

The Orissa Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 694 CUTTACK, THURSDAY, MAY 28, 2009/JAISTHA 7, 1931

LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 5th May 2009

No. 4106—li/1(S)-9/2005-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 29th January 2009 in Industrial Dispute Case No. 4/2007 of the Presiding Officer, Labour Court, Sambalpur to whom the industrial disputes between the management of Executive Engineer, G.E.D. No. III, Sambalpur and their workman Shri Ranjan Kumar Barik and 9 others including Satya Ranjan Mohanty of G.E. Subdivision, Anandapur, Keonjhar represented through the Orissa Electrical Workers Union, G.E.D. (Orissa) was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER, LABOUR COURT, SAMBALPUR

INDUSTRIAL DISPUTE CASE NO. 4 OF 2007

Dated the 29th January 2009

Present :

Smt. Suchismita Misra, L.L.M.,
Presiding Officer, Labour Court, Sambalpur.

Between :

The Management of .. First Party—Management
Executive Engineer, G.E. D. No. III,
Sambalpur.

And .. Second Party—Workmen
Their Workman
Shri Ranjan Kumar Barik and
9(nine) others including Satya Ranjan
Mohanty of G.E. Subdivision, Anandapur
Keonjhar represented through the Orissa
Electrical Workers Union
G.E.D., (Orissa).

Appearances :

For the First Party—Management	..	Shri Narasingh Sahu, Assistant Engineer (Elect.) Estimator, G.E.D. No. III, Sambalpur.
For the Second Party—Workman	..	Shri R. K. Barik and Shri S.C. Dash

AWARD

The Government of Orissa in the Labour & Employment Department have, in exercise of power conferred upon them by sub-section (5) of Section 12, read with clause (c) of the sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (for short, “the Act”), referred the following disputes for adjudication by this Court :

“Whether date of joining/engagement in employment as D.L.R./N.M.R. as prepared by the Executive Engineer, G.E.D. III, Sambalpur in the year 2002 in respect of Shri Satya Ranjan Mohanty and 9 (nine) others (as per Annexure ‘A’) is legal and/or justified ? If not, what should be their actual date of employment ?”

2. The facts leading to the present dispute between the first party namely the management of the Executive Engineer, G.E.D. III, Sambalpur on the one hand and the workmen Shri Ranjan Kumar Barik and 9 (nine) others including Satya Ranjan Mohanty of G.E. Subdivision, Anandapur, Keonjhar represented through the Orissa Electrical Workers Union, G.E.D. (Orissa) on the other are stated below :

The case of the second party workmen as would appear from their statement of claim runs as below :—

The second party workmen were engaged as D.L.R. workers of G.E. Subdivision, Keonjhar which comes under the jurisdiction of the Executive Engineer, G.E.D. No. III, Sambalpur i.e. the first party management prior to the dated the 12th April 1993. Subsequently the first party management prepared a list of the D.L.R. workers of G.E. Subdivision, Keonjhar alongwith the D.L.R. workers of other Subdivisions under his jurisdiction mentioning that the second party workmen were engaged in their respective jobs after the 12th April 1993 which was the date from which the ban in respect of employment was made applicable by the Government vide Finance Department’s letter in that regard with a view to down size the number of staff and employment strength in various departments of the Government as a measure to observe economic austerity. Thus, due to furnishing of such incorrect information by the first party management about the date of engagement of second party workmen, they were virtually brought to a stage of their retrenchment from services. Further as a result of the aforesaid incorrect information the second party workmen were deprived of their service benefits which they would have got had the respective dates of their joining/engagement been furnished correctly by the first party management to the Government.

3. The first party management in their written statement contested the pleas advanced by the second party workmen by justifying the action of Executive Engineer, G.E.D. No. III, Sambalpur in this matter. They categorically mentioned that the date of joining/engagement of D.L.R./N.M.R. which was prepared by the Executive Engineer, G.E.D. No. III, Sambalpur as on the 1st July 2000 (Census of employee) is legal and justified whereas the claim of the D.L.R./N.M.R. regarding their appointment prior to the ban period i.e. before the 12th April 1993 is not correct. They further stated that the first party management had prepared the census of employees after due consultation with the Field Officers concerned which was also accepted by the second party workmen at that time. Therefore, the second party workmen cannot challenge the aforesaid report of the first party management at present.

4. On the above pleadings, only two issues were framed in this proceeding and those are —

- (i) “Whether date of joining/engagement in employment as D.L.R./N.M.R. as prepared by the Executive Engineer, G.E. D. III, Sambalpur in the year 2002 in respect of Shri Satya Ranjan Mohanty and 9 (nine) others (as per Annexure ‘A’) is legal and/or justified ?
- (ii) If not, what should be their actual date of employment ?”

5. In this proceeding the workmen only addressed evidence on their behalf. No witness was examined by the management. On behalf of the second party workmen one Ranjan Kumar Barik who is also one among the second party workmen disposed before the Court that he along with other workmen had been working as D.L.R. labourers in the office of the Junior Engineer, General Electrical Section, Keonjhar prior to the dated the 12th April 1993. In the year 1995 the Executive Engineer, G.E.D. III, Sambalpur prepared a list of D.L.R. worker of General Electrical Section, Keonjhar for sending the same to the Government mentioning therein that some of the D.L.R. Labourers in G.E.D. Section, Keonjhar were engaged after the ban order of the Government dated the 12th April 1993 and due to such action of the Executive Engineer G.E.D. III, Sambalpur the second party workmen were deprived from getting their salaries and other service benefits from the year 1995 by the Government of Orissa. Then they met the Executive Engineer, General Electrical Department, Sambalpur and put forth their grievance before the first party management, the first party management expressed their inability to do anything for them in this matter as their names (second party workmen) had already been sent to the Government showing that they were engaged from the year 1995. Thereafter the second party workmen brought this matter to the notice of the Labour Officer of the District and as no conciliation could be effected between the parties the matter was referred by the Government of Orissa in the Labour & Employment Department to this Court for adjudication. Besides adducing the above oral evidence, the workmen also proved certain documents vide Exts. W.1 to W. 7 to prove that they were engaged by the Assistant Engineer, G.E. Section, Keonjhar as D.L.R. workers prior to the dated the 17th April 1993. The only question put to this witness of the second party workmen by the first party management during his cross examination is as to why they had signed the census of

employees prepared by the first party management accepting the same to be correct to which the workmen W.W. 1 replied that they were forced and compelled by the then Executive Engineer, G.E. Department, Sambalpur to sign the aforesaid census of employees prepared by the Executive Engineer though they had protested regarding the correctness of the said list at that time.

6. In the instant proceeding the documents exhibited by the workmen and more particularly the document Ext. W. 8 which came from the custody of the management reveal that the workmen namely Satya Ranjan Mohanty, Ranjan Kumar Barik, Gangadhar Behera, Suresh Chandra Dash, Balabhadra Sahoo, Baikuli Panda, Pramod Kumar Prusty, Dhanurjay Patra, Mangulu Charan Mohanta and Umakanta Mallick were engaged as D.L.R. Labourers by the Assistant Engineer, G.E. Section, Keonjhar from the 2nd January 1993, the 5th February 1993, the 9th February 1993, the 10th February 1993 and the 12th February 1993 respectively. This clearly indicates that the date of engagement of all the above named workmen were prior to the dated the 12th April 1993. Therefore, the list prepared by the first party management vide Ext. W. 2 showing the engagement of all these workmen from the 2nd April 1995, the 5th May 1995 and the 10th May 1995 respectively does not appear to be correct. The first party management has not adduced any evidence indicating the basis of their preparing such a list which is certainly found to be not in confirmation with the official information supplied to the Executive Engineer, G.E.D. III, Sambalpur by the Assistant Engineer, G.E. Section, Keonjhar vide Ext. W.1 and Ext. W. 8. In the aforesaid circumstance it has to be held that the list reflecting the dates of joining/engagement in employment of the second party workmen as D.L.R./N.M.R. prepared by the first party management in the year 2002 is neither legal nor justified.

7. Now the question comes as to what should be the actual date of employment/joining/engagement of the second party workmen as N.M.R. under the first party management. In this regard I would like to say that the first party management has not come forward with any documentary evidence to the effect that the above named second party workmen were engaged by the first party management only after the 12th April 1993. On the contrary the document Ext. W. 8 which came from the custody of the first party management and proved by the second party workmen in this proceeding clearly reveals that the second party workmen namely Satya Ranjan Mohanty, Ranjan Kumar Barik and Gangadhar Behera were engaged by the Assistant Engineer, G.E. Subdivision, Keonjhar from 2nd January 1993 whereas the second party workmen Suresh Chandra Dash, Balabhadra Sahoo, Baikuli Panda and Pramod Kumar Prusty were engaged by the above named authority from 5th February 1993. The second party workmen Dhanurjay Patra, Mangulu Charan Mohanta and Umakanta Mallick were engaged as D.L.R. Workers from the dated the 9th February 1993, the 10th February 1993 and the 12th February 1993 respectively by the Assistant Engineer, G.E. Subdivision, Keonjhar. Therefore, the actual date of employment/engagement of the above named workmen has to be taken from the document Ext. W. 8 which has not been challenged by the

management in any manner. Thus as per the discussion made in the foregoing paragraphs this reference is disposed of with the following award.

The reference is answered on contest in favour of the second party workmen and against the first party management. The date of engagement of the second party workmen namely Satya Ranjan Mohanty, Ranjan Kumar Barik, Gangadhar Behera, Suresh Chandra Dash, Balabhadra Sahoo, Baikuli Panda, Pramod Kumar Prusty, Dhanurjay Patra, mangulu Charan Mohanta and Umakanta Mallick as furnished by the first party Management in the year 2002 is held illegal and unjustified. The actual date of engagement/employment of the second party workmen as named above are as follows :—

Name of the workmen	Date of appointment/engagement		
1. Shri Satya Ranjan Mohanty	02-01-1993
2. Shri Ranjan Kumar Barik	02-01-1993
3. Shri Gangadhar Behera	02-01-1993
4. Shri Suresh Chandra Dash	05-02-1993
5. Shri Balabhadra Sahoo	05-02-1993
6. Shri Baikuli Panda	05-02-1993
7. Shri Pramod Kumar Prusty	05-02-1993
8. Shri Dhanurjay Patra	09-02-1993
9. Shri Mangulu Charan Mohanta	10-02-1993
10. Shri Umakanta Mallick	12-02-1993

Dictated and corrected by me.

SUCHISMITA MISRA
29-01-2009
Presiding Officer
Labour Court, Sambalpur

SUCHISMITA MISRA
29-01-2009
Presiding Officer
Labour Court, Sambalpur

By order of the Governor
K. C. BASKE
Under-Secretary to Government