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10.	Director of Skill Development & Entrepreneurship	Member.
11.	Supdt. of Police, Bureau of Immigration	Member.
12.	Regional Passport Officer, Goa	Member.
13.	Representative from Government of India, Ministry of External Affairs, OIA-I/OIA-II), New Delhi (Not below the Rank of Under Secretary)	Member.
14.	Representative from Directorate General of Shipping in Goa	Member.
15.	Shri Shailesh Pai, Santa Cruz, Goa	Member.
16.	Shri Tulsidas Madkaikar, Mercedes, Goa	Member.
17.	Director of Accounts	Member.
18.	Director for NRI Affairs	Member Secretary.

By order and in the name of the Governor of Goa.  
*Eshant V. Sawant*, Under Secretary (Home-II).  
 Porvorim, 16th April, 2021.

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 Department of Labour

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 Notification

No. 24/8/2004-LAB/193

Read: Government Notification No. 22/15/2005-LAB/474 dated 29th June, 2017, published in the Official Gazette, Series II No. 14 dated 06-07-2017.

In exercise of the powers conferred by sub-section (1) of Section 20 of the Goa Labour Welfare Fund Act, 1986 (Act 4 of 1987) (hereinafter called the "said Act") and in the supersession of the Government Notification No. 24/8/2004-LAB/12 dated 02-01-2019, published in the Official Gazette, Series II No. 41 dated 10-01-2019 and in partial modification of Government Notification cited above. Government of Goa, hereby appoints the Deputy Labour Commissioner, North Goa, as Secretary of the Goa Labour Welfare Board for the purposes of the said Act, with immediate effect.

By order and in the name of the Governor of Goa.  
*Amalia O. F. Pinto*, Under Secretary (Labour).  
 Porvorim, 15th April, 2021.

Notification

No. 28/2/2021-LAB/Part-II/190

The following Award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 25-03-2021 in Appl. No. 04/2016 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.

*Amalia O. F. Pinto*, Under Secretary (Labour).  
 Porvorim, 15th April, 2021.

IN THE INDUSTRIAL TRIBUNAL AND  
 LABOUR COURT

GOVERNMENT OF GOA  
 AT PANAJI

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

Appl. No. 04/2016

Shri Anand B. Shirodkar,  
 Godgachi Wade,  
 Vazare, Dodamarg,  
 Maharashtra-416 512. ... Applicant/ Party I

V/s

M/s. S. P. Enterprises,  
 C/o. Shri Sunil Pal,  
 Chavata Wada,  
 Bordem,  
 Bicholim-Goa-403 722 ... Opponent/Party II

Applicant/Party I represented by Adv. Tarzan De Costa.

Opponent/Party II represented by Adv. P. Chawdikar.

AWARD

(Delivered on this the 25th day of the month of  
 March of the year 2021)

This is an application filed by the Applicant/ Party I under Section 2-A read with Section 25-T of the Industrial Disputes Act, 1947 (for short, The Act).

2. In short, the case of the Party I is that he is a workman of Party II who is involved with the business of providing and supplying labourers/ workers to various Companies in the State of Goa. The Party I was deputed by Party II in the company known as M/s. Nestle India Ltd., having its factory at Maulinguem, Bicholim. The Party I was working as a Helper in the said Nestle Company from the date of deputation till the date of suspension and

had worked for almost 8 years diligently, sincerely and honestly in the interest of Party II and said Nestle Company. The Party I had never been issued with any charge-sheet nor any memo during his tenure of service. The Party I was issued a charge-sheet cum suspension order cum Notice of Inquiry dated 23-08-2013 for the first time by Party II on false allegation that he committed acts of misconduct contemplated under Service Rules applicable to Party I and was further placed under suspension with immediate effect.

3. An Enquiry Officer was appointed to hold the enquiry in the said charges and it took about almost two years to complete the enquiry before the Enquiry Officer. The Party I participated in the said Enquiry and the Enquiry Officer on 07-11-2015 submitted his Enquiry Report to Party II giving his findings. The Party II thereafter issued a show cause notice dated 14-11-2015 to Party I calling upon him to file a reply and upon receipt of the show cause notice and the enquiry report in November, 2015, the Party I submitted his reply to Party II and notwithstanding the receipt of the reply, the Party II till date has not passed any order in the disciplinary proceedings initiated against Party I and also stopped paying subsistence allowance. The Party I was forced to write a letter dated 02-03-2016 calling upon Party II to pay the subsistence allowance and only when the Labour Commissioner questioned Party II about non-payment, the Party II paid arrears of subsistence allowance. The enquiry proceedings initiated against Party I has been concluded long back in the year 2015, however till date, the Party II has not passed any order in the said enquiry.

4. The Party II deliberately and intentionally delayed passing of the order in the said disciplinary proceedings as Party II is well aware that there is absolutely no material to dismiss Party I from the service. The present enquiry initiated against Party I is as a result of participation of Party I in the formation of Trade Union of contract workers in the Nestle India Company of which he is the President. The Party II was always against the formation of the Trade Union by the contract workers. The withholding of the passing of the final order, as also keeping the Party I under suspension without any reason is against the provision of Service Rules in the matter of domestic inquiry. The Party I is unemployed since the date of suspension and does not have any source of income. The act of Party II in not pursuing the matter amounts to harassment, victimization and causing great prejudice to

Party I mentally as well as physically. It is well settled principle of law that an enquiry has to be conducted in due compliance of principles of natural justice, good conscience and equity and the proceedings have to be concluded expeditiously without unnecessary delay within reasonable time. The Party I therefore has no other remedy then to approach the Tribunal for necessary reliefs, hence, the application.

5. The Opponent/Party II filed a Written Statement inter-alia contending that the present application cannot be construed as an industrial dispute as defined under Section 2(k) of the Act. The present application is pre-mature and therefore not maintainable. The Inquiry Officer appointed by Party II afforded fullest opportunity to both the Parties in the interest of justice and fair play. The Party I is regularly getting his subsistence allowance till date. No order was passed as the matter was under discussion for amicable settlement before the Labour Commissioner which is still pending for discussion. The Party I is not entitled for any relief.

6. The Party I filed a Rejoinder at Exhibit 8 denying the case put forth by Party II in the written statement.

7. Issues framed at Exhibit 9 are as follows:

- 1) Whether the Party I proves that no orders have been passed by the Party II till date concluding the disciplinary proceedings against Party I, thereby vitiating the entire enquiry proceedings?
- 2) Whether the Party I proves that there exists 'Industrial Dispute' between the Parties in terms of Section 2(k) of the Industrial Disputes Act, 1947?
- 3) What relief? What Award?

8. In the course of evidence, the Party I, Shri Anand Shirodkar examined himself and produced on record his Affidavit-in-Evidence at Exh. 13, a copy of charge-sheet cum suspension order cum notice of enquiry dated 23-08-2013 at Exh. 14, a copy of enquiry report dated 07-11-2015 at Exh. 15, a copy of show cause notice dated 14-11-2015 at Exh. 16, a copy of reply dated Nov., 2015 filed by the Party I at Exh. 17, letter dated 02-03-2016 for non-receipt of subsistence allowance at Exh.18, a copy of application/ /complaint dated 04-08-2016 at Exh. 19, a copy of minutes of the meeting dated 19-11-2015 at Exh. 20, a copy of certificate of Registration of Trade Union dated 13-02-2013 along with Schedule-1 at Exh. 21. The Party II did not lead any evidence.

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

10. I have gone through the records of the case and have duly considered the submissions made by the learned advocates for Parties. My findings on the above issues are as follows:

Issue No. 1	...	In the Affirmative.
Issue No. 2	...	In the Affirmative.
Issue No. 6	...	As per Final Order.

#### REASONS

##### *Issue No. 1:*

11. Learned Advocate Tarzan De Costa has submitted that the Management has not issued any Memo nor given any complaint against Party I during his tenure of last 8 years of service. The Party II and other contractors were never in favour of Trade Union of contract workers. The Party I was the President of Nestle Contract Workers' Union. The Party II suddenly issued a charge-sheet cum suspension order cum notice of inquiry dated 23-08-2013 to Party I for committing alleged offences in the factory premises of M/s. Nestle India Ltd. and during the inquiry proceeding subsistence allowance was paid. The Inquiry Officer concluded the domestic inquiry and submitted his report and findings to Party II on 07-11-2015 however, the Party II did not pass any orders till date on the said report and findings and instead Party II continued to pay subsistence allowance to Party I even though subsistence allowances should only be paid during the inquiry proceedings u/s 10-A of the Industrial Employment (Standing Orders) Act, 1946. The Party I has been illegally kept under indefinite suspension and has also not been re-instated in service and paid wages. The Party I is deprived of alternate employment and is victimized by Party II. He further submitted that the employee cannot be kept under suspension indefinitely forever and in support thereof, he relied upon the cases of (i) **Ch. Sri Lakshmi v/s Executive Officer, Sri Durga, 2002 (4) ALD 761** and (ii) **Venugopal Reddy K. v/s Managing Director, Nizam Sugars, (2003) ILLJ 278 AP.**

12. Per contra, Learned Advocate P. Chawdikar for the Party II has submitted that the Party I has been paid subsistence allowances till date and that no order was passed in his matter as the matter was under discussion for amicable settlement before the Commissioner of Labour which was duly attended by Party I, his representative as well as representative of Party II. There were discussions for amicable settlement going on between Party II before the Commissioner of Labour. The Party II

has not terminated the services of Party I and had continued paying the subsistence allowance. The Party I in haste and without following due process of law has filed the present application before the Court which is premature, non-maintainable and deserves to be rejected.

13. Admittedly, the Party I was issued a charge-sheet cum suspension order cum notice of inquiry dated 23-08-2013 for allegedly committing offences and misconducts in the factory premises of M/s. Nestle India Ltd. and thereafter the Party II conducted a domestic inquiry through Inquiry Officer who submitted his report and findings to Party II on 07-11-2015. There is no dispute that Party II did not pass any order till date on the said report and the findings. The Party I in the cross examination has admitted that the issue of charter of demands filed by their Union was pending before the Labour Commissioner. However, the contention of Learned Advocate Chawdikar for Party II that the matter was under discussion for amicable settlement before the Labour Commissioner is de hors record nor it can be a justification for not passing any order on the report and the findings of the Inquiry Officer.

14. The case of Party II that they were paying the subsistence allowances till date also cannot be a ground for not passing the order on the report/ findings, more particularly when the subsistence allowance should only be paid during the inquiry proceedings u/s 10-A of the Industrial Employment (Standing Orders) Act, 1946. Moreover, under the Industrial Employment (Standing Orders) Central Rules, 1946, it is the duty of Party II to pass an order after receiving the report and findings of the inquiry proceedings. It is also enjoined upon the Party I under Rule 14(4)(bc) of the Industrial Employment (Standing Orders) Central Rules, 1946, the inquiry proceedings shall be completed within a period of three months, however in the present case, the inquiry proceedings took more than two years to complete. It is also under Rule 14(4)(c) of the Industrial Employment (Standing Orders) Central Rules, after the conclusion of the inquiry, the Employer shall pass an order accordingly. No such order has been passed by the Party II till date. The Party I has been illegally kept under indefinite suspension and has also been deprived of alternate employment as he is under suspension. It is also well settled in the case of **Sri Lakshmi**, supra that an employee cannot be kept under suspension indefinitely forever. It is also well settled that if the inquiry could not be completed for any reason, the employee cannot be kept under suspension ad infinitum. It is therefore the action of Party II of not

passing any order after concluding the disciplinary proceedings against Party I is bad-in-law and ab initio void thereby vitiating the entire inquiry proceedings. The Party I having proved the above issue, the same is answered in the affirmative.

*Issue No. 2:*

15. Learned Advocate Shri P. Chawdikar has submitted that the present matter is not an industrial dispute as it does not fall within the ambit of Section 2(k) of the Industrial Disputes Act and that the present dispute has to be rejected as the same is premature and filed without following due process of law. He further submitted that Section 2-A and Section 2-T of the Industrial Disputes Act are not applicable as the Employer has not discharged, dismissed, retrenched or otherwise terminated the services of the Party I workman nor the Party II has committed unfair labour practices. The Party I is still on the rolls of Party II as his services are not terminated till date and therefore present dispute is not maintainable.

16. Per contra, Learned Advocate T. De Costa has submitted and rightly so that the Party I had raised an industrial dispute u/s 2(k) of Industrial Disputes Act before the Commissioner of Labour on 04-08-2016 and since no settlement took place on the dispute raised before the Conciliation Officer, the Party I preferred the present application for breach of the Industrial Employment (Standing Orders) Act, 1946 as the Party II does not have certified standing orders of its own. The Party II has not completed the proceedings within a period of three months nor passed an order on the enquiry report and findings and therefore, the Tribunal has jurisdiction to decide upon the rules of discipline under item No. 8 of the Third Schedule of Industrial Disputes Act as also under unfair labour practices as stipulated under the Fifth Schedule of the Act. Industrial Disputes under Section 2(k) of the Act means 'any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person. The Party II has illegally kept Party I under indefinite suspension and has not been re-instated in service nor paid his wages after the conclusion of the inquiry and the findings of the Inquiry Officer nor passed any orders on the said findings thus depriving the Party I of alternate employment and awarding him undue punishment.

17. The Party I therefore has rightly filed the application before the Tribunal under Section 2(k) of the Act as the Industrial Tribunal has powers to interpret and adjudicate upon the Industrial Employment (Standing Orders) Act, 1946 and also on matters covered by Standing Orders. The jurisdiction of the Industrial Tribunal under the Act to adjudicate upon the matters covered by the Standing Orders, has not been, in any manner, abridged or taken away and it is always open for the Union to raise an 'Industrial Dispute' as that expression is defined in Section 2(k) of the Act and if the dispute is raised for adjudication, the Industrial Tribunal will have jurisdiction to adjudicate, upon the same. The Standing Orders by itself gives a right and a remedy to the individual workman to get his grievance adjudicated before the Industrial Tribunal as held in the case of **Management of the Bangalore Woolen, Cotton and Silk Mills Co. Ltd. v Workmen and Another, AIR 1968 SC 585** and therefore the submission of Learned Advocate P. Chawdikar for Party II that there does not exist industrial dispute between the Parties in terms of Section 2(k) of the Industrial Disputes Act cannot be accepted having any merits. It is therefore the above issue is answered in the affirmative.

*Issue No. 3:*

18. The Applicant/Party I has proved that the entire inquiry proceeding is vitiated as no orders have been passed by Party II on the inquiry proceeding even after the findings were given by the Inquiry Officer. The Party I has been kept illegally under indefinite suspension which is not justified thus violating provisions of the Third and the Fifth Schedule of Industrial Disputes Act which protects the workman against victimization and contravention of the rules of discipline. The suspension of Party I by Party II is therefore non-est and hence, Party I is deemed to have been in regular employment with Party II and therefore, the Party I is entitled for the reliefs prayed for including reinstatement in service, back wages and continuity in service. It is therefore above issue is answered accordingly.

19. In the result, I pass the following:

ORDER

- i. The application filed by Party I workman stands allowed.
- ii. It is hereby held that the suspension order passed by Party II against Party I is bad in law, illegal and non-est.



- iii. The Party II is directed to reinstate Party I in the service with full back wages from the date of suspension till reinstatement, except the amount already paid by way of subsistence allowance and continuity in service.
- iv. The Party II is directed to deposit back wages before the Tribunal as stated above within 60 days of the publication of the Award, failing which the Party II shall pay an interest @ 9% per annum.
- v. Inform the Government accordingly.

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

Inspectorate of Factories and Boilers

**Notification**

No. VI/FAC-3/(GOA/756)Part/2020-IFB/166

In exercise of the powers conferred by the proviso to Clause (b) of sub-section (1) of Section 66 of the Factories Act, 1948 (Central Act No. 63 of 1948) (hereinafter called the "said Act"), the Government of Goa hereby varies the limits laid down in said Clause (b) of sub-section (1) of Section 66 of the said Act in respect of employment of women in the factory, namely, M/s. IFB Industries Limited, Plot No. L-1, Verna Industrial Estate, Verna, Salcete, Goa thereby authorising the employment of women in the said factory between the hours of 7 p.m. and 10 p.m., for a period of two years with effect from the date of publication of this notification in the Official Gazette.

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

*Vivek P. Marathe*, Chief Inspector & ex officio Joint Secretary (Factories & Boilers).  
Panaji, 20th April, 2021.

**Department of Law & Judiciary**

Law (Establishment) Division

**Addendum**

No. 5/3/2015/LD-Estt/807

Read: 1) Order No. 5/3/2015/LD-Estt./634 dated 19-03-2020.

- 2) Addendum No. 5/3/2015/LD-Estt./1284 dated 29-07-2020.
- 3) Addendum No. 5/3/2015/LD-Estt./1508 dated 24-09-2020.

In the above referred order and subsequent Addendums, the name of Adv. Vibhav Amonkar is added at Sr. No. 13 for representing the State of Goa in Mahadayi matter before the Hon'ble Supreme Court of India, New Delhi and Mahadayi Water Disputes Tribunal at New Delhi.

This issues with the approval of the Government.

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

*Amir Y. Parab*, Under Secretary (Law-Estt.).  
Porvorim, 15th April, 2021.

**Department of Panchayati Raj & Community Development**

Directorate of Panchayats

**Corrigendum**

No. 15/2/DP/EST/AE-Promotion/2018/2989

Read: Order No. 15/2/DP/EST/AE-Promotion/ /2018/5639 dated 20-08-2020.

In the above referred order in 7th para in third line the date of Government approval effected vide U.O. No. 4687/F shown as 04-08-2020 may be deleted and read as 08-08-2020.

The other contents of the said order remains the same.

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

*Siddhi T. Halarnakar*, Director & ex officio Joint Secretary (Panchayats).

Panaji, 19th April, 2021.

**Department of Personnel**

**Order**

No. 6/28/2016-PER/998

In exercise of the powers conferred under Rule 43 of the Goa Civil Service Rules, 2016 (hereinafter to be called as said Rules), the Government in consultation with the Goa Public Service Commission, hereby relaxes Rule 38 of the said Rules, to consider the crucial date of eligibility for the appointment of the following Selection Grade