Reg. No. RNP/GOA/32/2024-2026

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Panaji, 18th June, 2026 (Jyaistha 28, 1948)

SERIES II No. 12

OFFICIAL GAZETTE

GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

Note: There are two Extraordinary issues to the Official Gazette, Series II No. 11 dated 11-6-2026 as follows:-

1. Extraordinary dated 12-6-2026 from pages 343 to 344 regarding Order from Department of Home.

2. Extraordinary (No. 2) dated 12-6-2026 from pages 345 to 346 regarding Notification from Department of Tourism.

GOVERNMENT OF GOA

Department of Animal Husbandry and Veterinary Services

Directorate of Animal Husbandry and Veterinary Services

Notification

No. 16-25(10)/AHVS/STAT/ISS-TMC/2026-27/997 Date : 29-May-2026

Government of Goa is pleased to constitute **State Level Technical Monitoring Committee (TMC)** for the State of Goa for approving and finalizing Estimated Seasonal and Annual production of Major Livestock Products (MLP) namely, milk, eggs and meat under Centrally Sponsored Scheme (CSS)-Integrated Sample Survey (ISS) under the chairmanship of Director (AH & VS) with the following members.

1.	Director (AH & VS)	—	Chairman.
2.	Dy. Director (Planning), AH & VS	—	Member Secretary.
3.	Nodal Officer for Integrated Sample Survey (ISS), AH & VS	—	Member.
4.	Nodal Officer for Livestock Census (LC), AH & VS	—	Member.
5.	Statistical Officer, Stat. Section, H.O., AH & VS	—	Member.
6.	Research Assistant, Stat. Cell, V.H. Curti, Ponda-Goa	—	Member.
7.	Representative from Directorate of Planning, Statistics and Evaluation (DPSE)	—	Member.

The Technical Monitoring Committee (TMC) will have the following responsibilities:

(i) Oversee the physical progress of ongoing Integrated Sample Survey & suggest on technical issue, if any.

(ii) Oversee the physical progress of ongoing Livestock Census (if any) & offer their suggestion, if any.

(iii) Fix the next year's physical targets of Major Livestock Production (MLP) namely - milk, meat, egg & wool.

(iv) Vetting of the final estimation of MLP of the State/UT, before its release.

The Committee shall meet at least once in every quarter (4 times in a year) and the minutes of the meeting may be shared to AHS Division, DAHD within 15 days of the commencement of the meeting.

This comes into force with immediate effect. This notification supersedes all earlier notifications issued in this regard.

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

Dr. *Nitin S. Naik*, Director & ex officio Jt. Secretary (AH).

Panaji.

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Department of Art and Culture

Directorate of Art and Culture

Order

No. DAC/5/Admn/436/Lifting. prob/ASL/2024-2025/2600 Date : 18-Aug-2025

On the recommendation of the Departmental Promotion Committee as conveyed by the Goa Public Service Commission vide Minutes of DPC meeting No. 45/25 (PROMOTION) held on 08/08/2025, Government is pleased to promote Smt. Sulaksha S. Kolmule to the post of Curator in the Directorate of Art & Culture, Group A Gazetted on regular basis in the Pay Matrix Level-10 plus usual allowance as admissible under the rules.

The above promotion shall be effective from the date of joining to the post. The officer shall send joining report to the Administration Section of this Directorate.

Smt. Sulaksha S. Kolmule shall be on probation for a period of 2 years. She may exercise an option in terms of Provision of FR 22(I)(a)(1) if she so desired within one month from the date of the issue of this order for fixing her pay in the respective promotional grade.

The expenditure towards pay & allowances shall be debited to the Budget Head 2205—Art & Culture, 00, 105—Public Libraries, 02—Central Library, 00—General, 01—Salaries under Demand No. 43".

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

Vivek Krishna Naik, Director of Art & Culture & ex officio Joint Secretary.

Panaji.

Order

No. DAC/5/Admn/RTI/APIO/FAA/2026-27/107 Date : 07-Apr-2026

In pursuance to Section 5 of the Right to Information Act, 2005 (Central Act No. 22 of 2005), Deputy Director (Administration), Directorate of Art & Culture is hereby designated as Public Information Officer (PIO) of Administration Section, Establishment Section, Music Cell and Accounts Section & Deputy Director of Accounts & Administration is hereby designated as Public Information Officer (PIO) of Cultural Section of this Directorate with immediate effect in addition to their existing duties.

Further, Asstt. Accounts Officer (Cultural Section), is designated as Asstt. Public Information Officer (APIO) of Cultural Section and Asstt. Accounts Officer (Accounts Section), is designated as Asstt. Public Information Officer (APIO) of Administration Section, Establishment Section, Music Cell and Accounts Section in addition to her existing duties.

This supersedes earlier Order No. DAC/5/Adm/RTI/U-date/PIO/APIO/FAA/2023-24/3456 dated 04/11/2024.

Vivek Krishna Naik, Director of Art & Culture.

Panaji.

Department of Civil Supplies and Consumer Affairs

Notification

No. DCS/CC/Estt.SC/72/2025-26/28 Date : 01-Apr-2026

In exercise of the powers conferred under Section 28 of the Consumer Protection Act, 2019 (Central Act 35 of 2019), and in pursuance of Notification No. 16/29/1/2023-Rev-I/3259 dated 31st December, 2025 issued by the Revenue Department reorganizing the State into three districts, the Government of Goa hereby constitutes and notifies the Kushawati District Consumer Disputes Redressal Commission.

The Government further directs that, the District Consumer Disputes Redressal Commission, South Goa shall function as Kushawati District Consumer Disputes Redressal Commission, until further orders. All consumer cases pertaining to Kushawati District shall be instituted, heard, and disposed of accordingly by the District Consumer Disputes Redressal Commission, South Goa.

This Notification shall come into force with immediate effect.

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

Jayant G. Tari, Director of Civil Supplies & Consumer Affairs & ex officio Joint Secretary.

Panaji.

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Department of Education

Directorate of Higher Education

Order

No. 1/2/2017-DHE/1576 Date : 21-May-2026

On the recommendation of the Goa Public Service Commission vide its letter No. S2GPSC-LPCF0DOHE/1/2026 I/795/2026/22 dated 20/04/2026, Government is pleased to declare that the following Librarian in Goa College of Home Science, Panaji-Goa has completed his probation period successfully with effect from the date indicated in column No. 3 against his name and he is confirmed in his respective post with effect from the date indicated in column No. 3 against his name accordingly:-

Sr. No.	Name and Designation	Date of completion of probation period
1	2	3
1	Dr. Keshav Ramesh Dhuri, Librarian	15/11/2021

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

Santosh P. Naik, Under Secretary (Higher Education).

Porvorim.

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Department of Labour

Notification

No. 28/02/2026-LAB/Part-III/242 Date : 25-May-2026

The following Award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 08/05/2026 in Case Ref. No. IT/78/2007 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.

Manesh Hari Kedar, Under Secretary (Labour).

Porvorim.

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

(Before Mrs. Vijayalaxmi Shivolkar, Hon'ble Presiding Officer)

Ref. No. IT/78/2007

Workmen represented by
Goa Trade & Commercial Workers' Union,
Velho's Building, 2nd Floor,
Panaji-Goa …….. Workmen/Party I

V/s

1. M/s Samrat Theatre
2. M/s. Hira Film Exhibitors,
   Dr. Atmaram Borkar Road, Panaji-Goa …….. Employer/Party II

Workmen/Party I represented by Shri P. Gaonkar.

Employer/Party II represented by Learned Advocate Shri. P. Chawdikar.

AWARD

(Delivered on this the 8th day of the month of May of the year, 2026)

By Order dated 05/10/2006, bearing No. 28/43/2005-LAB/775, 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, (Central Act 14 of 1947) (hereinafter referred to as the "said Act"), referred the existing dispute between the Management of M/s Samrat Theatre and M/s. Hira Film Exhibitors-Panaji, Goa and its workmen represented by the Goa Trade & Commercial Workers' Union for adjudication to the Industrial Tribunal of Goa at Panaji-Goa constituted under Section 7-A of the said Act.

SCHEDULE

(1) Whether the following demands raised by the President, Goa Trade and Commercial Workers' Union, vide letter dated 28/06/2004 before the Management of M/s Samrat Theatre owned by M/s Hira Film Exhibitors, Panaji-Goa, are legal and justified?

CHARTER OF DEMANDS

(1) **Demand No. (1) Pay-Scales**:

It is demanded that the following pay-scales to be implemented with effect from 01.05.2004 alongwith the Grade and Designation.

Grade	Designation	Pay-Scales
(I)	Assistant Operator	Rs. 2,460-170-3,820-255-5,095
	A/C Operator	Rs. 2,460-170-3,820-255-5,095
	D. G. Operator	Rs. 2,460-170-3,820-255-5,095
	Assistant Carpenter	Rs. 2,460-170-3,820-255-5,095
(II)	Booking Clerk	Rs. 2,000-140-3,120-200-4,120
	Rewinder	Rs. 2,000-140-3,120-200-4,120
	Door Keeper	Rs. 2,000-140-3,120-200-4,120

(2) **Demand No. (2) Flat Rise:**

It is demanded that each workman to be given a flat-rise at the rate of Rs. 500/- per month over and above the basic salary as on 01/05/2004. The total of Rs. 500/- per month PLUS the basic salary as on 30/04/2004 shall be fitted to the respective pay scales as demanded above in Demand No. (1) as per the normal standards set for 'fitment'.

(3) **Demand No. (3) Fixed Dearness Allowance (FDA):**
It is demanded that with effect from 01/05/2004, each workman to be paid a Fixed Dearness Allowance (FDA) at the rate of Rs. 300/- per month.

(4) **Demand No. (4) Variable Dearness Allowance (VDA):**
It is demanded that with effect from 01/05/2004, each workman to be paid a Variable Dearness Allowance at the rate of Rs. 1/50 per point above base 2000 points AAICPI (1960=100)

(5) **Demand No. (5) House Rent Allowance (HRA):**
It is demanded that with effect from 01/05/2004, each workman to be paid a House Rent Allowance at the rate of 25% of the gross salary.

(6) **Demand No. (6) Leave Travel Allowance (LTA):**
It is demanded that with effect from 01/05/2004, each workman to be paid Leave Travel Allowance (LTA) of Rs. 2,500/- per annum.

(7) **Demand No. (7) Conveyance Allowance:**
It is demanded that with effect from 01/05/2004, each workman to be paid a Conveyance Allowance at the rate of Rs. 300/- per month.

(8) **Demand No. (8) Uniforms, Slippers and Footwear:**
It is demanded that each workman should be provided two pairs of Uniforms per year and slippers and footwear once in every six months.

(9) **Demand No. (9) Shift Allowance:**
It is demanded that each workman who works in shifts to be paid Shift Allowance as under:
General Shift Allowance : Rs. 25/- per day
Night Shift Allowance : Rs. 50/- per day.

(10) **Demand No. (10) Leave Facilities**:
It is demanded that the workman to be given the following Leave Facilities:

(e)	Privilege Leave	:	30 days per annum with a facility to accumulate upto 100 days.
(f)	Casual Leave	:	10 days per annum with a facility to encash the balance leave.
(g)	Sick Leave	:	10 days per annum with a facility to accumulate upto 30 days
(h)	Holidays	:	14 days per annum

(11) **Demand No. (11) Bonus:**
It is demanded that that each workman should be paid Bonus at the rate of 20% every year.

(12) **Demand No. (12) Work on Sundays and Holidays:**
It is demanded that free transport ought to be provided, to the workmen to and from the place of work, Workmen shall be given 8 hours double pay and one day paid compensatory off when they are called to work on Sundays and Holidays.

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

2. Upon receipt of the reference, it was registered as IT/78/2007 and registered A/D notices were issued to both the Parties. Pursuant to service of notices, the Party I thereafter filed the Statement of Claim at Exhibit 6.

3. The Party I states that they were the workmen of the Party II. That the Party II owns and manages various theatres in different cities of the State of Goa. It is screening Cinemas/Movies to the public by selling tickets. The various theaters which belong to the Employer are Cine Alankar at Mapusa, Cine National at Panaji, Cine Vishant at Margao, Ashok Theatre at Panaji, Samrat Theater at Panaji, etc.

4. The Party I states that prior to unionization, all the workmen employed in various theatres are working with the establishment of Party II since its inception on a very low and pathetic salary. That these workmen have patiently waited with hope that the Management would meet their claim for enhanced wages as spelt out in the Charter of Demands referred in the Schedule of reference.

5. The Party I/Union states that the wage demands and other service conditions raised by the Union in its Charter of Demands dated 28/06/2004 are based on the consideration such as rising cost of living index and other relevant factors, as such, the demands are just, fair and proper. The Party II/Employer has failed to enhance the existing wages and allowances which are much less as compared to the similar schedule of employment.

6. The Party I states that the Party II/Employer is holding the monopoly strict position in its business all over Goa and owns many theatres, however is not paying uniform wage structure to all its employees. The Party I states that all the theatres of the Party II/Employer are still running in full swing and doing good business. Hence, the Party I/Union is entitled for enhancement and revision in the existing wages and other service conditions to be made effective from 01/05/2004 for the period of 3 years which is a normal period of wage agreement in most of the industries, factories and commercial establishment within the region.

7. In its Written Statement filed at Exhibit 7, the Party II/Employer denied the entire claim as set up by the Party I in their Claim Statement and denied that the present salaries paid to the workmen are not sufficient to meet their expenses as claimed and submitted that the demands raised in the present reference by the Party I/Union of the enhancement of salaries and wage revision is not fair and proper.

8. In the Rejoinder filed by the Party I Union, the Party I denied the defence taken by Party II in their Written Statement and maintained and reiterated the facts stated in their Claim Statement.

9. Considering the Claim Statement of Party I, the Written Statement filed by the Party II and the Rejoinder filed by Party I, following issues were framed on 03/11/2008.

ISSUES

1. *Whether the Workman/Party-I proves that demands raised by it are legal and justified?*
2. *Whether the Workman/Party-I proves that he is entitled to any relief?*
3. *What Award?*

10. Re-Cast Issues were framed vide Order dated 01/07/2010 at Exhibit 16.

RE-CAST ISSUES

1. *Whether the Workmen/Party–I proves that demands raised by them are legal & justified*

1A. *Whether the Employer/Party–II proves that this Court has no jurisdiction to adjudicate the present dispute referred by the Government?*

2. *Whether the Workmen/Party–I proves that they are entitled to any relief?*
3. *What Award?*

11. At the time when the matter came up for recording evidence on the Issues, both the Parties to the present reference filed Memo for no dispute Award at Exhibit 31 Colly wherein it is submitted that the workmen and the Management has settled the dispute by paying the legal dues arising out of the Award in IT/41/2013, termination. As both the Parties signed the terms of settlement and the money were paid to the concern workmen or his legal heir. The workers do not wish to pursue the matter and the Parties therefore pray for no dispute Award. I have duly considered the Application at Exh. 31 Colly along with the copy of the Terms of Settlement and accepting the same, I pass the following Award.

Hence the following Order:

ORDER

i. Consequently, the reference stands disposed off as No Dispute Award.

ii. Inform the Government accordingly.

Sd/-, (Vijayalaxmi Shivolkar), Presiding Officer, Industrial Tribunal-cum-Labour Court.

Panaji.

Notification

No. 28/02/2026-LAB/243 Date : 26-May-2026

The following Award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 08/05/2026 in Case Ref. No. IT/97/2007 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.

Manesh Hari Kedar, Under Secretary (Labour).

Porvorim.

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

(Before Mrs. Vijayalaxmi Shivolkar, Hon'ble Presiding Officer)

Ref. No. IT/97/2007

Workmen represented by
Goa Trade & Commercial Workers' Union,
Velho's Building, 2nd Floor,
Panaji-Goa …….. Workmen/Party I

V/s

M/s. Hira Film Exhibitors,
Cine Samrat Bldg.,
Panaji, Goa …….. Employer/Party II

Workmen/Party I represented by Shri P. Gaonkar.

Employer/Party II represented by Learned Advocate Shri P. Chawdikar.

AWARD

(Delivered on this the 8th day of the month of May of the year 2026)

By Order dated 27/09/2007, bearing No. 28/23/2007-LAB/908, 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, (Central Act 14 of 1947) (hereinafter referred to as the "said Act"), referred the existing dispute between the Management of M/s. Hira Film Exhibitors–Panaji, Goa and its workmen 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 the management of M/s. Hira Film Exhibitors, Panaji-Goa in deferring to pay 20% Bonus for the financial year 2004-05 to their workmen represented by the Goa Trade & Commercial Workers' Union, Panaji, is legal and justified?

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

2. Upon receipt of the reference, it was registered as IT/97/2007 and registered A/D notices were issued to both the Parties. Pursuant to service of notices, the Party I thereafter filed the Statement of Claim at Exhibit 6.

3. The Party I states that they were the workmen of the Party II. That the Party II owns and manages various theatres in different cities of the State of Goa. It is screening Cinemas/Movies to the public by selling tickets. The various theaters which belong to the Employer are Cine Alankar at Mapusa, Cine National at Panaji, Cine Vishant at Margao, Ashok Theatre at Panaji, Samrat Theater at Panaji, etc.

4. The Party I states that prior to unionization, all the workmen employed in various theatres of Party II were paid 20% bonus without ceiling and prior to the year ending 2004-05 the Party II paid all the

workmen 20% bonus for every financial year. The Party I further states that the Party II/Employer being annoyed and angered for forming Union, started harassment of the workers and suddenly from the year 2004-2005 did not pay to the workmen 20% bonus thereby illegally withheld the payment of bonus due and payable to the workmen employed in various theatres. For the year the 2004/05, the Party I/Employer did not pay appropriate bonus. Vide letter dated 21/03/2006, the Union raised demand for payment of 20% bonus for the year 2004/05 vide Charter of Demands.

5. The Party I states that the Party II/Employer refused to negotiate and intentionally and deliberately adopted delaying tactics before the Conciliation Authority, in order to frustrate and create element of fear, helplessness and anxiety in the minds of workers. The Party II/Employer failed to discuss and negotiate issues of payment of bonus and all other Charter of Demands and to resolve it across the table.

6. The Party I states that the Union referred the matter for reconciliation before the Labour Commissioner. The Employer displayed its adamancy and failed to resolve the matters. A failure of conciliation proceedings was recorded in all the matters i.e. demand for Payment of 20% Bonus for the year 2004/05 and Charter of Demands against Ashok Theatre, Samrat Theatre, Cine National and Cine Alankar. All the matters are presently pending for adjudication before this Tribunal.

7. The Party I states that all the theatres of the Party II/Employer are still running in full swing and doing good business. Hence, it is submitted that the demand of the Party I/Union for 20% bonus for the 2004-05 is fair and just.

8. In its Written Statement filed at Exhibit 7, the Party II/Employer denied the entire claim as set up by the Party I in their Claim Statement and submitted that the demands of the Union for 20% bonus for the year 2004-05 is not just and proper and that the Party I is not entitled to demand bonus of 20% as claimed.

9. In the Rejoinder filed by the Party I/Union, the Party I denied the defence taken by Party II in their Written Statement and maintained and reiterated the facts stated in their Claim Statement.

10. Considering the Claim Statement of Party I, the Written Statement filed by the Party II and the Rejoinder filed by Party I, following issues were framed on 12.08.2016.

ISSUES

1. *Whether the Workman/Party-I proves that action of the Employer/Party - II in deferring to pay 20% bonus for the financial year 2004-05 to them is legal and justified?*
2. *Whether the Workman/Party-I proves that he is entitled for any relief?*
3. *What Award?*

11. By Order dated 01/07/2010 at Exhibit 14, the Issues were re-casted as follows:

1. *Whether the Workmen/Party I proves that action of the Employer/Party II in deferring to pay 20% bonus for the financial year 2004-05 to them is illegal & unjustified?*
2. *Whether the Employer/Party II proves that this Court has no jurisdiction to adjudicate the present dispute referred by the Government?*
3. *Whether the Workmen/Party I proves that they are entitled for any relief?*
4. *What Award?*

12. At the time when the matter came up for recording evidence on the Issues, both the Parties to the present reference filed Memo for no dispute Award at Exhibit 34 Colly wherein it is submitted that the workmen and the Management has settled the dispute by paying the legal dues arising out of the Award in IT-41-2013, termination. As both the Parties signed the terms of settlement and the money were paid to the concern workmen or his legal heir. The workers do not wish to pursue the matter and the Parties therefore pray for no dispute Award. I have duly considered the Application at Exh.34 Colly along with the copy of the Terms of Settlement and accepting the same, I pass the following Award.

Hence the following Order:

ORDER

i. Consequently, the reference stands disposed off as No Dispute Award.

ii. Inform the Government accordingly.

Sd/-, (Vijayalaxmi Shivolkar), Presiding Officer, Industrial Tribunal-cum-Labour Court.

Panaji.

Notification

No. 28/02/2026-LAB/Part-III/251 Date : 01-Jun-2026

The following Award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 08/05/2026 in Case Ref. No. IT/11/1998 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.

Manesh Hari Kedar, Under Secretary (Labour).

Porvorim.

IN THE INDUSTRIAL TRIBUNAL AND LABOUR COURT

GOVERNMENT OF GOA AT PANAJI

(Before Mrs. Vijayalaxmi Shivolkar, Hon'ble Presiding Officer)

Ref. No.: IT/11/1998

Mr. Xavier Fernandes
Rep. by the Goa MRF Employees Union,
Saidham, Dhavalimol,
Ponda-Goa. … Workman/Party I

V/s

M/s M.R.F. Limited,
Tisk, Usgao,
Ponda-Goa. … Employer/Party II

Workman/Party I represented by Learned Adv. Shri N. Joshi.

Employer/Party II represented by Adv. Shri S. B. Karpe along with Adv. Ms. S. Vaigankar.

ORDER

(On Preliminary Issues No. 1, 2 and 3-A)

(**Delivered on this the 8th day of the month of April of the year, 2026)**

By Order dated 13th February, 1998 bearing No. IRM/CON/PONDA/(145)/97/7326, 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 (Central Act 14 of 1947), has referred the following dispute to this Tribunal for adjudication.

SCHEDULE

(1) "Whether the action of the management of M/s MRF Limited, Usgao, Ponda-Goa, in terminating the services of the workman Shri. Xavier Fernandes with effect from 05/10/1996, is legal and justified?

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

2. Upon receipt of the reference, it was registered as IT/11/1998 and registered A/D notices were issued to both the Parties. Pursuant to service of notice, Party I filed his Claim Statement at Exhibit 3.

3. The Party I stated that since the formation of the Union, the Company has been attempting to disrupt the unity of the workmen employed by the Company who are members of the Union. Of late, there has been large scale harassment and victimization of the Union Office bearers and its other members due to their legitimate trade union activities. The harassment, inter-alia, include illegal changes in service conditions, unjustified and unwarranted suspensions, charge-sheets based on false and fabricated charges, refusal to negotiate in good faith, and impositions of unfair labour practices in the guise of following management policy, etc., and further including the termination of the Workman/Committee Member, Mr. Xavier Fernandes.

4. The Party I states that the Workman was issued a letter/charge-sheet dated 02/09/1996, which itself was illegal and untenable at law and was based totally on concocted charges solely to victimize the Workman for his union activities. The Party I states that the said Company issued Charge-sheet dated 02/09/1996, thereby alleging said Workman was in a habit of remaining absent, which (the issuance of the Charge-sheet) is illegal, invalid and untenable at law. It was based totally on concocted charges to victimize him for his bonafide Union activities.

5. The Charge-sheet was based on the allegation that the said Workman was in the habit of remaining absent from duty without authorization on several dates more particularly mentioned in the charge-sheet. The purported charges mentioned in the so-called Charge-sheet were not supported with any document. The said Workman was called upon to submit his reply in writing within 48 hours. The workman stated that the misconduct alleged therein, even if proved, would not be enough to warrant the punishment of dismissal from service.

6. Thereafter, the management without even calling for an explanation from the workman concerned decided to hold an enquiry into the charges and accordingly fixed an inquiry to be held on 09/09/1996 by appointing Inquiry Officer. On 03/09/1996, the Workman submitted his reply setting out the day to day explanation and thereby refuting the allegation of absence without authorisation.

7. That on 09/09/1996, the enquiry was unilaterally adjourned by the Management to 23/09/1996 due to alleged unavoidable circumstances. On 23/09/1996 the plea of the workman to be defended by Mr. B. V. Naik, a co-Union member was rejected and the Workman therefore had no option but to defend himself. The Management Representative however wanted the enquiry to be adjourned as he had some “important work in the department” and the enquiry was adjourned to 26/09/1996. On 26/09/1996, the management presented their case by submitting documents and also produced several letters stating and/or alleging absence without intimation from 07/05/1983, Warning Letters dated 18/04/1989, 26/06/1993 and 04/03/1996 in support of the charges levelled in the charge-sheet dated 02/09/1996. It is further the case of the workman that by letter dated 05/10/1996 his services were terminated without supplying him with the findings of the Enquiry Officer or affording to him a reasonable opportunity to show-cause against the decision taken by the management to terminate his services and thereafter for reasons best known to the Party II, by letter dated 15/10/1996 i.e. 10 days after the Order of Dismissal, the findings of the Enquiry Officer were sent to the Party I/Workman.

8. Party I further stated that, during the course of enquiry, the Management did not deny the authenticity of the Medical Certificate submitted by the Party I/Workman. The Enquiry Officer despite recording the plea of the Party i/Workman denying the charges levelled against him, illegally concluded and closed the enquiry. As such, it is stated that the Findings of the Enquiry Officer sent to him subsequent to the Order of Dismissal is perverse and invalid. The Party I stated that the charge-sheet issued to him was ex-facie illegal and untenable at law. He further stated that the Enquiry Officer has conducted the enquiry devoid of the principles of natural justice.

9. The Party I/Union stated that vide their letter dated 23/06/1997 demanded reinstatement for the Party I/Workman and further by letter dated 25/06/1997, the Party I/Union requested the Asst. Labour Commissioner to admit the dispute relating to the termination of the Party I/Workman in conciliation. The Assistant Labour Commissioner thereafter by his letter dated 02/07/1997 called upon the Party II to submit their written comments on 11/07/1997 as he had decided to hold discussions and if necessary conciliation proceedings under Section 12(3) of the Industrial Disputes Act, 1947. The Management however did not

show any interest in the dispute, hence the Conciliation Officer recorded that there was no possibility of an amicable settlement and recorded failure of proceedings.

10. The Party I/Union submits that the Party I/Workman was a 'protected workman' under the provisions of the Industrial Disputes Act, 1947 on the date of the termination of his services, conciliation proceedings relating to the industrial dispute between the Party II/Management and their workmen represent by the Party I/Union in the matter of Charter of Demands was in progress under conciliation proceedings No.IRM/CON/Ponda/(104)/1996. It is submitted that the termination of the Party I/Workman is illegal and pre-decided punitive action by Party II and that the enquiry was closed on the first effective date of the enquiry without allowing the workman to put forth his defence. It is submitted that the termination of the Party I/Workman has been resorted by the Party II to victimize him for his legitimate trade union activities and that the penalty of termination of services is grossly disproportionate to the charges on which the termination is based.

11. In its Written Statement filed at Exhibit 4, the Party II submitted that Mr. Xavier Fernandes was charge-sheeted vide Charge-sheet dated 02/09/1996 for alleged act of misconduct as referred to in the said charge-sheet. It is submitted that the said unauthorised absenteeism by the Workman, if proved, amounts to gross misconducts under Item Nos. XXV& LII of Clause-21 of the Certified Standing Orders of the Company/Party II, and the charges in the charge-sheet reads as under:

Clause 21 Item XXV	:	*Habitual absence without leave or Absence without leave for more than 8 Consecutive days or over staying the sanction leave without satisfactory explanation*
Clause-21 Item LII	:	*Any act subversive of discipline and with which you are charged.*

12. The Workman has been charged with misconduct of unauthorised absenteeism in the backdrop of the Certified Standing Orders. Accordingly, an inquiry was conducted by the Enquiry Officer Mr. P. S. Nayak. In the said inquiry Mr. Sharad Chodnekar represented the management. On the first date of hearing the workman was explained the procedure of the enquiry and that he was entitled to be the represented by a co-worker of his choice. The charge-sheeted Workman did not chose a representative and deposed himself but did not examine any witnesses.

13. After the closure of the evidence on both the sides, the Enquiry Officer, after considering the evidence on record, submitted his Findings dated 30/09/1996, holding the Party I/Workman guilty of the charges. The Party II submitted that the Findings of the Enquiry Officer are based on the evidence on record and that the enquiry had been conducted in accordance with the principles of natural justice.

14. The Party II submits that the proved misconduct established at the enquiry warranted extreme punishment of dismissal of Party I/Workman from its service. The Party II submitted that the punishment of termination was consequent to properly conducted enquiry and is based on the proved acts of misconduct committed by the workman.

15. The Party II submits that the enquiry was fair and proper and was conducted in accordance with the principles of natural justice. The Party I was given every opportunity to defend himself and only after appreciating the evidence on record, the Enquiry Officer gave a reasoned finding on the basis of which any prudent person would come to the conclusion that the Party I was guilty of the charges levelled against him. The Party II submits that the termination by way of punishment of Party I is pursuant to a charge-sheet and properly conducted enquiry by an impartial Enquiry Officer who has considered all the evidence on record and has submitted a reasoned findings, and that the termination by way of punishment of Party I/Workman is legal and justified.

16. Party II denied that there has been large scale harassment & victimization of the union office bearers and its other members due to their legitimate trade union activities, as alleged. It is denied that there are any illegal changes in the service conditions or unjustified or unwarranted termination or that the charge-sheets are issued to the workman on false and fabricated charges, or that there is refusal to negotiate in good faith, as alleged. It is denied that there is commission of unfair labour practice. It is specifically denied that Mr. Xavier Fernandes was an active member of the Union.

17. It is denied that the Enquiry Officer erred in coming to the conclusion of guilt, as alleged, or that the Enquiry Officer failed to appreciate the evidence of the workman, or that he was biased. It is denied that the Termination Order of the workman was for collateral purposes or that it was solely to victimize the workman for his continued allegiance to the said Union, as alleged. It is denied that there has been any gross discrimination in imposing the punishment of termination of the Party I/Workman, as alleged, and hence it is submitted that the Party I is not entitled to the relief sought in the Claim Statement and prays that the claim of the Party I/Workman may be rejected on the aforesaid grounds.

18. The Party I in its Rejoinder filed at Exhibit 5 repeats and reiterates all averments made by him in the Statement of Claim and denies all the averments made by Party II in its Written Statement which run contrary to the pleadings in the Statement of Claim.

19. On completion of the pleadings, the following Issues were framed at Exhibit 6 by this Tribunal which reads as under:

ISSUES

1. *Whether the Party I proves that the 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 termination of his services by the Party II is by way of unfair labour practice and victimization?*

   Additional Issue No. 3-A: *Whether the Party I proves that he was a protected workman and hence termination of his service is in violation of the provisions of Sec. 33(3) of the I. D. Act, 1947?*
4. *Whether the Party I proves that the action of the Party II in terminating his services w.e.f. 05/10/1996 is illegal and unjustified?*
5. *Whether the Party I is entitled to any relief?*
6. *What Award?*

20. From the issues framed hereinabove, Issue No.1 and 2 and additional issue No. 3-A have been taken up to be tried as preliminary issues and accordingly both the Parties to the proceeding led their evidence in respect of these preliminary issues, and my findings to the same with reasons are as follows:

Issue No. 1 : In the Affirmative

Issue No. 2 : In the Negative

Issue No. 3A : In the Affirmative

REASONS

21. *Issue No.1 and 2:* It is in the evidence of Shri Ratnakar Amonkar, the then Manager (Production) working for Party II, that the Party I was issued with charge-sheet dated 02/09/1996. All the corresponding letters have been identified by Shri Ratnakar Amonkar which were produced in the domestic enquiry as well produced before this Tribunal for identification. In the said enquiry, the Company appointed Shri P. S. Nayak as an Enquiry Officer who submitted his findings dated 30/09/1996 to the management on the conclusion of the enquiry. The management was represented by Mr. Sharad Chodnekar. The Party I/ Workman was given opportunity to be represented by a co-worker, however the same was declined by the Party I/Workman and himself defended in the enquiry proceedings.

22. He further deposed that on completion of the enquiry, the Enquiry Officer gave his Findings dated 30/09/1996 holding the Party I guilty of the charges referred to in the charge-sheet and submitted his findings to the Management. In his cross-examination, the Management witness Shri Ratnakar Amonkar denied that no fair and proper enquiry was conducted and that the Findings given by the Enquiry Officer are perverse.

23. The management examined Shri P. Shankar Nayak as the witness No 2, he being the Enquiry Officer who had conducted the enquiry into the charges of unauthorised absenteeism levelled against the

workman. According to Mr. Nayak, the Party I/ Workman was given opportunity to be represented by a co-worker, however the same was declined by the Party I/Workman and himself defended in the enquiry proceedings. He further confirmed that the proceedings and records of the enquiry are true and correct. The Enquiry Officer in the cross denied that he was biased and favoured the management in the enquiry and that he did not give fair and proper opportunity to the Party I/Workman to defend his case. In the cross-examination the Enquiry Officer stated that after recording the plea of Party I, he called upon the witnesses of the Management to make their statement on the plea of Party I but did not call upon the Party I to cross-examine the Management witnesses. The above admission by the Enquiry Officer infact goes against the Management when the Management claims that the enquiry was fair and proper.

24. Be that as it may, regardless of whether the enquiry was ex-facie illegal and in violation of the principles of natural justice or not, the Party I/Workman in order to prove that the management did not comply with the provisions of Section 33(3)(a)(b) of the Industrial Disputes Act, 1947. In support of this, the Party I/Workman examined Shri Rohidas Naik. It is in the evidence of Shri Rohidas Naik who claims to be the President of the Union and that his Union had issued Letter dated 29/08/1996 on 30/08/1996, upon the Labour Commissioner, Panaji, thereby calling for the conciliation proceedings on Charter of Demands dated 15/02/1996 of the workmen, including the Party I/Workman, for wage rise and better service conditions and the said Workman was also concerned in the said dispute covered under the said Charter of Demands, which were pending before the Labour Commissioner as on 30/08/1996. The Party II/Company had, in fact, attended the conciliation proceedings on 24/10/1996 in respect of the aforesaid Charter of Demands. Since, the Party II Company was not ready to accede to the demands of the Union, the Labour Commissioner, Panaji, was pleased to call for further meetings between the said Company and the said Union and the last meeting, to the best of his knowledge, was held on 17/02/1997, for trying to conciliate and settle the dispute.

25. That the said Company did not even wait for the Conciliation Officer, the Labour Commissioner to record failure and, without waiting for the appropriate Government to receive the report to consider the same or make reference of the dispute to this Hon'ble Tribunal, the Party II/Company dismissed the Party I/Workman on 05/10/1996. It is pertinent to note that the Government of Goa was pleased to refer the aforesaid dispute of Charter of Demand to this Hon'ble Tribunal for adjudication only on 05/06/1997. That the dismissal of the said Workman while the aforesaid conciliation proceedings were pending before the Conciliation Officer amounts to an unfair labour practice.

26. The Letter dated 10/09/1996 at Exhibit 25 is addressed by the Assistant Labour Commissioner to Party II. By this letter, the Assistant Labour Commissioner requested the Party II/Company to offer their comments on the Charter of Demands raised by the said Union of which the Party I/Workman is part and parcel. In response thereto, the representative of the Party II/Company, Mr. George Nainan, the Plant Human Resource Manager, vide its Letter dated 19/09/1996 at Exhibit 26, requested for 3 weeks' time to offer their comment to which the Assistant Labour Commissioner, vide his Letter dated 07/10/1996 at Exhibit 27, intimated to both the Parties therein that he would hold discussions and, if necessary, the conciliation proceedings under the provisions of Section 12(3) of the Industrial Disputes Act, 1947, in respect of the dispute raised by the Party I/Workman and the date of hearing was fixed on 14/10/1996 at 11.00 a.m. The Party II/Company thereafter vide its Letter dated 10/10/1996 at Exhibit 28, requested time to file their comments. The Assistant Labour Commissioner, after considering the request of the Party II/Company, thereafter placed the matter for further discussions/conciliation on 14/10/1996. On the said day, the proceedings before the Conciliation Officer reads thus.

'... the union stated that it is unjustified to give more time to the management and denied the contention of the management that they want to study the charter of demand which is not correct as the said charter of demand has been submitted by the union in the month of Feb.1996. The management however had several meetings with the union on the charter of demand and when no outcome in the said meetings therefore the union approached the conciliation machinery for the intervention and reiterated their stand as the management had no justification for asking time. Further the union stated that the management is forcing and illegally suspending the workmen. However next joint discussion is fixed in the office of ALC on 24/10/1996 ...'.

27. Accordingly, the Minutes of Meeting drawn at Exhibit 31 detailing the business of the day and before concluding the Minutes, the Conciliation Officer held that *"both the Parties have stuck up to their own stand; as such, he suggested that they should both think about their stand taken by them so as to have*

an amicable solution and postponed the discussions to 28/10/1996 at 11.00 a.m." The joint discussions continued on 28/10/1996 and in the Minutes of Meeting which was drawn on 28/10/1996 at Exhibit 32, the Conciliation Officer, once again, held that *"both the parties had stuck to their own stand as the said Union was not ready to amend their demands and the said Company was not ready to give any offer and, as such, there is no need to have further discussion at this level. Hence the discussion is closed both the parties to await for further report."*

28. The Assistant Labour Commissioner, vide its Letter dated 29/10/1996 at Exhibit 33, forwarded to the Commissioner, Labour, the report of failure of discussion on the Charter of Demands raised by the union and the Management of M/s. MRF Ltd Goa, along with his original file for its perusal and further necessary actions thereupon. The Office of the Commissioner, Labour, vide his Letter dated 15/11/1996 at Exhibit 34, called upon the President of the Party I/Union, of which the Workman concerned is the member, for discussing the matter with him.

29. Further the Office of the Labour Commissioner, vide his Letter dated 14/01/1997 at Exhibit 35, informed the President of the Union of which Union the concerned Workman is the member stating that the Hon'ble Minister for Labour wanted to explore the possibility of an amicable settlement on the whole dispute and if required to hold on more meetings with the party. The Office of the Labour Commissioner thereafter, vide his letter dated 11/02/1997 at Exhibit 36, called upon both the parties for ajoint discussion to be held on 17/02/1997 at 3.00 p.m. in the Office of the Labour Commissioner. It is pertinent for this Hon'ble Tribunal to note that there were no further correspondences, nor was there any report or write-up produced before this Hon'ble Tribunal about the joint discussion which was proposed to be held on 17/02/1997 in the Office of the Labour Commissioner. The submission of the Failure Report to the Labour Commissioner, by the Conciliation Officer, is an inter departmental affair. Even after submission of the Failure Report by the Assistant Labour Commissioner, the Labour Commissioner thought it appropriate to call upon the parties for further joint discussion. The matter did not stop at that stage and that there was an intervention by the Hon'ble Minister for Labour who too felt it appropriate to have a joint discussion with both the Parties.

30. It is therefore the contention of the Party I/Workman that in the event, even assuming without admitting that the joint discussion had failed, it was incumbent upon the Conciliation Officer to submit his Failure Report to the Government but it was not done until such time the Union of the Party I/Workman preferred a Writ Petition before the Hon'ble Bombay High Court at Goa, pursuant to which the Additional Government Pleader produced on record Order No. ALC/PONDA/Ch. of Demands/MRF dated 05/06/1997. Thus, it is submitted that the Conciliation Officer did not send the Failure Report in view of the date being fixed for further discussions even after the Failure Report was sent by the Assistant Labour Commissioner to his Superior, i.e., the Office of the Labour Commissioner and, further, from the Office of the Labour Commissioner, the joint discussions were proposed to be held with the intervention of the Hon'ble Minister for Labour.

31. The perusal of the Outward Register at Exhibit 42, would confirm that the File, ALC/Ponda/Ch. of Demands/MRF was forwarded to the Hon'ble Labour Minister. It is also important to note that the Office of the Labour Commissioner, vide his letter dated 14/01/1997 at Exhibit 35 informed the Union of the Party I/Workman that the Hon'ble Labour Minister wanted to explore the possibility of an amicable settlement on the whole dispute; therefore, it could not be said that the Failure Report was indeed sent to the Government vide this Outward Number 2424 dated 04/06/1997 by the Office of the Labour Commissioner. As such the contention of the Party II/Company that there were no conciliation proceedings pending before the authorities at the time when the workman was dismissed from the services, same being devoid of any substance. It is abundantly clear that the Hon'ble Labour Minister wanted to have joint discussion with both the parties and, therefore, by no stretch of imagination can it be construed that the File containing the Minutes of the Failure sent to the Hon'ble Labour Minister is the Failure Report being sent to the Government of Goa under the provisions of Section 12(3) of the Industrial Disputes Act, 1947.

32. The records speak for itself and the document to that effect shows that the Party I/Workman was dismissed on 05/10/1996 and the Outward Register seems to suggest that the so-called Failure Report was forwarded on 04/06/1997. Thus, it is clear from the records that the services of the Party I/Workman were terminated when the matter was sub-judice for conciliation before the Conciliation Officer; therefore, the Party I/Workman, through oral as well as documentary evidence, was able to prove his defence of the Party

II/Company having clearly violated the requirements prescribed under the provisions Section 33 (3)(a)(b) of the Industrial Disputes Act, 1947.

33. The stand taken by the Workman that the termination of the Workman is illegal as the same was done pending Charter of Demands -IT/33/1997 has been supported to some extent by the Management's own witness Shri Michael Rodrigues wherein he admitted that the general demands made by the Union in the Charter of Demands has covered the workman concerned in the present reference. In the cross-examination he stated that he was aware that the Union has raised Charter of Demands and in the course of the conciliation proceedings, the Company had also raised counter demands one of which was 7 days' working of the Plant. He further admitted the Company having received the copy of the letter dated 14/01/1997 at Exh. 35. Therefore it is the contention of the Party I/Workman that regardless of whether the enquiry was ex-facie illegal and violative of principles of natural justice or not, the termination of the Workman pending the conciliation proceedings as regards the Charter of Demands raised by the Union of which Party I/Workman was also concerned, is ex-facie illegal and invalid.

34. Shri Rohidas Naik has highlighted the relevant and material facts pertaining to the conciliation proceeding before the Labour Commissioner. The said witness, Shri Rohidas Naik stood by his testimony in the cross-examination to support and substantiate the defence of the Party I/Workman as regards to the Party II/Company violating the mandatory provisions of Section 33 of the Act. In addition to the oral testimony and documentary evidence on record, the Party I/Workman has placed reliance in the case of **Jaipur Zila Sahadari Bhoomi Vikas Bank Ltd. V/s Ram Gopal Sharma and Others [(2002) 2 SCC 244]**.

35. Therefore the ratio laid down in the case of **Jaipur Zila Sahadari Bhoomi Vikas Bank Ltd. (Supra)** has come to the rescue of this Workman. The Party I/Workman has been able to establish that his termination was illegal as the same was done pending the Charter of Demands, in which Charter of Demands he too was a concerned workman. Therefore, the Party II ought to have refrained from taking any action pending such conciliation proceeding before the Authority. Section 33 of the Industrial Disputes Act, sub-section (1) reads as under :

Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.- (1) During the pendency of any conciliation proceeding before [an arbitrator or] a conciliation officer or a Board or of any proceeding before a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall,- (a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or (b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workman concerned in such dispute".

36. Furthermore, as per the ratio laid down in **Lokmat Newspaper Pvt. Ltd. v/s Shankar Prasad (1999) 6 SCC** it is but obvious that the impugned termination of the said Workman on 05/10/1996, amounts to unfair labour practice. The relevant portion is reproduced which reads thus.

'... (19) NOW it must be stated that the impugned termination order was passed against the respondent-workman on 22/06/1982. Within three days thereof, the respondent raised an industrial dispute by filing a complaint under Section 28 of the Maharashtra Act alleging that the impugned termination order amounted to unfair labour practice. Before the impugned termination order was passed by the management, it had already served a notice under Section 9-A of the 1. D. Act to the respondents union to the effect that it proposed to introduce a change in the conditions of service of the respondent and other members of the union on the ground that it was proposing to rationalise the printing work at the appellants concern at Nagpur by setting up photo-type machine for carrying out the work of composing, resulting in substantial reduction in the work of composing by hand. It may be stated that the respondent was employed as a foreman in the hand-composing department of the appellant at the relevant time. The respondents union objected to the said notice of change and approached the Conciliation Officer under Section12(1 of the I.D. Act which reads as under:

12. Duties of Conciliation Officers.- 1 Where an industrial dispute exists or is apprehended, the conciliation officer may, or where the dispute relates to a public utility service and a notice under Section 22 has been given, shall hold conciliation proceedings in the prescribed manner.

(20) THE Conciliation Officer took the dispute in conciliation within his discretion even though as appellant concerned was not a public utility service it was not mandatory for the Conciliation Officer to start conciliation proceedings. As the report of the Conciliation Officer submitted to the State government shows, he invited the management and the respondents union for preliminary discussions on 14/4/1982 in his office and thereafter the matter was adjourned during conciliation from time to time.

(21) IT can therefore, be said that by 14/04/1982 the matter was taken up for investigation and thus the conciliation proceedings had commenced. It is also well established on the record of the case that the parties could not come to any settlement with the result that on 22/06/1982 the investigation was closed by the Conciliation Officer at 4.35 p.m. at Nagpur. Immediately thereafter the, appellant passed the impugned order of termination against the respondent and others on the very same day i.e. on 22/6/1982 at 5.00 p.m. The said order was placed on the notice board of the appellants office at Nagpur on the evening of that day. It is not in dispute between the parties that thereafter the Conciliation Officer submitted his report to the government which reached the State government on 13/8/1982.

(22) ON the aforesaid facts, the question arises whether the impugned termination order dated 22/6/1982 was passed during the pendency of the conciliation proceedings. It is not in dispute between the parties that before passing such an order no express permission in writing was obtained by the appellant from the Conciliation Office. The Labour Court/the Industrial Court and the learned Single Judge of the High court have taken the view that because investigation was closed by the conciliator by 4.35 p.m. on 22/6/1982, immediately thereafter the conciliation proceedings could be said to have ended and were not pending before him. Consequently at 5.00 p.m. on that very day when the appellant issued the impugned order, it did not violate Section 33 of the I.D. Act. While, on the other hand, the division bench of the High court in the impugned judgment has taken the view that merely because the conciliator closed the investigation in the evening of 22/6/1982 till he prepared his report as per Section 12(4 of the I. D. Act and till that report reached the government, conciliation proceedings were deemed to have continued and had not got terminated till 13/08/1982 and as in the meantime on 22/6/1982, the impugned termination order was passed without following the procedure of Section 33(1) of the I.D. Act which got vitiated in law.

(23) UNDER these circumstances, a moot question arises whether the impugned retrenchment order was passed on 22/6/1982 during the pendency of conciliation proceedings. It cannot be disputed that the impugned order was directly connected with the matter in dispute before the Conciliation Officer wherein the question of legality of notice under Section 9-A of the I .D. Act was under consideration for the purpose of arriving at any settlement between the parties in this connection. The impugned order had definitely altered to the prejudice of the respondent his conditions of service. It was not a case of retrenchment simpliciter but was a consequential retrenchment on the introduction of the scheme of rationalisation as contemplated by Section 9-A read with Schedule IV, Item No. 1 of the I.D. Act.

(24) WE shall refer to these provisions in greater detail later on while considering the question of legality of notice under Section 9-A of the I.D. Act. For the time being, it is sufficient to note that the question of violation of Section 33(1 of the I.D. Act has a direct nexus with the further question whether on 22/6/1982 when the impugned termination-order was passed, conciliation proceedings were pending before the authority ornot.

(25) IN order to answer these questions, it is necessary to note Ss. (4 of Section 12 of the 1.D. Act which reads as "If no such settlement is arrived at, the conciliation officer shall, as soon as practicable after the close of the investigation, send to the appropriate government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at. A mere look at this provision shows that if the Conciliation Officer finds during conciliation proceedings that no settlement is arrived at between the disputing parties, then after closing the investigation he has, as soon as practicable, to send to the appropriate government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and has also to mention all other details as required to be mentioned in the report under Section 12(4 of the I.D. Act.

(26) THE aforesaid statutory requirements leave no room for doubt that after closing the investigation and after having arrived at the conclusion that no settlement is possible between the parties, the Conciliation Officer had to spend some more time before submitting his detailed written report about

failure of consideration for information and necessary action by the State government. In the very nature of things, therefore, such requirement will take at least a couple of days, if not more, for the Conciliator after closing the investigation to enable him to send an appropriate report to the State Government. It is, therefore, obvious that on 22/6/1982 when by 4.35 p.m. the Conciliation Officer declared that settlement was not possible between the parties and he closed the investigation, neither his statutory function did not come to an end nor did he became functus officio. His jurisdiction had to continue till he submitted his report as per Section 12(4) to the appropriate government. Even such preparation of the report and sending of the same from his end to the appropriate government would obviously have taken at least a few days after 22/6/1982. It must, therefore, be held that the conciliator remained in charge of the conciliation proceedings at least for a couple of days after22/6/1982. It is, therefore, difficult to appreciate how within half an hour after the closing of investigation by the conciliator and before his getting even a breathing time to prepare his detailed written report about failure of conciliation to be sent to the government as per Section 12(4), the appellant could persuade itself to presume that conciliation proceedings had ended and, therefore, it was not required to follow the procedure of Section 33(1) and straightaway could pass the impugned order of retrenchment within 25 minutes of the closing of the investigation by the conciliator on the very same day. It is difficult to appreciate the reasoning of the Labour court that after the closer of investigation the conciliator became functus officio and the management could not have approached him for express written permission to pass the impugned order. It is easy to visualise that even on the same day i.e. on 22/6/1982 or even on the next day, before the conciliator had time even to start writing his report, such an express permission could have been asked for by the appellant as the conciliator by then could not be said to have washed his hand off the conciliation proceedings. He remained very much seized of these proceedings tilt at least the time the report left his end apart from the further question whether conciliation proceedings could be said to have continued till the report reached the State government. Thus, on the express language of Section 12(4) the conclusion is inevitable that closer of investigation by 4.35 p.m. on 22/6/1982 did not amount to termination of conciliation proceedings by that very time. The argument of learned counsel for the appellant was that closer of investigation automatically amounted to termination of conciliation proceedings. This argument proceeds on a wrong premise that closer of investigation by the conciliator is the same as closer of conciliation proceedings. The legislature while enacting Section 12(4) has deliberately not used the words closer of conciliation but, on the contrary, provided that after closer of investigation something more was required to be done by the conciliator as laid down under Section 12(4) before he can be said to have done away with conciliation proceedings earlier initiated by him. On this conclusion alone the decision rendered by the division bench of the High Court that the impugned order of termination dated 22/6/1982 was issued by the appellant without following the procedure of Section 33(1) of the I.D. Act has to be sus-tained.…'.

37. The Ld. Adv. Shri S. B. Karpe, appearing for Party II in support oftheir defence on the issue of alleged violation of Section 33, placed reliance in the case of **East Asiatic & Allied V/s Shelke (B.L.) (1961 ILLJ162 Bom), Ambuja Cement V/s U B Group, Gopinath Daulat Dalvi V/s State of Maharashtra, Suresh Vithoo Nare V/s Dharamsi Morarji Chemicals 1991 Lab. I.C. 1932 Bom, and VIP Industries Shramik Sangh V/s. VIP Industries Ltd. MANU/MH /1929/ 2024**.

38. Relying on the ratios in the citations above, Ld. Adv. Shri S. B. Karpe submitted that unless the Conciliation Officer applies his mind and decides to enter in conciliation, the conciliation cannot be said to have commenced.

39. The above contention of Ld. Adv. Shri S. B. Karpe is contrary to the records produced by the Party I/Workman and the evidence on record supports the defence taken by him as regard to his termination being illegal and in contraventions to the provisions of Section 33. The same is duly supported by the ratio in the case of **Lokmat Newspaper Pvt. Ltd.(Supra**), as the provisions of Section 33 (2) (b) has been settled in the case of **Lokmat (Supra)**, the same being later in time than the ones relied upon by the Party II. Hence, it is the contention of the Party I Workman that the facts in question and the provisions of law involved in the case of **Lokmat (Supra)** are the same as in the present reference. Therefore, it directly applies to the case in hand, giving no room to this Tribunal to deviate from the ratio laid down in the citation above.

40. That, except a mere submission being made *"that unless the Conciliation Officer applies his mind and decides to enter in conciliation, the conciliation cannot be said to have been commenced*" there is nothing produced by the Management. Nor could the management discard the evidence adduced by the

Party I/Workman, which clearly indicates his termination being ordered pending the conciliation proceedings sans the Failure Report, which clearly shows that the termination was prior to submitting the Failure Report to the Government of Goa.

41. Thus, this is a clear case of violation of mandatory provisions of Section 33 (2) (b) of the Industrial Disputes Act, 1947. Hence, the ratio laid down in the case of **Jaipur Zila** would be squarely applicable to the present reference, wherein it is held *"Amendments to Section 33 of the I.D. Act in the year 1956 were made at a time when no remedy under the Industrial Disputes Act was available to the individual workman to challenge the termination of his employment. At that time, the dismissal of an individual workman could form the subject-matter of an industrial dispute only if it was espoused by the fellow workmen. In those days, dismissal of workmen who actively participated in raising an industrial dispute was not uncommon. In order to obviate this contingency, Section 33 imposed an obligation on the employer to seek approval or permission for the dismissal of any workman to be effected during the pendency of an industrial dispute. Apart from imposing an obligation on the employer to file such an application, in order to protect the workman against any termination which might be made without seeking approval or permission, Section 33-A was enacted creating a right in favour of the aggrieved workman to file a complaint which will be dealt with like adjudication of an industrial dispute. In other words, a right which was not available to the individual workman to approach the Labour Court or Tribunal for adjudication of a dispute relating to his dismissal was conferred by Section33-A."*

42. The Supreme Court in the case under review has ruled that failure to apply for approval by the employer would make the order of dismissal inoperative and that the workman may get wages and other benefits. It was also held that even if the application for approval is granted by the authority, still the aggrieved could make a complaint under Section 33-A challenging the approval. It is to be considered whether an interpretation can be placed on Section 33 to the effect that even without a judicial declaration about the validity of the order of dismissal, as a result of the failure to seek approval or permission, the workman could straightaway proceed on the footing that the dismissal is invalid and inoperative and work out his rights for recovery of wages and other benefits. The case law placed before the Supreme Court does not support the present ruling. In order to dispel any doubt in the minds of the litigants and the lower courts, it may be clarified that no dismissed workman can claim the relief of reinstatement without a declaration by a competent court that the order of termination is not valid and no punitive order of termination be interfered without any technical grounds if such an order is otherwise justified on merits.

43. The Party I/Workman thus have successfully discharged his burden to prove that the domestic enquiry held against him was not fair and proper, the same being in violation of provision of Section 33 of the Industrial Disputes Act, 1947. Consequently, the charges of unauthorized absenteeism cannot be said to be proved again for the reason that there has been violations of mandatory provisions of the Industrial Disputes Act. The act of violations of provisions of Section 33(2)(a)(b) of the Industrial Disputes Act by the Party II/Company since goes to the root of the matter therefore the entire enquiry amounts to be void ab-initio so also the Order of Dismissal of the Party I Workman becomes illegal and unjustified. Hence, the Issue No. 1 stands answered in favour of the Party I/Workman in the affirmative.

44. It is not the case of the Management that the Party I/Workman remained absent without any authority or without producing the Medical Certificate. The Management witness Shri Shankar Nayak when confronted on this aspect stated that the Medical Certificate produced by the Party I were not in conformity with the procedure laid down by the Company. If there was any error in producing the Medical Certificate the Workman ought to have been given opportunity to adopt the correct procedure instead of issuing charge-sheet for alleged absenteeism and consequently termination of his services. The Management witness categorically admitted that he did not check or verify as to whether there was any procedure in Standing Orders for production of Medical Certificates nor the Management has elaborated or stated anything regarding such procedure being not followed by the Party I/Workman in the charge-sheet that was issued to the Workman for alleged misconduct. In the circumstances, it cannot be held that the Findings given by the Enquiry Officer are based on the legally accepted evidence on record. Thus it cannot be held that the misconduct levelled against the Party I are proved to the satisfaction of the Tribunal by acceptable evidence. Hence, the Issue No. 2 stands answered in the negative.

45. *Additional Issue No. 3A:* The Party I/Workman in his defence examined himself whereby he reiterated and maintained the facts stated by him in his Claim Statement and deposed to say that he was not

given fair opportunity to cross-examine the Management Representative. In the charge-sheet that was issued to him it was already stated that the enquiry would be held on 09/09/1996 at 10.00 a.m. which decision of the Management according to him was pre-meditated which has caused great injustice to him. He further stated that the Enquiry Officer did not adjourn the enquiry on his request to enable him to bring his co-worker to represent him in the enquiry. As such, he defended himself in the enquiry which act of the Enquiry Officer also caused prejudice to him. He stated that his request to the Enquiry Officer to direct the Management to produce the Medical Certificate was again refused as according to him he had produced the original Medical Certificate to the Supervisor of the Department, however he was not issued the acknowledgement receipt to that effect.

46. Party I further stated that the Leave Card remained with the Party II and he was not given the copy of the same. He was also not furnished with the copies of the document that were produced by the Management during the enquiry. The Party I/Workman further stated that he was the Joint Treasurer of the Union when his services were terminated. That his services were terminated despite he being the protected workman which fact is evident from the letter dated 09/12/1994 written by the Union to the General Manager of Party II. He further submitted that when he was dismissed from services, the matter pertaining to Charter of Demand was pending before the Conciliation Officer wherein he was the Workman concerned. Thus, there is clear evidence brought on record by the Party I/Workman that his termination was contrary to the provisions and that he could not have been terminated he being a protected workman. Hence the Issue No. 3A stands answered in the affirmative in favour of the Party I/Workman.

47. While discussing the Issue Nos.1 and 2, this Tribunal has taken into consideration all the sequential events to show that the Employer/Party II has violated the mandatory provisions of the Industrial Disputes Act, 1947. Thus, this is a fit case where the ratio laid down in the case of **Jaipur Zilla** squarely applies, leaving no room for any further prolonged litigation but to put a full stop to the entire reference by applying the ratio laid down in the case of **Jaipur Zilla (Supra)**.

48. It is pertinent to note that in the case of **Jaipur Zila (Supra)** while referring to the case of Strawboard Mfg. Co. v/s Govind, the Hon'ble Apex Court observed that *"the application for approval was rejected by the Tribunal"*. Dealing with the consequence of such rejection, the Supreme Court held that *"If the Tribunal does not approve of the action taken by the employer, the result would be that the action taken by him would fail and thereupon the workman would be deemed never to have been dismissed or discharged and would remain in the service of the employer. In such a case no specific provision as to reinstatement is necessary and by the very fact of the Tribunal not approving the action of the employer, the dismissal or discharge of the workman would be of no effect and the workman concerned would continue to be in service as if there never was any dismissal or discharge by the employer"*.

49. Considering this observation, this Tribunal is of the opinion that no further purpose will be served if this Tribunal proceeds to pass the Part Award on the preliminary issues only and keeps the reference alive for holding enquiry on other issues when the termination of the Party I/Workman itself is illegal and void, the same being in violation of provisions of Section 33(3)(a)(b) of the Industrial Disputes Act, 1947.

Hence, the final Order.

ORDER

i. It is held that the action of the management of M/s MRF Ltd., Usgao Ponda in terminating the services of Shri Xavier Fernandes with effect from 05/10/1996 is illegal and unjustified.

ii. Consequently, the Party II/M/s MRF Limited, Usgao, Ponda-Goa is hereby directed to re-instate in service the Party I/Workman, Shri Xavier Fernandes with full back wages from 05/10/1996.

iii. No order as to cost.

iv. Inform the Government accordingly.

Sd/-, (Vijayalaxmi R. Shivolkar), Presiding Officer**,** Industrial Tribunal & Labour Court.

Panaji.

Notification

No. 28/02/2026-LAB/Part-III/255 Date : 02-Jun-2026

The following Award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 04/05/2026 in Case Ref. No. IT/10/2013 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.

Sitaram Gurudas Sawal, Under Secretary (Labour).

Porvorim.

IN THE LABOUR COURT–II
GOVERNMENT OF GOA
AT PANAJI

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

Case No. Ref. IT/10/13

Shri Upendra R. Volvoikar,
H. No. 113,
Near Gajantlaxmi Temple,
Volvoi, Ponda-Goa. ….. Workman/Party-I

V/s

The General Manager,
M/s Atlantis Entertainments (Casino Palms),
Hotel La Calypso, Saunta Vaddo,
Calangute, Bardez-Goa. ….. Employer/Party-II

Workman/Party-I absent, marked an Ex-parte.

Employer/Party-II represented by Ld. Adv. Shri P. Chawdikar.

Panaji, Dated: 04/05/2026

AWARD

1. In exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa, by Order dated 22/04/2013, bearing No. 28/13/2013-Lab/190, referred the following dispute for adjudication to the Industrial Tribunal of Goa. The Hon'ble Presiding Officer, Industrial Tribunal-cum-Labour Court in turn assigned the present reference for its adjudication to this Labour Court II, vide her order dated 29/04/2013.

> *"(1) Whether the action of the Management of M/s. Atlantis Entertainments (Casino Palms), Hotel La Calypso, Saunta Wado, Calangute, Bardez, Goa, in terminating the services of Shri Upendra R. Volvoikar, Dealer, with effect from 11/04/2012, 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. LC-II-IT/10/2013 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 23/09/2013 at Exb.7. The facts of the case in brief as pleaded by the Workman, are that he was employed as a "Trainee Dealer" vide order dt.01.10.2008 by M/s. Goa Coastal Resorts & Recreation Pvt. Ltd. having its office at Hotel 'The Majestic. He stated that on his appointment, he was posted as "Dealer". He stated that the Employer confirmed his service with effect from 01.05.2009. He stated that vide another order dt.15.07.2009, the Goa Coastal Resorts & Recreation Pvt. Ltd. transferred him to M/s. Atlantis Entertainment and made him to work as

'Dealer' with 'Casino Palms'. He stated that While transferring, the management of Goa Coastal Resorts & Recreation Pvt. Ltd., he was assured the same service conditions and assured him that it is their sister concern. He stated that he was further assured to bring back at the earlier Casino belonging to M/s Goa Coastal Resorts & Recreation Pvt. Ltd. He stated that throughout his career he worked with integrity and devotion leaving no scope for any dereliction of duty. He stated that he being a local person, management discriminated him with other non–Goan workers. He stated that he was not paid his annual increments however, malafide maintained the scale just above the minimum pay to deny Provident Fund and retirement pension benefits under the EPF & MP Act 1952. He stated that many other service conditions were detrimental to his interest. He stated that he was denied staff quarter. He stated that his pay was fixed at lower scale than the non-Goan workmen. He stated that he was not provided with the transportation etc.

3. He stated that the Employer arbitrary used their employer's powers. He stated that there was no collective bargaining mechanism to resolve the industrial disputes. He stated that he therefore joined Union under name 'Goa Casino and allied workers Union'. He stated that the Employer did not like him joining the union. He stated that he was coming from humble background and is a simple man. He stated that the nature of the duties as 'Dealer' is of skilled nature. He stated that it required instant application of mind and quick calculation. He stated that it is the duty of the dealer to control the gamblers playing on various tables. He stated that at the same time, as Dealer, he had to keep track on money inflow from gamblers. He stated that Gambling/playing is continuous process throughout day and nights. He stated that he was posted in three different shifts. He stated that he did not have offs and leaves. He stated that the duties are of tedious nature, stressful and tiring and required continuous standing. He stated that continuous working affected on his health. He stated that he had accumulated leaves to his account. He stated that he badly required rest and medication. He stated that he availed five days leave from 06/04/2012.

4. He stated that after his leave period, he joined back on 11/04/2012 and reported to his duty. He stated that however the duty/floor manager refused to allow him to resume to his duty. He stated that the Manager informed that he should return back as the management has removed him from his service. He stated that on 12/04/2012, by written letter brought the facts to the notice of the management and requested to allow him to resume to his duty. He stated that he further informed that his prevention from joining to duty amounted to his termination. He stated that he further requested that his termination is an illegal termination. He stated that he requested for his re-instatement with continuity of service and other consequential benefits. He stated that the Employer neither allowed him to join nor did management act on his request. He stated that the Conciliation authorities took cognizance of arbitrary and his illegal termination. He stated that Asst. Labour Commissioner made his all efforts to settle the matter amicably. He stated that he was always ready and willing to join to his duty. He stated that however the management was determined to victimize and harass him. He stated that after prolonged discussion and protracted efforts, Conciliation Authority finally had to record failure report of conciliation proceedings.

5. He submitted that he is the only earning member in his family and his aged mother is dependent on him. He submitted that he is illegally terminated from service only because he joined 'Casino and Allied workers Union'. He submitted that the Management has terminated all the office bearers of the union. He stated that he has many grievances about proper designations, pay scale, better service conditions, seniority, promotion, Standing Order, periodical increment etc. He stated that the employer is an establishment involved in Gaming of the Casinos and is politically and financially strong. He stated that the Employer is capable of doing the things in a manner it wants. He stated that the Employer has employed musclemen in form of "Bouncers' and are being used to terrorize to get the thing done to their tune. He stated that in order to frustrate adjudication of the matter by the Court, the Employer called him at its Casino at Porvorim with an offer that he can resume to his duty. He stated that however the Management under duress and threat took his signatures on some papers. He stated that the Employer paid him Rs.1,00,000/- allegedly towards full and final settlement of back wages as on the date. He stated that after obtaining signatures, the Employer refused him to allow to resume and further threatened him that he should not raise any further dispute or report the matter to any authorities like police. He stated that the Employer also threatened to encash the cheque. He stated that he has not accepted the money willingly and is return the same under directions of the Hon'ble Court. He stated that the Employer used their discretion arbitrarily regarding service conditions, holidays, leave, uniform, transport, dearness allowances, annual increment, pay scales, seniority, canteen etc. He stated that the union has already raised a Charter of Demands and the matter is presently pending under adjudication. He stated that the Employer maintains its

books of account and files returns like Balance Sheet, P and L account, PF returns, ESIC returns etc. He submitted that his termination from service is bias, unjust, unfair, illegal and improper. He submitted that his termination from service is in violation of principles of natural justice. The Workman therefore prayed that this Hon'ble Court be pleased to decide the reference in his favour and direct the management to reinstate him with continuity in service, full back wages and other consequential benefits and that pending the reference, by way of an Order, this Hon'ble Court be direct the Employer to pay 50% of the last paid full wages to him.

6. The Employer controverted the claim of the Workman by filing its written statement dt.10/04/2014 at Exb.10. The Employer, as and by way of its preliminary objections, submitted that the present reference filed by the Party-I is bad-in-law and hence not maintainable that the Party-I has not given any justification for the demands/claim raised by him, that the present dispute of the Party-I is not an "Industrial Dispute" as defined under the Industrial Dispute Act, 1947 and that there is non application of mind of the Appropriate Government while referring the present dispute.

7. The Employer stated that it is a company registered under the companies Act, 1956 and it has always provided good and healthy working conditions to all its workmen. The Employer stated that the Party-I had mutually arrived at a amicable settlement with regards to his dispute and duly signed a settlement with its management along with some other workers on 12/04/2013 and accepted amount of Rs.1,00,000/- from them and accordingly also issued a receipt dt. 12/04/2013 in its favour declaring there in that all his legal dues and claims are conclusively settled and he is having no claim of whatsoever nature including claim for employment, re-employment, or reinstatement against the Employer Company. The Employer stated that all its other workers who has settled the dispute amicably along with them did not pursue with the reference in respect to their dispute which were existing earlier before arriving at the amicable settlement. The Employer therefore submitted that the claim of the party-I is an afterthought and that the Party-I is pursuing the present reference with the malafide intentions just taking the advantage of the facts that the settlement was arrived after recording failure of the conciliation proceedings in the office of the Asst. Labour Commissioner and before receiving the order of reference by this Hon'ble Court.

8. The Employer admitted that the services of the Party-I were confirmed w.e.f. 01/05/2009. The Employer admitted that vide another order dt.15/07/2009, the Goa Coastal Resorts and Recreation Pvt. Ltd. transferred him to M/s Atlantis Entertainment and made him to work as 'Dealer with 'Casino Palms'. The Employer stated that the duties of 'Dealer' requires specific skills and for which they are trained by the Management specifically for carrying out such duties. The Employer stated that the party-I was working with them as a "Dealer" and there were two more positions under him called "Trainee Dealers" and "Chippers". The Employer stated that the Party-I used to train and supervise the said workers under him in the said positions, his duty was to ensure that they perform their duties properly during their working hours as such he was in supervisory position responsible to oversee the gaming of the Trainee Dealers and Chippers. The Employer submitted that the termination, by way of dismissal of Party-I is legal and justified. The Employer therefore prayed that the reference issued by the appropriate Government be held accordingly.

9. Thereafter, the Party-I filed his rejoinder on 16/02/2015 at Exb.12. The Workman, by way of his Re-joinder, confirms and reiterates all the submissions and averments made by him in his claim statement to be true and correct and denies all the statements and averments made by the Employer in its written statement, which are contrary to the statements and averments made by him.

10. Based on the pleadings filed by both the parties hereinabove, this Hon'ble Court was pleased to frame the following issues on 26/06/2015 at Exb. 14.

1. *Whether the Workman/Party-I proves that the action of the Employer in terminating his services with effect from 11/04/2012 is illegal and unjustified?*
2. *Whether the Employer/Party-II proves that the order of reference is bad-in-law and not maintainable in view of the reasons mentioned in para (i) to (iv) of the Written Statement?*
3. *Whether the Employer/Party-II proves that the claim of the Workman/Party-I is an afterthought?*
4. *Whether the Workman/Party-I is entitled to any relief?*

5. *What order? What award?*

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

a) Issue No. 1 : In the Negative

b) Issue No. 2 : In the Affirmative.

c) Issue No. 3 : In the Affirmative.

d) Issue No. 4 & 5 : As per final order.

I have heard the oral arguments of Ld. Adv. Shri P. Chawdikar representing the Employer. On the contrary Adv. Shri G. Kubal appearing for the Workman remained absent. The Employer also filed its written synopsis. I have carefully perused the entire records of the present case including the synopsis of written arguments filed by the Employer. I have carefully considered the submissions advanced before me.

REASONS

12. *Issue No. 1, 2 & 3:*

The evidence on records indicates that the Workman was appointed as "Trainee Dealer" by M/s Goa Coastal Resorts and Recreation Pvt. Ltd. having its office at Hotel Majestic at Porvorim vide order dt. 01/10/2008. The Evidence on record indicates that the services of the Workman were confirmed w.e.f. 01/05/2009. During the course of cross-examination of the Workman, he admitted that he has signed the terms of settlement with the Employer (Exb. 27-Cross). The said document at Exb.27-Cross indicates that the Workman and Employer had signed a memorandum of settlement u/s 2(P) r/w sec.18(1) of the I. D. Act, 1947. The Party-I also admits that in terms of the said memorandum of settlement at exb.27-cross, the management had paid him a sum of Rs. 1,00,000/- and he had acknowledged a receipt of the same (Exb. 28-cross). The said memorandum of settlement on record at exb. 27-cross indicates that the management had agreed to pay to the Party-I a sum of Rs. 1,00,000/- in full and final settlement of all his dues including subsistence allowances, gratuity, provident fund, dues, other legal dues and all other terminal dues as agreed between the parties. It is agreed between the parties that the Party-I agreed to treat the dues and claims as conclusively settled and the Party-I is having no claim of whatsoever nature against the management. The Party-I further agreed that he will not file any claim for employment, re-employment or reinstatement in the company even though his matter is referred to the industrial tribunal as he is no longer interested in working for the Employer company as he is presently gainfully employed. It is also stated in the said memorandum of settlement at Exb. 27-cross indicates that the services of the Party-I is accordingly treated as having left of his own and both the parties agreed to submit the copy of this settlement before the office of the concerned Assistant Labour Commissioner for their records and necessary registration of withdrawal of case/representation filed by him against the management and this agreement be considered as voluntarily registration letter for record purpose. It is also stated in the said document at Exb. 27- cross that as and when the reference is made to the Industrial Tribunal/Labour Court, a joint application duly signed by both the parties will be made to the Industrial Tribunal/Labour Court requesting to treat the said reference as settled by passing a no dispute award and that in view of above it is agreed that the issue/dispute between both the parties is conclusively settled and the Party-I agrees and undertake not to act or cause to act against the interest of the company directly or indirectly in the future. Thus, the aforesaid memorandum of settlement clearly indicates that the Party-I has signed the memorandum of settlement with the Employer u/s 2(p) r/w Section 18(1) of the I.D. Act, 1947. In view of above, it is held that the Workman failed to prove that the action of the Employer in terminating his services w.e.f. 11/04/2012 is illegal and unjustified. It is held that the action of the Employer in terminating the services of the Party-I is legal and justified and it is further held that the claim of the Party-I is an afterthought. In view of above, the present reference filed by the Party-I is without any justification of the demands/claims raised by the Party-I and the reference is bad-in-law and not maintainable in law. Hence, it is held that the termination of the services of Party-I w.e.f. 11/04/2012 is legal and justified in the absence of any cogent evidence. It is held that the claim of the party-I is an afterthought. It is further held that the order of reference is bad- in- law and not maintainable in view of the reasons mentioned in para I to IV of the written statement. The issue No. 1 is answered in the Negative and Issue No. 2 and 3 are answered in the Affirmative.

13. *Issue No. 4:*

While deciding the issue No.1 hereinabove, I have discussed and come to the conclusion that the action of the Employer in terminating the services of Workman w.e.f. 11/04/2012 is legal and justified. While deciding the issue No. 3, I have discussed and come to the conclusion that the claim of the Workman is an afterthought. The Workman is not entitled to any relief.

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

ORDER

1. It is held that the action of the Management of M/s. Atlantis Entertainments (Casino Palms), Hotel La Calypso, Saunta Wado, Calangute, Bardez, Goa, in dismissing the services of Shri Upendra R. Volvoikar, Dealer, with effect from 11/04/2012, is legal and justified, does not survive.
2. The Workman, Shri Upendra R. Volvoikar, Dealer, is not entitled to any relief.
3. No order as to costs.

Inform the Government accordingly.

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

Panaji.

Notification

No. 28/02/2026-LAB/Part-VI/260 Date : 08-Jun-2026

The following Award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 01/04/2026 in Case Ref. No. IT/15/1999 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.

Sitaram Gurudas Sawal, Under Secretary (Labour).

Porvorim.

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

(Before Mrs. Vijayalaxmi Shivolkar, Hon'ble Presiding Officer)

Case No. IT/15/1999

Shri Sergio Carneiro,
Rep. by the President,
Goa MRF Employees Union,
Saidham, Dhavalimol,
Ponda-Goa. … Workman/Party I

V/s

M/s M.R.F. Limited,
Tisk, Usgao,
Ponda-Goa. … Employer/Party II

Workman/Party I represented by Learned Advocate Shri P. Agrawal.

Employer/Party II represented by Adv. Shri S. B. Karpe along with Adv. Ms. S. Vaigankar.

ORDER

(On Preliminary Issues No. 1 and 2)

(Delivered on this the 1st day of the month of April of the year, 2026)

By Order dated 3rd February, 1999 bearing No. IRM/CON/P/(162)/1997/636, 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 (Central Act of 14 of 1947), has referred the following dispute to this Tribunal for adjudication.

SCHEDULE

"Whether the action of the management of M/s. MRF Limited, Usgao, Ponda-Goa, in termination the services of their workman Shri Sergio Carneiro, with effect from 17-1-1997, is legal and justified?

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

2. Upon receipt of the reference, it was registered as IT/15/1999 and registered A/D notices were issued to both the Parties. Pursuant to service of notice, Party I filed his Claim Statement at Exhibit 3.

3. In his Claim Statement the Party I stated that he was suspended pending enquiry vide letter dated 11/07/1996 and the said letter was silent as to the charges leveled against him and the reason necessitating suspension. The Party I stated that thereafter by letter dated 15/07/1996, he was issued a charge sheet which was illegal and untenable at law. It was based totally on concocted charges solely to victimize him for his union activities and his continued allegiance to the Goa MRF Employees' Union. It is submitted at this juncture that the allegations leveled against him were based on conjecture and surmises.

4. The Party I stated that vide his letter dated 19/07/1996 he requested for 15 days' time to file his reply, however the Party II denied his request and proceeded to issue notice of enquiry dated 01/08/1996 and accordingly the enquiry was fixed on 14/08/1996. The Party I stated that he was not given an opportunity let alone reasonable opportunity to defend himself at the enquiry and the enquiry was conducted without following the principles of natural justice.

5. The Party I stated that the Enquiry was conducted denying the request of the Party I to be defended by an office bearer of the Union which act of the Enquiry Officer constrained the Party I to ask for adjournment. In the enquiry the Management examined altogether 5 witnesses and on completion of evidence of MW5 on 15/10/1996, the matter was adjourned for Defence's evidence and the enquiry came to be closed on 07/11/1996 pursuance to which the Enquiry Officer gave his Findings to the Party II almost after two months of the conclusion of the enquiry.

6. The Party I stated that he was kept under suspension till the time the Enquiry Officer furnished his report without any justifiable ground for such delay, as such the Findings of the Enquiry Officer were not based on correct appreciation of the material on record either of law or of the facts on record. Thereafter, the Party II issued show-cause notice to the Party I by letter dated 03/02/1997 showing cause as to why his services could not be terminated. That his request for 15 days' time made vide letter dated 17/02/1997 was refused and his services were finally terminated illegally vide letter dated 17/02/1997.

7. In the Amended Statement the Party I has stated that he had served a letter dated 29/08/1996 on the Labour Commissioner which was received by the Office of the Labour Commissioner on 30/08/1996 for conciliation proceedings in the matter of Charter of Demands dated 15/02/1996 concerning workmen's wage rise and better service conditions in which matter of conciliation he was the concerned workman covered in the dispute/demand raised before the Labour Commissioner as on 30/08/1996. That, despite pending conciliation, the Party II dismissed the services of the Party I which action of Party II is illegal and void and contrary to the provisions of Section 33 of the Industrial Disputes Act, 1947.

8. It is stated that the termination of the Party I/Workman has been resorted by the company to victimize the said workman for his legitimate trade union activities. It is stated that the termination/dismissal of the Party I/Workman in the circumstances above also tantamount to act of unfair labour practices under items 5 (a),(b),(d),(f) & (g) as well as items 13 and 14 of the Fifth Schedule to the

Industrial Disputes Act, 1947. Hence, prayed that the Party I/Mr. Sergio Carneiro be reinstated in services from 17/02/1997 with full back wages and continuity in services.

9. In the Written Statement at Exhibit 4 filed by the Party II In its Written Statement filed at Exhibit 5, the Party II stated that Mr. Sergio Carneiro was charge-sheeted vide Charge-sheet dated 15/07/1996 for alleged misconduct on 10/07/1996 whereby it is alleged that the Workman was in Shift III and building of 10.20 SLXN6 tyres on Machine No.2 and that he was found spinning the 1056/3 Band without using the centering scale. Consequently, the Supervisor found the tyre built by the Workman had severe loose trunups and wrinkles on the 1st and 2nd band of the tyre and it was further seen that the bead on the machine side was off-centered. As a result, the Shift Foreman instructed the Supervisor to scrap the carcass. On the same day, i.e. on 10/07/1996 at about 6.00 a.m., the Party I reported to the Supervisor that the stitcher arm angle of the machine was faulty due to which the rubber on the 1056/1 band spun and stretched by Party I had peeled off. On checking, the Supervisor found that the stitcher arm angels were in perfect condition and the Workman was told that the stock peel on the 1956/1 band on the machine side was due to faulty operation on the part of the Workman at which point of time the Party I/Workman threatened the Supervisor saying *"Tu maka volkon noko, hav Dhakaitan tuca hav konto"*.

10. It is stated that the above alleged acts to have been committed by the Workman, if proved, amounts to gross misconducts under Item III, IV, VII, XI and LII of Clause-21 of the Certified Standing Orders of the Company/Party II which reads as under:

Clause 21 Item III	:	*Theft, fraud or dishonesty in connection with Company's business or property or theft of another workman's property within the precincts of the Company.*
Clause-21 Item IV	:	*Causing damage to work in process or to any property of the company wither willfully or through negligence.*
Clause-21 Item VII	:	*Use of impolite or insulting or abusive language assault or threat of assault, intimidation or coercion within the precincts of the company against any supervisory staff, Workman or any other person authorized to work in the Company and any such act outside the premises of the Company if directly affects the discipline of the Company.*
Clause-21 Item XI	:	*Negligence of work.*
Clause-21 Item LII	:	*Any act subversive of discipline and with which you are charged.*

11. The Party II submits that the above acts of misconduct being serious in nature likely to subvert the overall discipline of the Company, the Party I/Workman was placed under suspension pending enquiry and was subsequently issued the charge-sheet setting out the charges leveled against the Workman and proceeded to conduct enquiry into those charges.

12. The Party II submits that the enquiry commenced on 27/09/1996 whereby the Party I did not accept the charges when the Enquiry Officer explained the same to him and also explained the procedure to be adopted in the enquiry. The request of the Party I to be represented by Mr. B. V. Nayak was denied in terms of Certified Standing Orders and he was allowed to be represented by his co-worker Mr. Pundalik Naik.

13. The Enquiry Officer after considering the evidence on record submitted his findings holding the Party I/Workman guilty of the charges. The Party II states that the enquiry was concluded on 07/11/1996. The 5 witnesses examined by the Management were extensively cross-examined by the Party I who was being represented by his co-worker Mr. Pundalik Naik. The enquiry was conducted in accordance with principles of natural justice and that the management concurred with the findings of the Enquiry Officer.

14. The Party II submits that the proved misconduct established at the enquiry warranted extreme punishment of dismissal of Party I/Workman from its service. The Party II states that the punishment of termination was consequent to properly conducted enquiry and based on proved acts of misconduct committed by the workman.

15. The Party II submits that the enquiry was fair and proper and was conducted in accordance with the principles of natural justice. The Party I was given every opportunity to defend himself and only after appreciating the evidence on record, the Enquiry Officer gave a reasoned finding on the basis of which any prudent person would come to the conclusion that the Party I was guilty of the charges leveled against him. The Party II submits that the suspension by way of punishment of Party I is pursuant to a charge-sheet and properly conducted enquiry by an impartial Enquiry Officer who has considered all the evidence on record and has submitted a reasoned findings and that the suspension by way of punishment of Party I/Workman is legal and justified.

16. Party II denied that there has been large scale harassment & victimization of the union office bearers and its other members due to their legitimate trade union activities as alleged. It is denied that there are any illegal changes in the service conditions or unjustified or unwarranted suspension or charge-sheets are issued to the workmen on false and fabricated charges or that there is refusal to negotiate in good faith as alleged. It is denied that there is commission of unfair labour practice. It is specifically denied that Mr. Sergio Carneiro was an active member of the Union.

17. It is further denied that the workman's defence was prejudiced for non-issuance of show-cause notice as in any event, a reasonable opportunity was given to the workman during the course of the enquiry to present his defence. It is denied that the Enquiry Officer erred in coming to the conclusion of guilt as alleged and that the Enquiry Officer failed to appreciate the evidence of the workman or that he was biased. It is denied that the suspension order of the workman was for collateral purpose or was solely to victimize the workman for his continued allegiance to the said union as alleged. It is denied that there has been any gross discrimination in imposing the punishment of termination of the Party I/Workman as alleged and hence submitted that the Party I is not entitled to the relief sought in the Claim Statement and prays that the claim of the Party I/Workman may be rejected on the aforesaid grounds.

18. In the Rejoinder, the Party I/Workman denied all the facts stated by the Party II/Employer in the Written Statement and maintained his claim as pleaded in his Claim Statement.

19. On completion of the pleadings following Issues were framed at Exhibit 6 by this Tribunal which reads as under:

ISSUES

1. *Whether the Union proves that the domestic enquiry conducted against the workman Shri Sergio Carneiro is not fair and proper?*

2. *Whether the charges of misconduct levelled against the workman Shri Sergio Carneiro are proved to the satisfaction of the Tribunal by acceptable evidence?*

3. *Whether the Union proves that the termination of services of workman Shri Sergio Carneiro is by way of unfair labour practice and victimization?*

4. *Whether the Union proves that the action of the Party II in terminating the services of the workman Shri Sergio Carneiro w.e.f. 17/01/1997 is illegal and unjustified?*

   Additional Issue No. 4: *"Whether the Party II has followed the mandatory provisions of Section 33(2)(a)(b) of the Industrial Disputes Act, 1947 before dismissing the Workman from the services?*

5. *Whether the Workman Shri Sergio Carneiro is entitled to any relief?*

6. *What Award?*

20. From the issues framed hereinabove, Issue No. 1, 2 and additional Issue No. 4A have been taken up to be tried as preliminary issues and accordingly both the Parties to the proceeding led their evidence in respect of these preliminary Issues and my findings to the same with reasons are as follows:

Issue No. 1	:	In the Negative
Issue No. 2	:	In the Affirmative
Additional Issue No. 4A	:	In the Affirmative

REASONS

21. *Issue No.1:* It is in the evidence of Shri Francis Gonsalves, the then Officer working for Party II in Human Resource Department that the Party I was issued with charge-sheet dated 15/07/1996. The Party I was appointed as a Trainee Operator with the Party II vide letter dated 20/06/1988 signed by the Sr. General Manager Mr. E. M. Mathai who was competent to do so. The appointment of the Party I was probationary appointment and later on he was confirmed in the service after completion of the probation period vide Confirmation Letter dated 01/01/1990. All these letters Shri Gonsalves identified at Exh.E1 Colly produced in the domestic enquiry. In the said enquiry, the Company appointed Shri S. G. Kamat as Enquiry Officer to conduct the enquiry in respect of the charge-sheet issued to the Party I. The Management was represented by Mr. R. S. Amonkar. That pending enquiry, the Party I was placed under suspension. The Letter of Suspension dated 11/07/1996 was issued by the Plant Manager Mr. S. B. Naik. The General Manager Mr. E, M. Mathai issued Notice of Enquiry dated 01/08/1996.

22. He further deposed that on completion of enquiry the findings dated 16/01/1997 (Exh.E-1 Colly) holding the Party I guilty of the charges referred in the charge-sheet was submitted to the Management. The Management during the pendency of the enquiry paid subsistence allowance to Party I in terms of provisions of the Certified Standing Orders. Nothing contrary to the deposition of this witness was brought on record by Party I to discard the evidence of the Management witness No.1 as regards to the detailed facts stated by MW1 pertaining to the domestic enquiry conducted in respect of the said charges issued to the Party I. The cross-examination of MW1 is nothing but a suggestive denial of the facts stated in the examination-in-chief.

23. The Management witness No.2, Shri Suresh G. Kamat in his deposition stated that he conducted enquiry against Party I. On behalf of the Management, Shri R. S. Amonkar put up the case of the Management. On behalf of the Party I, Shri Pundalik Naik represented. The Party I was given sufficient opportunity to defend himself in the enquiry. Both the Parties led evidence and upon completion of the enquiry, he submitted his findings based on the evidence on record holding Party I/Workman guilty of the charges.

24. In the cross-examination of the Management witness No.2, the Party I alleged prejudice being caused to him on account of the Enquiry Officer not conceding the request of the Party I to be represented by the office bearer of the Union Shri B. V. Naik and on account of the Enquiry Officer not giving direction to the Management to furnish copies of the documents on which the Management relied upon before recording the statement of the Management Representative. To this the Enquiry Officer has stated that for the reasons recorded in the said proceedings, the request of the Party I was rejected. Except the above two incidents, no other incident or any act detrimental to the interest of Party I being committed by the Enquiry Officer has been brought on record in the cross-examination to suggest that the Enquiry Officer was bias or that the enquiry was not conducted in a fair and proper manner.

25. The Party I upon given opportunity to cross-examine the Management witness could not bring anything contrary to suggest that the enquiry conducted against the Party I was not fair and proper. The cross-examination of the Management witnesses is nothing but a mere suggestive denial of the facts stated/deposed by the Management witnesses in their examination-in-chief.

26. The Management also examined Shri Govind Mapari who was working as a Accounts Assistant with Party II. His evidence reveals that the Party I was placed under suspension pending enquiry from 11/07/1996 to 16/02/1997 during which period he was paid subsistence allowance. Shri Mapari produced on record the Statement showing the components which were taken into consideration by him for calculating the subsistence allowance payable to Party I. According to him the subsistence allowance were calculated in terms of clause-22 (d) of the Certified Standing Orders. He further stated that the Leave Wages of the Party I were calculated in terms of 1991 Settlement. Mr. Mapari was cross-examined extensively on the components of Leave Wage and Subsistence Allowance wherein he stated that the wages were calculated on the average of Plant performance and not on the average of piece rate. He has given in detail all the components on the basis of which he had calculated and determined the basic pay as well as the subsistence allowance. He maintained his statement throughout that as a normal practice that is followed by the Management is to determine the subsistence allowance and the basic pay is on the basis of average wages of previous two months and which practice was made known to the workmen. As such, the

Party I/Workman could not fetch much through the cross-examination of Mr. Mapari to say that the subsistence allowance and the wages paid were less than what was entitled to the Party I/Workman.

27. On behalf of the Party I, Shri Rohidas Naik deposed and stated that he is the President of Goa MRF Employees' Union who has raised the present dispute on behalf of the Workman, Shri Sergio Carneiro. He further stated that the workman concerned in the present dispute is also a workman concerned/covered in the dispute/demand which were pending before the Labour Commissioner as on 30/08/1996.

28. Shri Rohidas Naik is the witness examined by the /Party I has supported the case of the Party I to the extent to state that workman concerned in the present dispute is also a workman concerned/covered in the dispute/demand which were pending before the Labour Commissioner as on 30/08/1996.

29. The Party I when given opportunity before this Tribunal did not bring anything contrary to the records and proceedings that was held in the domestic enquiry to show that the Management did not follow/adopted the fair procedure while conducting the enquiry proceedings. The Party I also could not bring anything on record to show that he was not given fair opportunity to put his defence. As regards the charge-sheet being signed by the unauthorized person, it is suggested to the workman in his cross that the said charge-sheet was signed by Sr. General Manager, Shri E. M. Mathai who was competent and authorized to sign the charge-sheet on behalf of the Management/Party II, the knowledge of which was denied by this witness. Nothing contrary was brought on record either through the evidence of the Party I or through the witness of the Management/Party II to show that the charge-sheet in question was signed by the person not having the authority to do so or that the Enquiry Officer appointed by the Management was not competent to hold such an enquiry.

30. The Party I in the cross-examination has merely denied all the facts stated by the Management witness as regards to the enquiry conducted by the Enquiry Officer in respect of the charge-sheet. However, the Party I could not discard any of the facts by way of oral as well as by documentary evidence to show that no fair opportunity was given to the Party I to represent or defend himself in the said domestic enquiry conducted against him in respect of the alleged charges leveled against him in the charge-sheet. The enquiry reveals that the Party I was given opportunity to defend his case in the said domestic enquiry pursuance to which the Enquiry Officer submitted its findings. Absolutely, no evidence has been adduced to show that the enquiry was without following the principles of natural justice or that the same was against the Certified Standing Orders of the Party II.

31. In the Case of **Cholan Roadways Ltd v/s G. Thirugnanasambandam reported in 2005 (I) CLR 524**, it was held that : *"There cannot, however, be any doubt whatsoever that the principle of natural justice are required to be complied with in a domestic enquiry. It is, however, well-known that the said principle cannot be stretched too far nor can be applied in a vacuum. The jurisdiction of the Tribunal while considering an application for grant of approval has succinctly been stated by this Court in Martin Burn Ltd. V/s R.N. Banerjee (AIR 1958 SC 79). While exercising jurisdiction under Section 33(2(b) of the Act, the Industrial Tribunal is required to see as to whether a prima facie case has been made out as regard the validity or otherwise of the domestic enquiry held against the delinquent; keeping in view the fact that if the permission or approval is granted, the order of discharge or dismissal which may be passed against the delinquent employee would be liable to be challenged in an appropriate proceeding before the Industrial Tribunal in terms of the provision of the Industrial Disputes Act. In Martin Burn's case (supra) this court stated: "A prima facie case does not mean a case proved to the hilt but a case which can be said to be established if the evidence which is led in support of the same were believed. While determining whether a prima facie case had been made out the relevant consideration is whether on the evidence led it was possible to arrive at the conclusion in question and not whether that was the only conclusion which could be arrived at on that evidence. It may be that the Tribunal considering this question may itself have arrived at a different conclusion. It has, however, not to substitute its own judgment for the judgment in question. It has only got to consider whether the view taken is a possible view on the evidence on the record".*

32. Upon scrutiny, the enquiry proceedings conducted by the Enquiry Officer vis-a-vis the evidence led by both the Parties, it is seen that a due procedure was followed by the Management/Party II in the said domestic enquiry that was held pursuance to issuance of charge-sheets to Party I and he was also given opportunity to defend himself in the said proceeding. If one considers the chain of events, then one has to accept that the enquiry was conducted in accordance with the procedures laid down under the law by

giving a fair opportunity to the Party I to defend himself in the matter. Hence, the Issue No.1 stands answered in the negative.

33. *Issue No. 2:* It is the case of the Party I that the charge-sheet dated 15/07/1996 issued to him was based totally on concocted facts solely to victimize him for his union activities. The Party II falsely leveled charges of *theft, fraud or dishonesty in connection with Company's business or property or theft of another workman's property within the precincts of the Company. The charge-sheet also spoke about the alleged misconduct of Causing damage to work in process or to any property of the company wither willfully or through negligence as well as the Party I was also said to have conducted the alleged misconduct of using impolite or insulting or abusive language assault or threat of assault, intimidation or coercion within the precincts of the company against any supervisory staff, Workman or any other person authorized to work in the Company and any such act outside the premises of the Company if directly affects the discipline of the Company including the charges of negligence on the part of the Party I/Workman.*

34. The charge-sheet dated 15/07/1996 reads that the Party I/Workman was assigned to build 10.20 SLXN6 Tyre, however, it is found that despite earlier warning, he was performing much below the average of the department without any justified reason. According to Party II the normal expected average tyre production of 10.20 SMLC Tyre is 22 tyres single building and 34 tyres double. That since the tyre buildings are less than the normal expected average, therefore the Management convinced themselves to come to a conclusion that Party I was deliberately slowing down production without any justified reason. Hence, it is alleged that the Party I committed gross misconducts under Item No. III, IV, VII, XI and LII of Clause 21 of Certified Standing Orders in force in the Company which reads as under:

Clause 21 Item III	:	*Theft, fraud or dishonesty in connection with Company's business or property or theft of another workman's property within the precincts of the Company.*
Clause-21 Item IV	:	*Causing damage to work in process or to any property of the company wither willfully or through negligence.*
Clause-21 Item VII	:	*Use of impolite or insulting or abusive language assault or threat of assault, intimidation or coercion within the precincts of the company against any supervisory staff, Workman or any other person authorized to work in the Company and any such act outside the premises of the Company if directly affects the discipline of the Company.*
Clause-21 Item XI	:	*Negligence of work.*
Clause-21 Item LII	:	*Any act subversive of discipline and with which you are charged.*

35. The Findings of the Enquiry Officer revealed that the Workman in his enquiry proceedings admitted he giving no explanation to the charge-sheet inspite of receiving Management Letter dated 22/07/1996. He further admitted that the Supervisor himself repaired the machine when the matter was reported to him and further admitted that when there is a breakdown the Maintenance Request is made. In this case one Uday came and attended the Machine No.2. He further goes on to admit that at the end of the Shift after the work is over and when the Supervisor writes the Worksheet there is a practice that the Workman checks the Token numbers and the production and the delays are recorded properly in the Worksheet. The enquiry reveals that the witnesses deposed before the Enquiry Officer were contentious about the narration give by them and their statement corroborated each other. Not only that, the Management also produced on record the photograph of the carcass which photograph was identified by MW5 being the one which was held for the defect made by the Workman. Thus, it is the contention of the Management that the Party I/Workman was deliberately and intentionally using the defective operational techniques which were not standard operational practice as stated by all the Management witnesses in their evidence. According to all these witnesses the correct procedure for operating the machine was in medium speed and not in fast forward speed.

36. In support of the above contention, the Party II placed reliance in the case of Management of **Thanjavur Textiles Limited v/s P. O, I Additional Labour Court, Madras & Anr.** In the said citation there was an Workload Fixation Award by the Dy. Commissioner of Labour and as per the said Award, the Union had agreed to take a stipulated production, however, the 2nd Respondent in the said case chose to take a lesser production as against stipulated quantity which is not the case here as there is no specific

stipulation of quantity agreed upon by the Union with the Management and the said issue was still pending. Moreover, the Management not even accepted the Minutes of Meeting at Exh.M6 stating that it is an unsigned Minutes of Meeting. Hence, the citation above is not applicable to the case in hand.

37. The Judgment in the case of **Dunlop Rubber Corporation India Limited v/s their Workmen** again is of no help to the Party II as in the said case, there was an overall fall in the output of dual auto mills at all the three shifts. As such the low production was considered as misconduct under Clause-10(XVI) on the Company's Standing Orders for Operators and under clause-C of the Labour Union Agreement for Operators which is again not a case here and the low production is based on the mere Worksheet submitted by the Management without there being any violation of any specific clause under the Company's Standing Orders.

38. As against this, the Party I/Workman when examined himself in his defence stated that he is working in Tyre Building Department since 20/06/1988. As regards the charges pertaining to he adopting deliberately and intentionally using the defective operational techniques which were not standard operational practice as alleged by the Management, from the evidence of this witness it is seen that his entire evidence goes on to say as to how the enquiry was not fair and proper and that the Management did not follow the principles of natural justice. However, there is no specific defence the workman has raised when he examined himself before the Tribunal as regards to the above charges of misconduct are concerned.

39. The Party I/Workman has been charge-sheeted for charges specifically mentioned in the charge-sheet, however, the evidence on record from the Management side substantially shows that there has been intentional act on the part of the Party I/Workman done deliberately on account of which there was defective production of the tyres which has caused loss to the Company. The Enquiry Officer relied on the evidence produced on record by the Management, also considered the Worksheet produced on record by the Management Representative as well considered the photograph of the defective carcass produced by the Workman. The above documents vis-à-vis the testimony of all the Management witnesses were duly considered in coming to a finding of the Workman being guilty of the charges. Therefore it cannot be simply held that the Enquiry Officer committed a gross error in coming to a prima facie conclusion of charges of misconduct being proved against the Workman.

40. In the case of **Mahesh Pal Singh v/s Superintending Engineer, Lower Chambal Circle &Ors. reported in 2001 (I) LLR 887** it was held that "*It may, however, be noticed that it is by now well established that strict laws of evidence are not applicable to the departmental proceedings and the insistence on the observance of the rules of evidence by the disciplinary authorities, would rob the administrative law of its utility and the needed flexibility as it hinders or hampers them unduly in their task of weighing evidence and deciding on facts, besides resulting in the exclusion of much of the evidence of probative value. It may, however, be emphasized that the decision of the disciplinary authority must be based on material of some probative value which tends to logically show the existence of facts relevant to the issue to be determined. If the material relied upon by the disciplinary authority is capable of probative value, the weight to be attached to it is a matter for the said authority entrusted with the responsibility of deciding the issue. We are of the clear opinion that if the material relied upon is capable of having any probative value, the weight to be attached to it is a matter for the disciplinary authority entrusted with the responsibility of deciding the issue. It is the preponderance of probability that matters. In the matters regarding departmental proceedings, the expression to prove a charge has to be taken as distinguishable from the evidence which merely raises a suspicion. The proof has to be capable of scrutiny and should stand the test of reasonableness consistent with the normal conduct and probability. The rule followed in criminal trial that an offence is not established unless proved by evidence beyond reasonable doubt is not applicable to the departmental proceedings".*

41. In the case of **State of Haryana v/s. Ratan Singh reported in 1977 (34) FLR 264**, it was held that :*"it is well settled that in a domestic enquiry the strict sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and administrative tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act. For this proposition it is not necessary to cite decisions nor text books, although we have been taken through case law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity,*

exclusion of extraneous material or considerations and observance of rules of natural justice. Of course, fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good. However, the courts below misdirect themselves, perhaps, in insisting that passengers who had come in and gone out should be chased and brought before the tribunal before a valid finding could be recorded. The 'residuum' rule to which counsel for the respondent referred, based upon certain passages from American jurisprudence does not go to that extent nor does the passages from Halsbury insist on such rigid requirement. The simple point is, was there some evidence or was there no evidence not in the sense of the technical rules governing regular court proceedings but in a fair commonsense way as men of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the court to look into because it amounts to an error of law apparent on the record. We find, in this case, that the evidence of Chamanlal, Inspector of the flying squad, is some evidence which has relevance to the charge leveled against the respondent. Therefore, we are unable to hold that the order is invalid on that ground."

42. Considering the evidence on record, this Tribunal finds no reason to intervene into the Findings given by the Enquiry Officer. At the risk of repetition, this Tribunal would like to reproduce that the Workman has not taken a specific or justifying defence to overcome the alleged charges either before the Enquiry Officer or when he had an opportunity to bring all those facts before this Tribunal when he examined himself in his defence before the Tribunal. All this vital evidence was duly considered by the Enquiry Officer before holding the Workman guilty of the alleged misconduct. Therefore, the contention of the Party I/Workman that it was a pre-planned act by the Management to make Party I/Workman responsible for using defective operational procedure by way of harassment and victimization is unacceptable. In the facts and circumstances and considering the evidence on record and the enquiry proceedings, this Tribunal is in agreement with the findings given by the Enquiry Officer that the charges as leveled in the charge-sheet against the Party I/Workman has been proved by legally acceptable evidence. Hence, the Issue No. 2 stands answered in the affirmative.

43. *Additional Issue No. 4A:* The Party I/Workman amended the Claim Statement in the year, 2008 raising two grounds which according to Party I were going to the root of the matter. In the amended pleadings, the Party I/Workman set out the case wherein it is stated that the Party I had served a letter dated 29/08/1996 on 30/08/1996 on the Labour Commissioner, Panaji calling for conciliation proceedings on Charter of Demands dated 15/02/1996 of the workmen for wage rise and better service conditions and the workman concerned in the present dispute is also a workman concerned/covered in the dispute/demand pending before the Labour Commissioner as on 30/08/1996. The Party I also stated that the Party II attended the conciliation proceedings on the said Charter of Demands on 24/10/1996. In the meanwhile, since the Management was not ready to accede to the demands of the Union, the Labour Commissioner, Panaji was pleased to call for further meetings between the Management and the Union and the last meeting to the best of Union's knowledge was held on 17/02/1997 for trying to conciliate and settle the dispute. The Party I also states that without waiting for the Conciliation Officer to record failure and without waiting for the appropriate Government to receive the report to consider the same or make reference of the dispute to the Tribunal, the Party II dismissed the Party I/Workman on 17/02/1997. Thereafter, the Government of Goa was pleased to refer the said dispute to this Tribunal for adjudication only on 03/02/1999.

44. It is further the case of the Party I in the amended pleading that the dismissal of the Workman while conciliation proceedings on the general demands of the Union were pending before the Conciliation Officer is an unfair labour practice. It is further stated that the Dismissal Order was passed in haste and without even waiting for the Conciliation Officer to forward the Report of Failure of conciliation on the general demands to the Appropriate Government or waiting for the Government of Goa to receive the same or consider the same or make a reference of the dispute is also an unfair labour practice.

45. In support of their above amended pleadings, the Party I/Workman examined Shri Rohidas Naik, their witness No. 2. The Management questioned the authority of Shri Rohidas Naik as it is their contention that Mr. Rohidas Naik had no authority to depose in the present reference as on account of ceasation to the Member of the Union. It is brought on record that Mr. Rohidas Naik was dismissed from service, hence, he ceases to be a member upon his dismissal from services in terms of the Bye-laws. In this connection, the Management extensively cross-examined Mr. Rohidas Naik but could not finally bring out anything

conclusively to say that once the Workman's services are terminated he ceases to be the member of the Union.

46. Further the Management also questioned the issue of President-ship of Mr. Rohidas and contended that he is not the President of the Union and as such do not have any authority to depose in the present reference. As against this second objection, the Party I/Workman produced on record the Award passed in IT/33/1997 at Exhibit 110. When put to Mr. Mapari in the cross-examination that the issue of Rohidas being the President of the Union has been already decided in the Award at Exh.110 as well as in the Award C-IT/04/1998 at Exh.111, he did not specifically deny the same and only stated that he cannot say anything to the contention of the Party I as regards to Mr. Rohidas being the President of the Union. Thus, it was put to him that the issue of locus standi of Mr. Rohidas Naik has already been decided in those Awards which suggestion was specifically not denied by Mr. Mapuri when put to him in the cross-examination. As such, the Management could not fetch any relief as regards to the locus standi of Mr. Rohidas Naik to depose in this reference and accordingly this Tribunal has no other way but to consider the destiny of Mr. Rohidas Naik for the purpose of adjudicating the issues framed.

47. Shri Rohidas Naik in support of the Workman's case as regards to the issue concerning the violations of provisions of Section 33 of the I. D. Act by the Management produced on record Exh.33, the letter dated 10/09/1996 addressed to the Sr. General Manager by Asst. Labour Commissioner. By this letter, the Asst. Labour Commissioner requested the Party II to offer their comments on the Charter of Demands raised by the Party I/Workmen. In response, the Plant Human Resource Manager, Shri George Nainan vide letter dated 19/09/1996 at Exh.34, requested for 3 weeks' time to give their comments. The Office of the Asst. Labour Commissioner vide letter dated 07/10/1996 (Exh.35) intimated to both the Parties that he shall hold discussions and if necessary conciliation proceedings u/s 12(3) of the Industrial Disputes Act, 1947 in respect of the dispute raised by the Party I and the date of hearing was fixed on 14/10/1996 at 11.00 a.m. Exhibit 36 is the Request Letter seeking time to file their comments by the Party II. Exhibit 37 is the copy of the Minutes of the conciliation proceedings dated 14/10/1996 and Exhibit 39 is the copy of the Minutes of the conciliation proceedings dated 24/10/1996 i.e. the Proceeding Sheet/write-ups of the business of the day before the Conciliation Officer whereby the Party I objected for the Management's request of seeking more time to give their comments on the Charter of Demands raised by the Union.

48. The Assistant Labour Commissioner considering the request of the Party II thereafter placed the matter for discussions/conciliation on 24/10/1996. On the said day, the proceeding before the Conciliation Authority reads *"the Management submitted their Written Statement on the Justification Statement given by the Union on Charter of Demands and asked for revised reasonable Charter of Demands as the Charter of Demands are raised at an increase of average of Rs.40,000/- per employee per month and the period of settlement effective is for 2 years. The demands raised are unreasonable by any standards and further the Union has not given any reply to the Charter of Demands of the Management without which it is difficult to consider any proposals. Our reply to both is required to continue with the discussions else we did not like to say discussion in the presence of any other than our employees, employees who are on the rolls of the Company……."* Accordingly, the Minutes of Meeting were drawn detailing the business of the day and before concluding the Minutes, the Conciliation Officer held that both the Parties have stuck up to their own stand, as such suggested that they should both think about their stand taken by them so as to have amicable solutions and postponed the discussions on 28/10/1996 at 11.00 a.m.

49. The joint discussions continued on 28/10/1996 and in the Minutes of Meeting that was drawn on 28/10/1996 at Exhibit 40, the Officer again held that both the Parties have stuck up to their own stand as the Union was not ready to amend their demands and the Management was not ready to give any offer, as such the Officer was pleased to close the discussion and informed both the Parties to await for further report. The Assistant Labour Commissioner vide its letter dated 29/10/1996 forwarded to the Commissioner, Labour the report of failure of discussion of the Charter of Demands between both the Parties along with original File for its perusal and further necessary action. The Office of the Commissioner, Labour vide their letter dated 15/11/1996 called upon the Party I/Union for discussion with reference to the report submitted to him by the Asst. Labour Commissioner.

50. The Office of the Labour Commissioner vide their letter dated 14/01/1997 (Exh.43) informed the Party I/Union that the Hon'ble Minister for Labour wants to explore the possibility of an amicable settlement on the whole dispute. The Office of the Labour Commissioner vide letter dated 11/02/1997 (Exh.44) called upon both the Parties for joint discussion on 17/02/1997 at 3.00 p.m. in the Office of the

Labour Commissioner. There is no further correspondence nor is there any report or write-up produced before this Tribunal about the joint discussion that was proposed to be held on 17/02/1997 in the Office of the Labour Commissioner.

51. The submission of the Failure Report to the Labour Commissioner by the Conciliation Officer is an internal departmental affair. Even after submission of the Failure Report, the Office of the Commissioner thought it appropriate to call upon the Parties for further joint discussion. The matter did not stop at this stage but there was an intervention by the Hon'ble Minister for Labour who too probably felt it appropriate to have a joint discussion with both the Parties. However, thereafter there is absolutely nothing on record as to what happened to the said joint discussion, whether it continued or whether the discussion did not happen at all, that is the question which remained unanswered throughout.

52. In the event, the joint discussion had failed, it was incumbent upon the Conciliation Officer to submit Failure Report to the Government but it was not done till such time the Party I filed Writ in the Hon'ble High Court pursuance to which the Additional Government Advocate produced on record the reference dated 05/06/1997. Thus, it is quite obvious from the records that the Conciliation Officer did not send the Failure Report in view of the date being fixed for further discussions even after the Failure Report was sent by the Assistant Labour Commissioner to his Superior i.e. the Office of the Labour Commissioner and further from the Office of the Labour Commissioner the joint discussions were proposed to be held with the intervention of the Hon'ble Minister for Labour.

53. In rebuttal to the above stand by the Party I that the Workman in the present reference was terminated pending discussion/conciliation thereby the Party II has violated the provisions 33(2) of the Act. The Party II has relied upon letter dated 06/09/2007 (Exh.50 Colly) thereby placing on record the Outward Register of the Office of the Labour Commissioner to show that the Office of the Labour Commissioner had forwarded the Failure Report to the Government prior to the termination of the Workman under the present reference pending discussions/conciliation in the Charter of Demands raised by the Union to which the Workman in the present reference was also a Party.

54. On perusal of the said Outward Register, it says that the File ALC/Ponda/Demand/MRF was forwarded to addressee Labour Minister. Be that as it may, interestingly, the Office of the Labour Commissioner vide their letter dated 14/01/1997 (Exh.43) informed the Party I/Union that the Hon'ble Minister for Labour wants to explore the possibility of an amicable settlement on the whole dispute, therefore, an unsuccessful attempt has been made to show that the Failure Report was sent to the Government vide this Outward number by the Office of the Labour Commissioner which is devoid of any substance for the simple reason that the letter at Exhibit 43 confirms that the Hon'ble Minister wanted to have joint discussion with both the Parties and accordingly the Minutes of the Failure Report were forwarded to him for further discussion/settlement between the Parties, hence by no stretch of imagination it can be construed that the File containing the Minutes of the Failure sent to the Labour Minister is the Failure Report being sent to the Government of Goa u/s 12(3) of the Industrial Disputes Act, 1947.

55. Presuming without admitting that this Report was sent to the Government which infact is not the same has been addressed to the Labour Minister but still assuming for a moment that this is the Failure Report even then the Party II cannot escape the brunt of they having violated the requirements of Section 33 of the Industrial Disputes Act, 1947 as the Outward Register seems to be sent on 04/06/1997 whereas the Workman in the present reference has been terminated on 17/02/1997 i.e. much prior to the date that is mentioned in the Outward Register. Therefore the ration laid down in the case of **Jaipur Zila Sahadari Bhoomi Vikas Bank Lrd. V/s Ram Gopal Sharma and Others (2002) 2 SCC 244** has come to the rescue of this Workman. The Party I/Workman since has been able to establish that his termination was illegal as the same was done pending the Charter of Demands which Charter of Demands he too was a concerned workman therefore the Party II ought to have refrained from taking any action pending such conciliation in view of Section 33(2) (b). Section 33 of the Industrial Disputes Act, 1947 therefore the question of violation of Section 33(1) of the Industrial Disputes Act, 1947 requires to be considered in the light of the relevant statutory provisions. Section 33 of the I.D. Act, sub-section **(**1) reads as under:

"33. Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.- (1) During the pendency of any conciliation proceeding before [an arbitrator or] a conciliation officer or a Board or of any proceeding before a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall,- (a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service

applicable to them immediately before the commencement of such proceeding; or (b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workman concerned in such dispute".

56. The Ld. Adv. Shri G. K. Sardessai appearing for the Party II in support of their defence on the issue of alleged violation of Section 33 placed reliance in the case of **East Asiatic & Allied V/s Shelke (B. L.) (1961 ILLJ 162 Bom, Association of Engineering Workers v/s Iron & Metal Traders Pvt. Ltd. & Ors. (1996) I CLR 95 Bom, Pratap Chandra Mohanty v/s Union of India and Anr. 1971 II LLJ 196 Ori** and **Suresh Vithoo Nare v/s Dharamsi Morarji Chemicals 1991 Lab. I. C. 1932 Bom.**

57. Ld. Advocate Shri P. Agrawal on behalf of Party I submitted that all the citations relied upon by the Party II since prior to the Judgment in the case of **Lokmat Newspaper Pvt. Ltd. v/s Shankar Prasad (1999) 6 SCC,** they cannot be looked into as the issue as regards the violations of provisions of Section 33(2)(b) has been settled in the case of Lokmat (Supra) same being later in time than the one which has been relied upon by the Party II. In this case the respondent raised an industrial dispute by filing a complaint under Section 28 of the Maharashtra Act alleging that the impugned termination order amounted to `unfair labour practice'.

Before the impugned termination order was passed by the management, it had already served a notice under Section 9-A of the I.D. Act to the respondents union to the effect that it proposed to introduce a change in the conditions of service of the respondent and other members of the union on the ground that it was proposing to rationalise the printing work at the appellant's concern at Nagpur by setting up photo-type machine for carrying out the work of composing, resulting in substantial reduction in the work of composing by hand. It may be stated that the respondent was employed as a foreman in the hand-composing department of the appellant at the relevant time. The respondent's union objected to the said notice of change and approached the Conciliation Officer under Section 12(1) of the I.D. Act which reads as under :- "12. Duties of Conciliation Officers.- (1) Where an industrial dispute exists or is apprehended, the conciliation officer may, or where the dispute relates to a public utility service and a notice under Section 22 has been given shall, hold conciliation proceedings in the prescribed manner." The Conciliation Officer took the dispute in conciliation within his discretion even though as appellant's concern was not a public utility service it was not mandatory for the Conciliation Officer to start conciliation proceedings. As the report of the Conciliation Officer submitted to the State Government shows, he invited the management and the respondent's union for preliminary discussions on 14.4.1982 in his office and thereafter the matter was adjourned during conciliation from time to time.

It can, therefore, be said that by 14th April, 1982 the matter was taken up for investigation and thus the conciliation proceedings had commenced. It is also well established on the record of the case that the parties could not come to any settlement with the result that on 22nd June, 1982 the investigation was closed by the Conciliation Officer at 4.35 p.m. at Nagpur. Immediately, thereafter, the appellant passed the impugned order of termination against the respondent and others on the very same day i.e. on 22.6.1982 at 5.00 p.m. The said order was placed on the notice board of the appellant's office at Nagpur on the evening of that day. It is not in dispute between the parties that thereafter the Conciliation Officer submitted his report to the Government which reached the State Government on 13.8.1982.

On the aforesaid facts, the question arises whether the impugned termination order dated 22.6.1982 was passed during the pendency of the conciliation proceedings. It is not in dispute between the parties that before passing such an order no express permission in writing was obtained by the appellant from the Conciliation Officer. The Labour Court, the Industrial Court and the learned Single Judge of the High Court have taken the view that because investigation was closed by the conciliator by 4.35 p.m. on 22.6.1982, immediately thereafter the conciliation proceedings could be said to have ended and were not pending before him. Consequently at 5.00 p.m. on that very day when the appellant issued the impugned order, it did not violate Section 33 of the I.D. Act. While, on the other hand, the Division Bench of the High Court in the impugned judgment has taken the view that merely because the conciliator closed the investigation in the evening of 22.6.1982 till he prepared his report as per Section 12(4) of the I.D. Act and till that report reached the Government, conciliation proceedings were deemed to have continued and had not got terminated till 13th August, 1982 and as in the meantime on 22.6.1982, the impugned termination order was passed without following the procedure of Section 33(1) of the I.D. Act, it got vitiated in law.

Under these circumstances, a moot question arises whether the impugned retrenchment order was passed on 22.6.1982 during the pendency of conciliation proceedings. It cannot be disputed that the

impugned order was directly connected with the matter in dispute before the Conciliation Officer wherein the question of legality of notice under Section 9-A of the I.D. Act was under consideration for the purpose of arriving at any settlement between the parties in this connection. The impugned order had definitely altered to the prejudice of the respondent his conditions of service. It was not a case of retrenchment simpliciter but was a consequential retrenchment on the introduction of the scheme of rationalisation as contemplated by Section 9-A read with Schedule IV item no.1 of the I.D. Act, that the question of violation of Section 33(1) of the I.D. Act has a direct nexus with the further question whether on 22.6.1982 when the impugned termination order was passed, conciliation proceedings were pending before the authority or not.

In order to answer these questions, it is necessary to note sub- section (4) of Section 12 of the I. D. Act which reads as under : "(4) If no such settlement is arrived at, the conciliation officer shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at." A mere look at this provision shows that if the Conciliation Officer finds during conciliation proceedings that no settlement is arrived at between the disputing parties, then after closing the investigation he has, as soon as practicable, to send to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and has also to mention all other details as required to be mentioned in the report under Section 12(4) of the I. D. Act.

The aforesaid statutory requirements leave no room for doubt that after closing the investigation and after having arrived at the conclusion that no settlement is possible between the parties, the Conciliation Officer has to spend some more time before submitting his detailed written report about failure of consideration for information and necessary action by the State Government. In the very nature of things, therefore, such requirement will take at least a couple of days, if not more, for the conciliator after closing the investigation to enable him to send an appropriate report to the State Government. It is, therefore, obvious that on 22.6.1982 when by 4.35 p.m. the Conciliation Officer declared that settlement was not possible between the parties and he closed the investigation, neither his statutory function did not come to an end nor did he become functus officio. His jurisdiction had to continue till he submitted his report as per Section 12(4) to the Appropriate Government. Even such preparation of the report and sending of the same from his end to the Appropriate Government would obviously have taken at least a few days after 22.06.1982. It must, therefore, be held that the conciliator remained in charge of the conciliation proceedings at least for a couple of days after 22.6.1982. It is, therefore, difficult to appreciate how within half an hour after the closing of investigation by the conciliator and before his getting even a breathing time to prepare his detailed written report about failure of conciliation to be sent to the Government as per Section 12(4), the appellant could persuade itself to presume that conciliation proceedings had ended and, therefore, it was not required to follow the procedure of Section 33(1) and straightaway could pass the impugned order of retrenchment within 25 minutes of the closing of the investigation by the conciliator on the very same day. It is difficult to appreciate the reasoning of the Labour Court that after the closer of investigation the conciliator became functus officio and the management could not have approached him for express written permission to pass the impugned order. It is easy to visualise that even on the same day i.e. on 22.6.1982 or even on the next day, before the conciliator had time even to start writing his report, such an express permission could have been asked for by the appellant as the conciliator by then could not be said to have washed his hand off the conciliation proceedings. He remained very much seized of these proceedings till at least the time the report left his end apart from the further question whether conciliation proceedings could be said to have continued till the report reached the State Government. Thus, on the express language of Section 12(4) the conclusion is inevitable that closer of investigation by 4.35 p.m. on 22.6.1982 did not amount to termination of conciliation proceedings by that very time. The argument of learned counsel for the appellant was that closer of investigation automatically amounted to termination of conciliation proceedings. This argument proceeds on a wrong premise that closer of investigation by the conciliator is the same as closer of conciliation proceedings. The legislature while enacting Section 12(4) has deliberately not used the words `closer of conciliation' but, on the contrary, provided that after closer of investigation something more was required to be done by the conciliator as laid down under Section 12(4) before he can be said to have done away with conciliation proceedings earlier initiated by him. On this conclusion alone the decision rendered by the Division Bench of the High Court that the impugned order of

termination dated 22.6.1982 was issued by the appellant without following the procedure of Section 33(1) of the I.D. Act has to be sustained.'

58. The facts in question and the provisions of law involved in the case of Lokmat (supra) are the same as in the case of present reference, therefore directly applies to the case in hand, giving no room to this Tribunal to deviate from the ratio laid down in the citation above.

59. Ld. Advocate Shri G. K. Sardessai tried to carve out certain portion as relating to the date of commencement of the conciliation from the citation above to bring the case of the Party II within the ambit of Section 33 (2)(b) to show that there was no such violation and that the termination was done post sending of the Failure Report by the Conciliation Officer to the Government. It was also argued that the Assistant Labour Commissioner only sought to have joint discussions. The above arguments are unsustainable since this Tribunal has discussed in detail the contents of each and every correspondence between the Union and the Management and vice versa, the Union and the Conciliation Authority and vice versa, and the Minutes of the Meetings/Proceeding Sheets held during the conciliation. The notices issued and the letters issued from the Office of the Assistant Labour Commissioner clearly indicates that they have been issued with reference to the conciliation in the matter of Charter of Demands raised by the Union against the MRF Management. As such, this Tribunal is unable to accept the above contention of Learned Adv. Shri G. K. Sardessai that the ratio in the case of Lokmat does not support the case of the Party I/Union.

60. That, except a vague document i.e. a page of an Outward Register showing Failure Report being sent to the Hon'ble Minister of Labour from the Office of the Labour Commissioner, there is nothing placed on record to show that the Conciliation Authority forwarded to the Government of Goa the Failure Report prior to the date of termination of the services of the Party I/Workman. Be that as it may be, even the above vague document cannot come to the rescue of the Party II considering the date mentioned therein which date is again post the date of termination of the service of the Party I/Workman. Thus, this is a clear case of violation of mandatory provisions of Section 33 (2)(b) of the Industrial Disputes Act, 1947. Hence, the ratio in the case of Jaipur Zila would be squarely applicable to the present reference wherein it is held "Amendments to Section 33 of the ID Act in the year 1956 were made at a time when no remedy under the Industrial Disputes Act was available to the individual workman to challenge the termination of his employment. At that time, the dismissal of an individual workman could form the subject-matter of an industrial dispute only if it was espoused by the fellow workmen. In those days, dismissal of workmen who actively participated in raising an industrial dispute was not uncommon. In order to obviate this contingency, Section 33 imposed an obligation on the employer to seek approval or permission for the dismissal of any workman to be effected during the pendency of an industrial dispute. Apart from imposing an obligation on the employer to file such an application, in order to protect the workman against any termination which might be made without seeking approval or permission, Section 33-A was enacted creating a right in favour of the aggrieved workman to file a complaint which will be dealt with like adjudication of an industrial dispute. In other words, a right which was not available to the individual workman to approach the Labour Court or Tribunal for adjudication of a dispute relating to his dismissal was conferred by Section 33-A.

61. The Supreme Court in the case under review has ruled that failure to apply for approval by the Employer would make the order of dismissal inoperative and that the workman may get wages and other benefits. It was also held that even if the application for approval is granted by the authority, still the aggrieved could make a complaint under Section 33-A challenging the approval. It is to be considered whether an interpretation can be placed on Section 33 to the effect that even without a judicial declaration about the validity of the order of dismissal, as a result of the failure to seek approval or permission, the workman could straightaway proceed on the footing that the dismissal is invalid and inoperative and work out his rights for recovery of wages and other benefits. The case-law placed before the Supreme Court does not support the present ruling.

62. In order to dispel any doubt in the minds of the litigants and the lower courts, it may be clarified that no dismissed workman can claim the relief of reinstatement without a declaration by a competent court that the order of termination is not valid and no punitive order of termination be interfered without any technical grounds if such an order is otherwise justified on merits.

63. The Additional Government Advocate Ms. Coutinho in the Writ Petition No. 135/97 filed by the Party I/Union against the Government of Goa, produced on record a copy of the Order of Reference No.

ALC/Ponda/C.H. dated 05/06/1997 u/s 10 of the Industrial Disputes Act. Admittedly, the Workman in the present reference has been terminated on 17/02/1997. There is absolutely no document or any record which shows that the Failure Report was submitted to the Government of Goa by the Conciliation Officer prior to the date of termination of the Party I/Workman. On the other hand Party I/ Workman has proved the conciliation/discussion on the demands continued even after the authority sent the minutes of meeting to its superiors which was only a internal correspondence between the Conciliation Officer and the Commissioner of Labour and the said correspondence by no stretch of imagination can be held to be a Report u/s 12(4) of the Industrial Disputes Act, 1947. That u/s 20(2) of the Industrial Disputes Act, 1947 the conciliation proceedings shall be deemed to have concluded when the Failure Report of the Conciliation Officer is received by the Appropriate Government so as to put a full stop to the conciliation proceedings initiated u/s 12(1), till then the conciliation is treated to be continued, till such time the Failure Report reaches the Appropriate Government. In the present reference, there is no such Failure Report till the time the Additional Government Advocate produced on record the copy of the reference which was done at much later stage i.e. after more than 3 months after the termination of the Party I/Workman. The Party I/Workman thus has been able to prove that there has been gross violation of the provisions of Section 33(2)(b) of the Industrial Disputes Act, 1947. Hence, this issue stands answered in favour of the Party I/Workman in the affirmative.

64. In the case of **Jaipur Zila (Supra)** while referring to the case of *Strawboard Mfg. Co.* v. *Govind*[1] the Hon'ble Apex Court observed that "the application for approval was rejected by the Tribunal". Dealing with the consequence of such rejection, the Supreme Court held: "If the Tribunal does not approve of the action taken by the employer, the result would be that the action taken by him would fail and thereupon the workman would be deemed never to have been dismissed or discharged and would remain in the service of the employer. In such a case no specific provision as to reinstatement is necessary and by the very fact of the Tribunal not approving the action of the employer, the dismissal or discharge of the workman would be of no effect and the workman concerned would continue to be in service as if there never was any dismissal or discharge by the employer." Considering this observation, this Tribunal is of the opinion that no further purpose will be served if this Tribunal proceeds to pass the Part Award on the preliminary issues only and keep the reference alive for holding enquiry on other issues when the termination of the Party I/Workman itself is illegal, same being in violation of provisions of Section 33 (2)(b) of the Industrial Disputes Act, 1947.

Hence, the final Award.

ORDER

i. The reference stands allowed.

ii. Consequently, the Party II is hereby directed to re-instate in service the Party I/Workman, Mr. Sergio Carneiro with full back wages w.e.f. 17/02/1997.

iii. No order as to cost.

iv. Inform the Government accordingly.

Sd/-, (Vijayalaxmi R. Shivolkar), Presiding Officer, Industrial Tribunal & Labour Court.

Panaji.

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Department of Law & Judiciary

Law (Establishment) Division

Order

No. 8/41/21-LD(Estt.)/1312 Date : 09-Jun-2026

Ex-post facto approval of the Government is accorded for the payment of pending bills amounting to Rs. 8,41,042/- (Rupees Eight lakhs forty-one thousand and forty-two only) towards the hiring of one 'C' Category AC vehicle (Maruti Swift) Reg. No. GA-11-T-4038 from Goa Tourism Development Corporation (GTDC) Ltd. for a period 01/11/2024 to 31/12/2025 for the official use of Registration Department.

The expenditure shall be debited to the Budget Head under 2030–Stamps and Registration, 03–Registration, 001–Direction and Administration, 01–Superintendence, 00–General and 13–Office expenses.

This issues with the approval of the Council of Ministers in the One hundred and forth (CIVth) Cabinet meeting of the Council of Ministers held on 03/06/2026 as conveyed by the General Administration Department, vide letter No. 1/21/2026-GAD-II dated 04/06/2026.

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

Gajanan X. Bhonsle, Under Secretary (Estt.), Law.

Porvorim.

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Department of Revenue

Order

No. 30/01/2005-RD-I/8079 Date : 10-Jun-2026

Read: Order No. 30/01/2005-RD-I/6928 dated 21/04/2025.

Partial modification to the Order read at preamble, serial number 17 & 18 is hereby added as below:

Sr. No.	Name of the Section of Collectorate	Name of Assistant Public Information Officer (APIO)	Name of Public Information Officer (PIO)	First Appellate Authority (FAA)
17	Office of Additional Collector II	Jr. Steno	Head Clerk	Addl. Collector-II
18	PCPNDT	Demographer	Technical Officer	Dy. Collector DRO

Agnelo L. D'souza, Under Secretary (Rev.-II).

Porvorim.

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Department of Tribal Welfare

Directorate of Tribal Welfare

Order

No. 1-513-2026-27/ADMN/TRI-Matters/DTW/1276 Date : 12-Jun-2026

The Government of Goa is pleased to designate the following Officers/Officials of Tribal Research Institute, Goa as required under Section 5 of the Right to Information Act, 2005 with immediate effect.

Sr. No.	Role under RTI Act, 2005	Name and Designation
(1)	(2)	(3)
1.	First Appellate Authority (FAA)	Shri. Pritidas Gaonkar, Director, Tribal Research Institute, Goa (TRI)
2.	Public Information Officer (PIO)	Shri. Abhijeet Jambhale, District Welfare Officer (DWO)
3.	Asst. Public Information Officer (APIO)	Smt. Anjali Shet Parkar, Upper Division Clerk (UDC)

This is issued with the approval of the Government vide U. O. No. 83/F dated 08/06/2026.

Nilesh Dhaigodkar, Director, Directorate of Tribal Welfare.

Panaji.

Department of Town and Country Planning

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Notification

No. 36/18/39A/Notification (2NF)/TCP/2026/529 Date : 17-Jun-2026

Whereas, the Town and Country Planning Department of the Government of Goa received applications under sub-section (1) of Section 39A of the Goa Town and Country Planning Act, 1974 (Act 21 of 1975) for change of zones in the Regional Plan for Goa 2021 in respect of the plots of land as specified in detail in Column Nos. (2) to (6) of the Table below (hereinafter referred to as "the said Proposals");

TABLE

Sr. No.	Survey No./Sub Division No./P.T. Sheet No./Chalta No.	Name of Village and Taluka	Published land use as per RPG-2021/ODP (Total Area) in m2	Proposed land use	Area proposed in sq. mts.	Decision of the Government
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	10/1-A 10/1-E	Chopdem, Pernem	Partly Settlement, Partly Orchard, Partly Natural Cover with No Development Slope, Partly Natural Cover with Irrigation Command Area Total Area (308186)	No Development Zone	308186	Approved an area of 308186m2 bearing Sy. No. 10/1-A and 10/1-E of Chopdem, Pernem as Non Developable Area
2.	366/0	Mandrem, Pernem	Partly Orchard, Partly Orchard with No Development Slope Total Area (211862)	No Development Zone	211862	Approved an area of 211862m2 bearing Sy. No. 366/0 of Mandrem Village, Pernem Taluka as Non Developable Area
3.	17/1	Chopdem, Pernem	Partly Settlement, Partly Natural Cover, Partly Natural Cover with No Development Slope, Partly Natural Cover with Irrigation Command Area, Partly DMS, Total Area (264197)	No Development Zone	264197	Approved an area of 259097m2 bearing Sy. No. 17/1, Chopdem, Pernem to Non Developable Area leaving an area admeasuring 5100m2 under Settlement zone
4.	275/0, 242/0, 242/1-A	Arambol, Pernem	Partly Orchard, Partly Playground, Partly Orchard with No Development Slope Total Area (103360) Partly Orchard Partly Orchard with No Development Slope Partly Nallah Partly Crematorium Total Area (202400)	No Development Zone	275/0 = 103360 242/0 = 202400	Approved an area of 297370m2 bearing Sy. No. 275/0, 242/0, 242/1-A of Arambol Village, Pernem Taluka as Non Developable Area leaving an area of 8390m2 earmarked as Playground in Sy. No. 275/0

And whereas, in terms of sub-rule (1) of Rule 4 of the Goa Town and Country Planning (Change of zone of land in the Regional Plan or the Outline Development Plan) Rules, 2024 (hereinafter referred to as the "said Rules"), the Town and Country Planning Department after scrutinizing the said proposals placed such proposals alongwith its scrutiny reports before the Goa Town and Country Planning Board for its recommendations/approval/decision;

And whereas, the Goa Town and Country Planning Board approved the said proposals as specified in Column No. 7 of the above Table;

And whereas, notices as required by sub-rule (2) of Rule 4 of the said Rules were published,—

(i) Vide Notification No. 36/18/39A/Notification (54)/TCP/2026/305 dated 22-04-2026, published in the Official Gazette, Series III No. 4 dated 23-04-2026 (as regards proposals at Sr. No. 1, 2, 3 & 4); and suggestions were invited from the public within a period of thirty days from the date of publication to the said Notifications in the Official Gazette.

And whereas, suggestions received from public were placed before the Goa Town and Country Planning Board in terms of sub-rule (3) of Rule 4 for its recommendation/approval and the Goa Town and Country Planning Board after due consideration of the suggestions received from the public recommended the proposals for change of zone as regards to Sr. No. 1, 2, 3 & 4 in its 235th Meeting held on 10-06-2026, directed to take further action as per sub-rule (4) of Rule 4 of the said Rules;

And whereas, as required by sub-rule (4) of Rule 4 of the said Rules, the recommendation/approval/decision of the Goa Town and Country Planning Board along with the said proposals were placed before the Government for its decision and the Government has approved the same;

Now, therefore, in view of the recommendation of the Goa Town and Country Planning Board being approved by the Government and in exercise of the powers conferred by Section 39A of the Goa Town and Country Planning Act, 1974 (Act 21 of 1975) read with sub-rule (5) of Rule 4 of the Goa Town and Country Planning (Change of zone of land in the Regional Plan or the Outline Development Plan) Rules, 2024, the Regional Plan is hereby altered and modified as specified in Column No. (7) of above Table and as directed by the Government for carrying out change of zone of land in respect of the plots of land as specified in detail in Column Nos. (2) to (6) of above Table.

The alteration and modification of the Regional Plan as notified in this Notification shall be subject to the outcome of the PIL Writ Petition Nos. 53 of 2024 and 54 of 2024 which are pending final disposal before the Hon'ble High Court of Bombay at Goa.

Vertika Dagur, Chief Town Planner (Planning).

Panaji.

Notification

No. 36/18/39A/Notification (37F)/TCP/2026/531 Date : 17-Jun-2026

Whereas, the Town and Country Planning Department of the Government of Goa received applications under sub-section (1) of Section 39A of the Goa Town and Country Planning Act, 1974 (Act 21 of 1975) for change of zones in the Regional Plan for Goa 2021 in respect of the plots of land as specified in detail in Column Nos. (2) to (7) of the Table below (hereinafter referred to as "the said Proposals");

TABLE

Sr. No.	Name of the Applicant	Survey No./Sub Division No./P.T. Sheet No./ Chalta No.	Name of Village and Taluka	Published land use as per RPG-2021/ODP (Total Area) in m2	Proposed land use	Area proposed in sq. mts.	Decision of the Government
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Adwalpalkar Construction & Resorts Pvt. Ltd.	189/4 (Part)	Assagao, Bardez	Partly Settlement (3425m2), Partly Natural Cover with Irrigation Command Area (1600m2) Total Area (5,025)	Settlement zone	1,600	Approved for change of Zone an area of 1600m2 from Natural Cover with Irrigation Command Area to Settlement zone with Irrigation Command Area. Secondary development shall be strictly permitted after obtaining NOC from Water Resources Department.
2.	Shubhajit Datta, Kajal Harmalkar alias Kajal Shubhajit Datta	21/2-T	Adnem, Quepem	Orchard Total Area (288)	Settlement Zone	288	Approved for change of Zone.
3.	Jayesh Vasudev Gaonkar	202/1-N	Pilerne, Bardez	Partly Orchard (503m2), Partly Orchard with No Development Slope (502m2) Total Area (1,005)	Settlement Zone	1,005	Approved for change of Zone an area of 503m2 from Orchard to Settlement zone and 502m2 from Orchard with No Development Slope to Settlement zone being within permissible gradient.
4.	Shubhajit Datta, Kajal Harmalkar alias Kajal Shubhajit Datta	21/2-V	Adnem, Quepem	Orchard Total Area (306)	Settlement Zone	306	Approved for change of Zone.
5.	Hawk Eye Developers LLP Dynamite Construction and Development LLP rep. by Sandeep Patil	267/2 (Part)	Siolim, Bardez	Partly Settlement (7890m2), Partly Natural Cover (1198m2) Total Area (9,088)	Settlement zone	1,198	Approved for change of Zone an area of 1198m2 from Natural Cover to Settlement zone. The secondary development shall be permitted strictly after obtaining NOC from Forest Department.
6.	Wilbur Melwyn Dsouza	93/7 (Part)	Marra, Bardez	Partly Settlement (3796m2) Partly Natural Cover (7604m2), Total Area (11,400)	Settlement Zone	7,604	Approved for change of Zone an area of 7604m2 from Natural Cover to Settlement zone. The

							secondary development shall be permitted strictly after obtaining NOC from Forest Department.
7.	Gregorio Domingos Lobo	76/7 (Part)	Aldona, Bardez	Paddy Field (Partly Up land) Total Area (2,650)	Settlement Zone	2,650	Approved for change of Zone an area of 1450m2 from Paddy Field to Settlement Zone being not low lying. The secondary development shall be permitted strictly after obtaining NOC from Agriculture Department.
8.	M/s Gangareddy Infra Pvt. Ltd. Varchavada, near Yuvraj Singh Villa	10/1-I	Morjim, Pernem	Orchard Total Area (4,067)	Settlement Zone	4,067	Approved for change of zone.

And whereas, in terms of sub-rule (1) of Rule 4 of the Goa Town and Country Planning (Change of zone of land in the Regional Plan or the Outline Development Plan) Rule, 2024 (hereinafter referred to as the "said Rules"), the Town and Country Planning Department after scrutinizing the said proposals placed such proposals alongwith its scrutiny reports before the Goa Town and Country Planning Board for its recommendations/approval/decision;

And whereas, the Goa Town and Country Planning Board approved the said proposals as specified in Column No. 8 of the above Table;

And whereas, notices as required by sub-rule (2) of Rule 4 of the said Rules were published,—

(i) Vide Notification No. 36/18/39A/Notification (33)/TCP/2025/574 dated 08-10-2025 published in the Official Gazette, Series III No. 29 dated 16-10-2025 (as regards proposals at Sr. No. 1);

(ii) Vide Notification No. 36/18/39A/Notification (38)/TCP/2025/704 dated 12-11-2025 published in the Official Gazette, Series III No. 33 dated 12-11-2025 (as regards proposals at Sr. No. 2);

(iii) Vide Notification No. 36/18/39A/Notification (42)/TCP/2026/43 dated 21-01-2026, published in the Official Gazette, Series III No. 43 dated 22-01-2026 (as regards proposals at Sr. No. 3 & 4);

(iv) Vide Notification No. 36/18/39A/Notification (48)/TCP/2026/189 dated 25-03-2026, published in the Official Gazette, Series III No. 52 dated 27-03-2026 (as regards proposals at Sr. No. 5);

(v) Vide Notification No. 36/18/39A/Notification (46)/TCP/2026/171 dated 18-03-2026, published in the Official Gazette, Series III No. 51 dated 20-03-2026 (as regards proposals at Sr. No. 6);

(vi) Vide Notification No. 36/18/39A/Notification (17)/TCP/2025/83 dated 18-02-2025, published in the Official Gazette, Series III No.47 dated 20-02-2025 (as regards proposals at Sr. No. 7);

(vii) Vide Notification No. 36/18/39A/Notification(30)/TCP/2025/442 dated 13-08-2025, published in the Official Gazette, Series III No. 24 dated 11-09-2025 (as regards proposals at Sr. No. 8) and suggestions were invited from the public within a period of thirty days from the date of publication to the said Notifications in the Official Gazette.

And whereas, suggestions received from public were placed before the Goa Town and Country Planning Board in terms of sub-rule (3) of Rule 4 for its recommendation/approval and the Goa Town and Country Planning Board after due consideration of the suggestions received from the public recommended the proposals for change of zone as regards to Sr. No. 1 in its 225th Meeting held on 23-12-2025, Sr. No. 2, 4, 5 & 6 in its 233rd Meeting held on 18-05-2026, Sr. No. 3 & 7 in its 230th Meeting held on 30-03-2026 and Sr. No. 8 in its 221st Meeting held on 16-10-2025 and directed to take further action as per sub-rule (4) of Rule 4 of the said Rules;

And whereas, as required by sub-rule (4) of Rule 4 of the said Rules, the recommendation/approval/decision of the Goa Town and Country Planning Board along with the said proposals were placed before the Government for its decision and the Government has approved the same;

Now, therefore, in view of the recommendation of the Goa Town and Country Planning Board being approved by the Government and in exercise of the powers conferred by Section 39A of the Goa Town and Country Planning Act, 1974 (Act 21 of 1975) read with sub-rule (5) of Rule 4 of the Goa Town and Country Planning (Change of zone of land in the Regional Plan or the Outline Development Plan) Rules, 2024, the Regional Plan is hereby altered and modified as specified in column No. (8) of above Table and as directed by the Government for carrying out change of zone of land in respect of the plots of land as specified in detail in Column Nos. (2) to (7) of above Table.

The alteration and modification of the Regional Plan as notified in this Notification shall be subject to the outcome of the PIL Writ Petition Nos. 53 of 2024 and 54 of 2024 which are pending final disposal before the Hon'ble High Court of Bombay at Goa.

Vertika Dagur, Chief Town Planner (Planning).

Panaji.

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