Mahatme, Under Secretary (Labour).  
Porvorim, 29th May, 2019.

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IN THE LABOUR COURT-II

GOVERNMENT OF GOA  
AT PANAJI

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

Case No. Ref. LC-II/LCC/01/08

Mr. John J. Clark,  
C/o Adv. Suhas Naik,  
Velhos Building, 2nd Floor,  
Opp. Municipal Garden,  
Panaji-Goa. .... Applicant  
V/s

1. M/s. Goa Shipyard Limited,  
Vaddem,  
Vasco-da-Gama-Goa. .... Opponent No.1.
2. Mr. Pradeep Shet,  
Proprietor-Mahalsa Services  
A Contractor to  
M/s. Goa Shipyard Ltd.,  
Vasco-da-Gama-Goa. .... Opponent No. 2.

Applicant represented by Adv. Suhas Naik.

Opponent No. (1) represented by Adv. Shri M. S. Bandodkar.

Opponent No. (2) represented by Adv. Shri P. Chawdikar.

Panaji, Dated: 03-05-2019.

JUDGEMENT

1. This judgment and order shall determine the claim application of the Applicant dated 14-05-2008, filed U/S 33-C (2) of the I.D. Act, 1947.

2. It is the case of the Applicant in short that he was employed with the Opponent No. 1 for the last more than 10 years and was engaged in the work of cleaning, sweeping, dusting and watching of the establishment of the Opponent No. 1. The Applicant stated that the Opponent No. 2 is the contractor, who also undertake the work of repairs, maintenance of ships etc. which are brought inside the shipyard of the Opponent No. 1. He stated that he has been put under various contractors by the Opponent No. 1. He stated that though many contractors have changed, the workers have remained unchanged and the same workers are continued by the succeeding contractors. He stated that he was paid daily wage of Rs. 62.50 per day which was calculated and paid to him at the end of the month. He stated that he was employed with the Opponent No. 1 continuously for last more than 10 years under various contractors. He stated that he was also made eligible for ESI and PF facilities. He stated that the contract for cleaning, sweeping, dusting and watching of the establishment of the Opponent No.1 for the year 2003 was awarded to the Opponent No. 2. He stated that the Opponent No. 2 took over the contract from the earlier contractor in the year 2003 and has been successfully awarded the contract till date. He stated that soon after taking the contract, the Opponent No. 2 started victimizing the union members of Goa Trade and Commercial Workers Union. He stated that he was issued a charge-sheet on 04-12-2003. He stated that he was also placed under suspension w.e.f. 04-12-2003. He stated that he filed a detailed reply to the charge-sheet however, the Opponent No. 2 went ahead



without any enquiry. He submitted that the Opponent No. 2 is under obligation to pay the subsistence allowance to him as he has suspended from service w.e.f. 04-12-2003 till date in accordance with law. He submitted that the Opponent No. 1 being the Principal Employer as well as the Opponent No. 2 being the contractor are liable to pay to him the subsistence allowance from the date of his suspension till date. The Applicant therefore prayed that the Opponent No. 2 be directed to pay to him the subsistence allowance of full wages effective from 04-12-2003 till date as per the law.

3. The Opponent No.1 resisted the claim of the Applicant by filing its reply dated 23-07-2008 at Exb. 6. The Opponent No. 1, as and by way of its preliminary objections, submitted that the entire claim application is bad-in-law and not maintainable as there is no employer-employee relationship between themselves and the Applicant concerned in the application and therefore, the Applicant cannot claim anything from them. The Opponent No. 1 submitted that if at all, there is any employee-employer relations, it is only between the Applicant and the contractor. The Opponent No. 1 submitted that the Applicant was a contract employee of the Opponent No. 2 and he was fully controlled, supervised, allotted work at a certain site, paid wages etc. by him and not by them and therefore, the Applicant is a worker of the Opponent No. 2 and that he does not have any relation with them, that as per the ruling of the court "the obligation cast upon the principal employer is under the provision of Section 21 of the Act, 1970, which is limited to the wages. The question as to whether the work that was being performed by the contractors workmen are the same and similar to that of a regular workmen of principle employer are not to be answered under proceedings under Rule 25 (2) (v) (a) of Rules 1975" and on this ground also application ought to be rejected in toto. The Opponent No.1 stated that as per Section 21 of the Contract Labour (Regulation and Abolition) Act, 1970, the responsibility of the Principal employer towards the contract workmen/ /contractor is restricted in respect of payment of wages only and not for payment of subsistence allowance. The Opponent No. 1 submitted that the subsistence allowance is not wage and the contractor is fully liable and responsible for the payment of subsistence allowance and on this count also the application ought to be rejected, with reference to them. The Opponent No. 1 stated that the contractor M/s. Mahalsa Services is the sole employer of the Applicant and any decision/

/to take disciplinary action in respect to the contract worker are being taken by the contractor himself and it is not with consultation of the principle employer. The Opponent No. 1 submitted that the Applicant, by virtue of this application, is trying to create new non-existents rights and such non-existent rights cannot be claimed under Section 33-C (2) of the Industrial Disputes Act, 1947. The Opponent No. 1 denied the overall case as pleaded by the Applicant and prayed for dismissal of the claim application of the Applicant.

4. The opponent No. 2 also resisted the claim of the Applicant by filing its reply dated 16-07-2008 at Exb. 5. The Opponent No. 2, as and by way of its preliminary objections, submitted that the application under consideration does not disclose the provisions of law and that the Applicant is not entitled to file such an application, assuming but without admitting that the application has been filed under Section 33-C (2) of the I.D. Act, 1947, the same has been barred by the limitation in as much as the Applicant is seeking relief of subsistence allowance of full back wages from 04-12-2003 and that in terms of the provisions of Section 33-C (2) of the I. D. Act, the application is required to be filed within one year from the money became due to the workman from the Employer.

5. The Opponent No. 2 stated that the Opponent No. 1 is a Government of India undertaking functioning under the control and supervision of the Ministry of Defense, Government of India. The Opponent No. 2 stated that the Opponent No. 1 is in the business of ship building and ship repairs for the various departments of Government of India including the Coastal Guards or Naval Wings. The Opponent No. 2 stated that for the purpose of sweeping, cleaning of grass, rubble, garbage, scrap and dirt in the open area, they engaged the contractor by advertising and inviting the open tenders for the purpose of awarding the contract. The Opponent No. 2 stated that after having received the tenders from the eligible bidders and having regard to technical discussions and after considering that all the other required conditions had been fulfilled, the biennial contract was awarded to the successful bidder. The Opponent No. 2 stated that he filled the tender form for the said rate contract and since his tender was considered by the Opponent No. 1 to be a valid tender, he was awarded the biennial rate contract to him for a period of two years from 18-08-2002 up to 17-08-2004. The Opponent No. 2 stated that it is obligatory on the part of the successful bidder to engage the required manpower to complete the work as per the conditions laid down by the



Opponent No. 1 for the purpose of cleaning and sweeping. The Opponent No. 2 stated that accordingly the successful bidder engages his required number of manpower to complete the work assigned. The Opponent No. 2 stated that since the contract is only for a period of two years, it is not obligatory or mandatory on the part of the said contractor or subsequent contractors to continue with the existing manpower disturbing the so called terms of employment of the workers engaged by the earlier. The Opponent No. 2 stated that it was not necessary on his part to engage and/or continue with the existing workers who were otherwise working with the earlier contractor. He engaged some of the workers of the earlier contractor during the period of biennial contract of 2002 to 2004 awarded to him. The Opponent No. 2 stated that the Applicant was one of such workers and he employed the services of the Applicant during the specific period of the contract tenure from 18-08-2002 upto 17-08-2004.

6. The Opponent No. 2 stated that during the employment with him, it was observed that the Applicant committed grave and serious acts of misconduct which were detrimental to the smooth functioning of the Opponent No. 1 which is functioning under the defense department of the Government of India. The Opponent No. 2 stated that he had therefore no option but to suspend the services of the Applicant and accordingly, he was suspended pending enquiry w.e.f. 04-12-2003 as he believes that the presence of Applicant was dangerous and detrimental to the smooth functioning of the Opponent No. 1. The Opponent No. 2 stated that after suspension, the Applicant has been paid full subsistence allowance as per the provisions of law. The Opponent No. 2 stated that it is a fact that the Opponent No. 1 every year invites open tenders and successful bidder amongst various bidders is awarded the tenders. The Opponent No. 2 stated that it is not sure and certain that the existing contractor will get the contract, therefore no employer-employee relationship exists between the contractor and the workers after the expiry of the last date of such contracts and the workers do not have and cannot claim any lien on the employment with the subsequent contractor and the subsequent contractor has the full right and power to engage new workers in place of the existing workers. The Opponent No. 2 stated that he was awarded the contract up to 17-08-2004. The Opponent No. 2 stated that it is an admitted fact that after the expiry of the said contract on 17-08-2004, the Opponent No. 1 floated a fresh tender and

fortunately he was successful bidder amongst other bidders and was awarded a fresh contract for the subsequent period i.e. upto 17-08-2006. The Opponent No. 2 stated that though the Applicant had committed grave and serious misconduct which did not warrant any leniency, the Applicant was called to report for work on humanitarian ground. The Opponent No. 2 stated that however even after repeated messages, the Applicant did not report for work. The Opponent No. 2 stated that thereafter it came to the knowledge that after suspension pending enquiry, the Applicant started working in some hotel at Calangute in North Goa and was drawing a higher salary than what was being paid to him at the Opponent No. 1 and therefore in spite of the messages, he did not report work. The Opponent No. 2 stated that surprisingly, the Applicant filed a complaint before the Asstt. Labour Commissioner, alleging that he had been refused the employment and suspended illegally. The Opponent No. 2 stated that he, by his letter dated 27-03-2006 informed the ALC, the factual position in the matter and as suggested by the said authorities had also handed over the cheque of the balance amount of subsistence allowance in full and final settlement up to the last date of the contract i.e. 17-08-2004. The Opponent No. 2 denied the overall case as pleaded by the Applicant and prayed for dismissal of the claim application of the Applicant.

7. Thereafter the Applicant filed his affidavit in rejoinder on 16-02-2009 at Exb. 7. The Applicant, by way of his Re-joinder, confirms and reiterates all the submissions and averments made by him in his claim statement to be true and correct and denies all the statements and averments made by the Opponent in the Written Statement, which are contrary to the statements and averments made by him.

8. Based on the pleadings filed by the respective Parties in the present proceedings, this Hon'ble Court framed following issues on 09-03-2009 at Exhibit-08.

1. *Whether the Applicant is entitled to 'subsistence allowance' of full wages with effect from 04-12-2003 till date from the Opponent?*
2. *Whether the Opponent No. 2 proves that the application filed by the Applicant is barred by law of limitations?*

3. *Whether the Opponent No. 1 proves that the Applicant's application is bad in law in view of any objections raised in its para No. (a), (b), (c), (d), (e) and (f) of its written statement?*

4. *What Order?*

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

Issue No. 1	:	In the affirmative.
Issue No. 2	:	In the negative.
Issue No. 3	:	In the negative.
Issue No. 4	:	As per final order.

#### REASONS

I have heard the oral arguments of Ld. Adv. Shri Suhas Naik, appearing for the Applicant as well as Ld. Adv. Shri M. S. Bhandodkar appearing for the Opponent No. 1 and Ld. Adv. Shri P. Chawdikar appearing for the Opponent No. 2. I have carefully perused the entire records of the present case including the synopsis of arguments filed by the Opponent No. 2. I have also carefully perused the oral as well as written submissions advanced by the Ld. Advocates appearing for the respective parties.

10. *Issue No. 1 to 3:*

By the present claim application, the Applicant claimed the subsistence allowance of full wages from 04-12-2003 till date from the Opponent No. 2. The claim of the Applicant has been resisted by the Opponent No. 1 by filing its written statement. The Opponent No. 1, as and by way of its preliminary objections submitted that there is no employer-employee relationship between themselves and the Applicant concerned in the application.

11. Undisputedly, the Applicant was in the employment of the Opponent No. 2 and was working at the establishment of the Opponent No. 1. It is not disputed that the Opponent No. 2 is a proprietorship concern and is in the business of supplying contract labourers. It is undisputed that the Opponent No. 2 had been awarded the biennial rate contract for the period of two years from 18-08-2002 up to 17-08-2004 by the Opponent No. 1. The evidence on record indicates that the Opponent No. 2 was succeeded in having the said biennial rate of contract continuously from 18-08-2002 till 17-08-2015. Thus, the Opponent No. 1 is the immediate Employer of the Applicant and the Opponent No. 2 was the principal employer. The Opponent No. 2, being immediate employer, is primarily responsible for the payment of earned wages/subsistence allowance to the Applicant. The Opponent No. 1 being principal

employer is also duty bound to ensure that the Opponent No.1 shall pay the earned wages/ /subsistence allowance to the Applicant. The Opponent No. 1 is a necessary proforma party to the present proceedings. Hence, I do not find any merits in the preliminary objections raised by the Opponent No. 1 and as such the same are overruled.

12. Similarly, the Opponent No. 2, as and by way of its preliminary objections, alleged that the claim application should have been filed within one year from the money became due to the Applicant from the Opponent and as such the claim application is barred by limitation, however, this court do not find any merits in the submissions of Ld. Adv. Shri P. Chawdikar appearing for the Opponent No. 2 and as such the submissions are overruled. Hence, it is held that the Opponent No. 2 failed to prove that the claim application is barred by limitation. It is further held that the Opponent No. 2 failed to prove that the claim application filed by the Applicant is bad-in-law and not maintainable as stated in para (a) to (f) of its written statement. The issue No. 2 and 3 are answered in the negative.

13. The evidence on record indicates that the Applicant was in the employment of the Opponent No. 2, who had been awarded a biennial rate of contract for two years for the period from 18-08-2002 up to 17-08-2004 by the Opponent No. 1. It is undisputed that while in his employment, the Applicant was issued a charge-sheet on 04-12-2003 alleging certain acts of misconduct on his part and also suspended from service on the same day i.e. on 04-12-2003. It is undisputed that the Opponent No. 2 is a proprietorship firm of Shri Pradeep Shet and is in the business of supplying contract labourers to various establishments. The said Mr. Pradeep Shet, during the course of his cross-examination, admitted that the Opponent No. 2 is registered under the Contract Labour (Abolition and Regulation) Act, 1970 as well as under the GDD Shops and Establishment Act, 1973 and for that purpose, he do possess the license issued under the respective legislations.

14. The Opponent No. 2, in his affidavit in evidence, deposed that the Applicant was one of such worker and he employed the services of the Applicant during the specific period of the tenure from 18-08-2002 up to 07-08-2004. The said statement has been denied by the Applicant during the course of his cross-examination. It was therefore incumbent upon the Opponent No. 2 to produce cogent evidence such as an appointment letter issued to the Applicant as specified in Section 57 (5) r/w Rule 35 of the GDD Shops and

Establishments Act, 1973 and the Rules, 1975 as best evidence. The Opponent No. 2 has however, failed to produce appointment letter issued to the Applicant. Failure to do so, the Opponent No. 2 also failed to prove that the Applicant was employed for the specific period from 18-08-2002 up to 07-08-2004. Nowhere in the claim statement, re-joinder as well as his oral evidence, the Applicant stated that he has been appointed by the Opponent No. 2 for the specific period from 18-08-2002 up to 17-08-2004. Thus, the evidence on record clearly indicates that the Applicant was appointed/employed by the Opponent No. 2 as its worker for indefinite period. The pay slip issued to the Applicant which are on record at Exb. A/2-colly indicates that the daily wage rate of the Applicant in the year 2003 was Rs. 62.50. The Opponent No. 2, in his cross-examination, admitted that he does not have its own certified standing orders. Therefore, in the absence of the Certified Standing Orders of the Opponent No. 2, the Model Certified Standing Orders is applicable to the Applicant.

15. Section 10-A of the Model Standing Orders Act, provides for payment of subsistence allowance to the Workman. In terms of clause (a) of Section 10-A, the Employer shall pay @ 50% of the wages for the first 90 days. In terms of clause (b) of Section 10-A, the Employer shall pay @ 75% of the wages for the remaining period of suspension if the delay in the completion of the disciplinary proceedings against such workman is not directly attributable to the conduct of such workman.

16. The evidence on record indicates that the Opponent No. 2 was succeeded in having the said biennial rate of contract continuously from 18-08-2002 till 17-08-2015. The evidence on record further indicates that the Opponent No. 2 was also providing labourers to various establishments. The evidence on record indicates that though the Applicant was issued a charge-sheet-cum-suspension order dated 04-12-2003 (Exb. A/3). The Applicant denied the said charges of misconduct levelled against him, vide his reply dated 05-12-2003 (Exb. A/1). It was therefore incumbent upon the Opponent No. 2 to hold an enquiry/ /investigate into the charges of misconduct levelled against him. However, the evidence on record indicates that no enquiry of whatsoever nature was held to investigate into the charges levelled against him till date. The Opponent No. 2 has also did not produce on record any letter addressed to the Applicant withdrawing the said charge-sheet or any other letter suggesting the determination of the employment of the Applicant. Thus, in the absence of any such evidence on record, it is held that the Applicant was presumed to be in the employment of the Opponent No. 2.

17. The evidence on record indicates that the wage of the Applicant in the year 2003 was Rs. 62/- per day. The court has to compute subsistence allowance on the basis of minimum wage awarded by the Government of Goa from time to time till the year 2015. The detailed calculation has been shown as under:

S. No.	Year	Minimum Wage Rate	Calculation	Total
1	2	3	4	5
01.	2003	1. Rs. 62/- (50% of Rs. 62/- is Rs. 31/-).	Rs. 31/- x 26 days = Rs. 806 x 2 months = Rs. 1,612/-	Rs. 1,612/-
02.	2004	Rs. 87/- (50% of Rs. 87/- is Rs. 43.5 x 26 days Rs. 1,131/-) Rs. 87/- (75% of Rs. 87/- is Rs. 65 x 26 days Rs. 1,696/-) x 11 months	Rs. 1,131 x 1 month = Rs. 1,131/- Rs. 1,696 x 11 months = Rs. 18,661/-	Rs. 19,792/-
03.	2005	Rs. 87/- (75% of Rs. 87/- is Rs. 65 x 26 days Rs. 1,696/-) x 12 months	Rs. 1,696 x 12 months = Rs. 20,358	Rs. 20,358/-
04.	2006	Rs. 87/- (75% of Rs. 87/- is Rs. 65 x 26 days Rs. 1,696/-) x 12 months	Rs. 1,696 x 12 months = Rs. 20,358	Rs. 20,358/-
05.	2007	Rs. 103/- (75% of Rs. 103 = 77.25 x 26 = Rs 2,008.5 x 12 = Rs. 24,102/-)	Rs. 2,008.5 x 12 = Rs. 24,102/-	Rs. 24,102/-

1	2	3	4	5
06.	2008	Rs.103/- (75% of Rs.103 = 77.25 x 26 = Rs. 2,008.5 x 12 = Rs. 24,102/-)	Rs. 2,008.5 x 12 = Rs. 24,102/-	Rs. 24,102/-
07.	2009	Rs. 103/- (75% of Rs. 103 = 77.25 x 26 = Rs. 2,008.5 x 12 = Rs. 24,102/-)	Rs. 2,008.5 x 12 = Rs. 24,102/-	Rs. 24,102/-
08.	2010	Rs. 150/- (75% of Rs.150/- =112.5 x 26 = 2,925/- x 12 = Rs. 35,100/-)	Rs. 2,925/- x 12 = Rs 35,100/-	Rs. 35,100/-
09.	2011	Rs. 150/- (75% of Rs.150/- = 112.5 x 26 = 2,925/- x 12 = Rs. 35,100/-)	Rs. 2,925/- x 12 = Rs. 35,100/-	Rs. 35,100/-
10.	2012	Rs. 150/- (75% of Rs.150/- = 112.5 x 26 = 2,925/- x 12 = Rs. 35,100/-)	Rs. 2,925/- x 12 = Rs. 35,100/-	Rs.35,100/-
11.	2013	Rs. 215/- (75% of Rs. 215/- = 161.25 x 26 = Rs. 4,192.5 x 12 = Rs. 50,310/-)	Rs. 4,192.5 x 12 = Rs. 50,310/-	Rs. 50,310/-
12.	2014	Rs. 215/- (75% of Rs. 215/- = 161.25 x 26 = Rs. 4,192.5 x 12 = Rs. 50,310/-)	Rs. 4,192.5 x 12 = Rs. 50,310/-	Rs. 50,310/-
13.	2015	Rs. 215/- (75% of Rs. 215/- = 161.25 x 26 = Rs. 4,192.5 x 7 months & 17 days = Rs. 32,089/-)	Rs. 4,192.5 x 7 = Rs. 29,347.5 Rs. 161.25 x 17 days = Rs. 2,741.25/-	Rs. 32,089/-
Grand Total				Rs. 3,72,435/-

(Rupees three lakhs seventy two thousand four hundred and thirty five only).

Thus, the total subsistence allowance the Applicant is entitled is Rs. 3,72,435/- (Rupees three lakhs seventy two thousand four hundred and thirty five only).

18. The Opponent No. 2 was supposed to pay to the Applicant the subsistence allowance from the year 2003. The Opponent No. 2 has however, failed to pay the subsistence allowance till date and as a result of which the value of the said amount has decreased. Hence, the said amount of Rs. 3,72,435/- (Rupees three lakhs seventy two thousand four hundred and thirty five only) has to be paid to the Applicant with simple interest @10% p.a. from the date of its maturity till its actual realization.

19. The Opponent No. 2 being the Employer of the Applicant is primarily liable to pay the sum of Rs. 3,72,435/- (Rupees three lakhs seventy two thousand four hundred and thirty five only) towards his subsistence allowance. The Opponent No. 1 i.e.

M/s. Goa Shipyard Ltd. being the principal Employer shall ensure that the Opponent No. 2 shall pay to the Applicant a sum of Rs. 3,72,435/- (Rupees three lakhs seventy two thousand four hundred and thirty five only) alongwith simple interest @10% p.a. towards his subsistence allowance.

In view of above and with regards to the facts and circumstances of the case, I pass the following order:

#### ORDER

1. The claim application of the Applicant is hereby allowed. The Opponent No. 2, Shri Pradeep Shet, being the immediate employer shall pay to the Applicant a total subsistence allowance of Rs. 3,72,435/- (Rupees three lakhs seventy two thousand four hundred and thirty five only) along with simple interest @10% p.a. from the date of its maturity till its actual



realization. The Opponent No. 1, M/s. Goa Shipyard Ltd., being principal employer, shall ensure the compliance of the present order.

2. No order as to cost.

Pronounced in the Open Court.

*Sd/-*  
(Suresh N. Narulkar)  
Presiding Officer,  
Labour Court-II.

◆◆◆  
Department of Law & Judiciary  
Law (Establishment) Division

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**Notification**

No. 8/8/2018-LD(Estt.)Part-I/1051

Government of Goa is hereby pleased to authorize the Jt. Civil Registrar-cum-Sub-Registrar-I, Bardez and Jt. Civil Registrar-cum-Sub-Registrar-I, Salcete to register property transaction under NGDRS thereby informing NIC to make due provision.

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

*Prasad Volvoikar*, Under Secretary (Estt.) (Link).  
Porvorim, 31st May, 2019.

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Department of Personnel

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**Order**

File No. 19/2/2019-PER/1499

In pursuance of Order No. 14046/12/2019.UTS-I dated 22-04-2019 issued by Government of India, Ministry of Home Affairs, New Delhi; the Governor of Goa is pleased to appoint Ms. Jyoti Kumari, IAS Probationer of AGMUT: 2018 Cadre as Assistant Collector (Trainee) in the office of the District Collector, North Goa District for district training with immediate effect.

Ms. Jyoti Kumari, IAS Probationer has reported to this administration on 20-05-2019 (F.N.) and was awaiting posting.

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

*Shashank V. Thakur*, Under Secretary (Personnel-II).  
Porvorim, 28th May, 2019.

**Order**

No. 13/22/2016/PER/1545

Governor of Goa is pleased to grant extension in service to Smt. Reshma Mathew, Superintending Engineer and In-Charge of Chief Electrical Engineer, Electricity Department; beyond the date of her superannuation for period of six months w.e.f. 01-06-2019 to 30-11-2019 in public interest. The said extension in service is subject to Vigilance Clearance, concurrence of Finance Department and approval of Council of Ministers.

The extension is further subject to termination without assigning any reasons at any time during the period of extension.

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

*Shashank V. Thakur*, Under Secretary (Personnel-II).  
Porvorim, 31st May, 2019.

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**Order**

No. 13/23/2016/PER/1546

Governor of Goa is pleased to grant extension in service to Shri C.H. Rajagopalan, Executive Engineer, Electricity Department; beyond the date of his superannuation for period of four months w.e.f. 01-06-2019 to 30-09-2019 in public interest. The said extension in service is subject to Vigilance Clearance, concurrence of Finance Department and approval of Council of Ministers.

The extension is further subject to termination without assigning any reasons at any time during the period of extension.

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

*Shashank V. Thakur*, Under Secretary (Personnel-II).  
Porvorim, 31st May, 2019.

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**Order**

No. 13/23/2016/PER/1547

Governor of Goa is pleased to grant extension in service to Shri Sunil B. Wadkar, Executive Engineer, Electricity Department; beyond the date of his superannuation for period of four months w.e.f. 01-06-2019 to 30-09-2019 in public interest. The said extension in service is subject to Vigilance Clearance, concurrence of Finance Department and approval of Council of Ministers.



The extension is further subject to termination without assigning any reasons at any time during the period of extension.

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

*Shashank V. Thakur*, Under Secretary (Personnel-II).

Porvorim, 31st May, 2019.

Order

No. 13/23/2016/PER/1548

Governor of Goa is pleased to grant extension in service to Shri Devadasan A, Executive Engineer, Electricity Department; beyond the date of his superannuation for period of four months w.e.f. 01-06-2019 to 30-09-2019 in public interest. The said extension in service is subject to Vigilance Clearance, concurrence of Finance Department and approval of Council of Ministers.

The extension is further subject to termination without assigning any reasons at any time during the period of extension.

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

*Shashank V. Thakur*, Under Secretary (Personnel-II).

Porvorim, 31st May, 2019.

Department of Power

Office of the Chief Electrical Engineer

Order

No. CEE/Estt-01-11-2010/S.E.I(Depu)/Vol. I/607

Government is pleased to extend the appointment of Shri Radhakrishna Kenny, retired Executive Engineer (Elect.) as Electrical Inspector, under State Electrical Inspectorate, Government of Goa in the pay matrix level 12 on contract basis for the period of one year w.e.f. 30-05-2019 to 29-05-2020.

2. His pay in the re-employed post shall be fixed in terms of C.C.S. (Fixation of Pay of Re-employed Pensioners) Orders 2016.

3. His re-appointment is subject to an agreement to be executed specifying the terms and conditions of his re-employment.

4. The expenditure on his pay and allowances shall be debited to the Demand No. 76, Head of Account: 2801—Power, 80—General, 800—Others

Expenditure, 02—State Electrical Inspectorate (Non-Plan), 01—Salaries.

5. This issues with the approval of the Government vide U.O. No. 389 dated 06-03-2019.

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

*Reshma Mathew*, Chief Electrical Engineer & ex officio Additional Secretary.

Panaji, 29th May, 2019.

Department of Public Health

Order

No. 4/3/2008-II/PHD/452

Government is pleased to accord approval for protection of pay of basic pay of Rs. 80,900/- in respect of Dr. Teresa Maria Palmira Costa, Ferreira, Associate Professor, Department of Neurology, Goa Medical College while rendering service to the post of Assistant Professor in Neurology, Goa Medical College & Hospital, Bambolim.

This issues with the concurrence of the Finance (Rev. & Cont.) Department vide U.O. No. 1461109 dated 23-05-2019.

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

*Akshay Potekar*, Under Secretary (Health).

Porvorim, 29th May, 2019.

Order

No. 6/1/2006-III/PHD(Part I)/478

On the recommendation of the Goa Public Service Commission conveyed vide their letter No. COM/II/12/35(2)/2007/404 dated 05-03-2018, Government is pleased to declare satisfactory completion of probation period of two years of Dr. Wenona Herminia Fernandes, Lecturer in Psychiatry under Institution of Psychiatry & Human Behaviour, Bambolim and also to confirm her against the said post with effect from 15-05-2018 i.e. the date of her completion of probation period.

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

*Akshay Potekar*, Under Secretary (Health-I).

Porvorim, 29th May, 2019.

**Notification**

No. 13/10/2007-I/PHD (Part file)/1331

In exercise of the powers conferred by sub-sections (1) and (3) of Section 70 of the Food Safety and Standards Act, 2006 (Central Act 34 of 2006) (hereinafter referred to as the "said Act") and with the concurrence of the High Court, Bombay conveyed vide letter No. A. 1239/G/881/2019 dated 09-04-2019, the Government of Goa hereby establishes the Court of the District Judge-1, South-Goa at Margao, as the Goa Food Safety

Appellate Tribunal for the whole of State of Goa and appoints the District Judge-1, South Goa at Margao, as the Presiding Officer of the said Goa Food Safety Appellate Tribunal.

This Notification shall come into force with immediate effect.

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

*Pravin Hire Parab*, Under Secretary (Health).  
Porvorim, 29th May, 2019.

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