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Government of Goa
Labour Department
Secretariat, Porvorim, Bardez-Goa
Tel. 2419791, 2419445

No.28/2/2020-LAB/Part-II

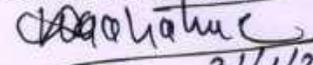
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Dated:- 21/01/2020

NOTIFICATION

The following Award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 23/12/2019 in reference No.IT/22/15 is hereby published as required under section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

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


(A. S. Mahatme) 21/1/20 20

Under Secretary (Labour)

Copy to:-

- 1) The Director, Printing and Stationery, Government Printing Press, Panaji-Goa-403001 for favour of publication in the Government Gazette and to supply two copies of the same to this Department(Soft copy in Word Format is enclosed).
- 2) The Commissioner, Labour and Employment, 2nd floor, Shram Shakti Bhavan, Patto-Plaza, Panaji, Goa-403 001.
- 3) The Presiding Officer, Industrial Tribunal and Labour Court, Shram Shakti Bhavan, 1st floor, Patto Plaza, Panaji, Goa-403 001.
- 4) Shri Subhash Naik Jeorge, Gurudutt Bldg. 3rd Floor, Dada Vaidya Road, Panaji, Goa 403 001. (By Regd. A/D).
- 5) Adv. Shri V. Korgaonkar, Ground Floor, Church View Building, Fr. Agnelo Road, Panaji, Goa 403 001.(By Regd. A/D).
- 6) Adv. Shri K. L. Bhagat, GF-1, Ground Floor, Sindhura Bldg., St. Inez, Panaji, Goa 403 001.(By Regd. A/D).
- ✓ 7) Adv. Shri A. A. Agni, 2nd Floor, Navelkar Trade Centre, Panaji, Goa 403001.(By Regd. A/D).
- 8) Guard file.
- 9) O/c.

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

(BEFORE MR. VINCENT D'SILVA, HON'BLE PRESIDING OFFICER)

Ref. No. IT/22/15

The General Secretary,
Higher Secondary & College
Attendants Association of Goa,
F-6, Block 4, Galaxy Apartments,
Khorlim, Mapusa, Goa 403 507.

... Workmen/Party I

V/s

1. The Chairman,
St. Xavier College,
Mapusa, Goa - 403 507.

... Employer/Party II(1)

2. The Directorate of Hr. Education,
Government of Goa,
Porvorim - Goa.

... Employer/Party II(2)

3. Goa University,
Taleigao, Goa.

... Employer/Party II(3)

Workmen/Party I represented by Shri Subhash Naik Jorge.

Employer/Party II(1) represented by Ld. Adv. Shri V. Korgaonkar.

Employer/Party II(2) represented by Ld. Adv. Shri K. L. Bhagat.

Employer/Party II(3) represented by Ld. Adv. Shri A. A. Agni.

AWARD

**(Delivered on this the 23rd day of the month
of December, of the year 2019)**

By Order dated 02.07.2015, bearing No. 28/34/2015-Lab/676,
the Government of Goa in exercise of powers conferred by Section 10
(1)(d) of the Industrial Disputes Act, 1947 (for short The Act), has
referred the following dispute to the Tribunal for adjudication.



"(1) Whether the action of the management of St. Xavier College, Mapusa, Goa, in refusing to concede the following demands raised by the Higher Secondary and College Attendants Association of Goa, vide letter dated 24.03.2014, is legal and justified?

Charter of Demands

- (i) Laboratory Attendants and Library Attendants in Higher Secondary Schools should be granted vacation as is granted to the Laboratory Assistants and Librarian every year as per rules.
 - (ii) Laboratory Attendants should be allotted duties only in laboratories and Library Attendants should be allotted duties only in libraries as per rules.
 - (iii) The working hours for Laboratory Attendants and Library Attendants should be 6 hours and 30 minutes every day as per rules. Beyond 6 hours and 30 hours work, Laboratory Attendants and Library Attendants should be paid overtime at the rate of double the gross wages paid for that day. This overtime should be paid retrospective from the date of joining till the date this issue is settled.
 - (iv) Laboratory Attendants and Library Attendants should be treated as Group "C" employees as per rules.
 - (v) Laboratory Attendants should be provided Lab Coats and Lab Safety Shoes while at work.
- (2) If the answer to issue No. (1) above is in the negative, then, what relief the workmen are entitled to?"

2. Upon receipt of the reference, it was registered as IT/22/15 and registered A/D notices were issued to both the parties. Pursuant to service of notices, Party I filed a Claim statement at Exb. 7, Party II(1) filed a Written statement at Exh. 18.

3. In short, the case of the Party I is that the Party II(1) is a College which has been operating at Mapusa for last several decades managed by the managing committee and is governed by Directorate of Education, Government of Goa. The managing committee is the appointing authority for all the teaching and non-teaching staff. The Laboratory and Library Attendants have been appointed by the Party II(1) and have been placed under supervision and control of head of College. The Laboratory and Library Assistants across 17 different Higher Secondary and Colleges have formed their union and they are the members of Higher Secondary and College Attendants Association. The Party I have raised the Charter of demands dated 4.11.2013 with Directorate of Education and 17 Higher Secondary Schools and Colleges. The Directorate of Education in its reply dated 16.12.2013 stated that the Association suits approach their respective employers for demands since they have been appointed by the respective management. The Association then raised a Charter of demands with the Party II(1) vide letter dated 24.3.2014. The Party II(1) did not reply to the Charter of demands and as such the Party I approached the Labour Commissioner for conciliation who requested the Party II(1) to attend the conciliation proceedings and as the Party II(1) refused to discuss the demands, the Assistant Labour Commissioner recorded failure of the conciliation proceedings. The demands raised by Party I are legal and justified as per the Goa Education Act and Rules and direction issued by the Government of Goa from time to time. The action of the management in rejecting the demands of the Party I is illegal and unjustified. Hence, the reference.

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4. In the Written statement, the Party II(1) has claimed that the Party I are neither the labour/workmen nor they are entitled to maintain the reference before the Court. The Party II(1) is not running any industrial activity and/or not industry within the meaning of Industrial Disputes Act, 1947. The reference therefore may be dismissed.

5. It is a matter of record that the Party II(1) has filed an application for addition of Directorate of Higher Education, Government of Goa and Goa University to the present proceedings and as the Party I had given no objection, Directorate of Higher Education, Government of Goa and Goa University have been added as Party II(2) and Party II(3) respectively. The Party II(2) thereafter filed a written statement inter-alia contending that in terms of Office memorandum dated 21.11.2016 of Department of Personnel, Government of Goa, the posts of Laboratory Attendants and Library Attendants, which were erstwhile group 'D' posts are now classified as group 'C' and designated as 'Multi Tasking Staff' with the actual duties as enumerated in the annexure and all the recruitment rules and service rules of the Government are applicable to the aided colleges which are fully funded by the Government by way of salary grant and maintenance grant. The duty hours of all 'Multi Tasking Staff' being 7 ½ hours per day, the same is applicable to the said posts of Laboratory Attendants and Library Attendants. The Party II(3) also filed pursis inter-alia contending that the Party I workmen are not employees of Goa University and Goa University is not an industry as defined in Industrial Disputes Act and is unconcerned about the adjudication of the dispute before the Court.

6. Issues that came to be framed at Exh. 21 are as follows:

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- (1) Whether the Party I proves that the action of Party II in refusing to concede their demands mentioned in the schedule, is illegal and unjustified?
- (2) Whether Party II proves that the Library Attendants and Laboratory Attendants are not the labour within the meaning of Industrial Disputes Act, 1947 and therefore no reference could be entertained by the Tribunal?
- (3) What Relief? What Award?

7. It is a matter of record that the matter was fixed for evidence of the Party I and during the course of proceedings, Shri Subhash Naik Jorge for the Party I has filed an application along with a Circular dated 17.12.2019 issued by the Directorate of Higher Education, Government of Goa at Exh. 23 colly stating that the Under Secretary (Higher Education) issued the above Circular fixing working hours of 6.30 hrs. per day excluding lunch break for all Educational Institutions observing 6 days a week for Party I workmen i.e. Laboratory and Library Attendants and that 6.30 hrs per day has been their demand and the same is acceptable to them and that the Party I does not wish to pursue the present reference pertaining to the working hours and with regard to other demands, the Party I has filed the Writ Petition No. 86/2019 in the Hon'ble High Court of Bombay at Panaji, Goa Bench and that they are pursuing those demands before other authorities and hence the Party I does not wish to pursue the same before this authority and therefore the matter may be closed. It appears that the Party I is not interested in pursuing the matter, for the reasons stated above. Therefore, there remains no dispute, claim and/or demand of whatsoever nature against each other in the present reference.



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

ORDER

- (i) The reference stands disposed of in terms of the application at Exhibit 23 colly.
- (ii) No order as to costs.
- (iii) Inform the Government accordingly.



-sdl-
(Vincent D'Silva)
Presiding Officer
Industrial Tribunal and
Labour Court

Dated: 23.12.2019
Place : Panaji.