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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 6th September 2005

No. 7603-Ii/I/(BH)-3/05/LE.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award dated the 22nd July 2005 in I.D. Case No. 71/93 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of Range Officer, Similipal Tiger Reserve, Nawana, P.S. Astakumer, Dist. Mayurbhanj and its workman Shri Dambarudhar Naik, At. Vegediha, P.O. Patrapada, District. Mayurbhanj was referred for adjudication is hereby published as in the schedule below: —

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 71 OF 1993

Dated the 22nd July 2005

Present:

Shri P.K. Sahoo, O.S.J.S. (Junior Branch),
Presiding Officer, Labour Court,
Bhubaneswar.

Between:

The Range Officer,
Similipal Tiger Reserve, Nawana,
P.S. Astakumer,
Dist. Mayurbhanj.

. . First Party—Management.

And

Shri Dambarudhar Naik,
At. VVegediha,
P.O. Patrapada,
Dist. Mayurbhanj.

. . Second Party—Workman.

Appearances:

None

Shri D.D. Naik

. . For Management.

. . Workman himself.

AWARD

The State Government in exercise of powers conferred by sub-section (5) of section 12 read with clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 have referred the matter in dispute to this Court in the Labour & Employment Department Memo. No. 6233 (5)/ LE., dated the 20th May 1993 for adjudication and award.

2. The terms of reference may briefly be stated as follows: —

“Whether the termination of services of Shri Dambarudhar Naik, Tracker by Range Officer, Tiger Project, Nawana with effect from 09-03-1991 is legal and/or justified? If not, what relief he is entitled to?”

3. The brief facts giving rise to the present reference are that workman Dambarudhar Naik was engaged as a Tracker under the Management of Range Officer, Tiger Project, Nawana of Similipahar Tiger Reserve (in short the Management) with effect from 01-10-1987. He continued to work as such till 08-03-1991. According to the workman he had rendered continuous uninterrupted service with effect from 01-10-1987 to 08-03-1991 with much sincerity, devotion and to the best satisfaction of the authorities, but the Management without any rhyme or reason terminated him from service with effect from 09-03-1991 without following the mandate of section 25-F of the Industrial Disputes Act, 1947 (in short the Act). While challenging the action of the Management, the workman has now prayed for his reinstatement in service with back wages. Hence the reference.

4. Although the Management entered its appearance but filed no written statement. Subsequently the Management was set *ex parte* and the *ex parte* hearing commenced on 20-04-2001.

5. During *ex parte* evidence the workman has clearly stated that he was working under the Management as Tracker in the year 1987. He worked under the Management till 1991. He was refused employment from February, 1991. He has further stated that the Management while terminating his service had not given any notice or notice pay and retrenchment compensation to him. He has now claimed for his reinstatement in service with back wages. Admittedly no rebuttal evidence had been adduced by the Management. In absence of any rebuttal evidence absolutely I find no cogent reason to disbelieve the evidence of the workman. The unchallenged sworn testimony of the workman clearly leads me to arrive at a conclusion that he had rendered continuous service from 1987 to 1991 and had completed 240 days of continuous service in terms of the statutory provisions of the Act. The management while terminating his service had not given any notice or notice pay and retrenchment compensation, which, in my view, are in complete violation of the mandatory provisions of section 25-F of the Act. The settled position of law is that the provisions of section 25-F of the Act is mandatory and any violation thereof will render the retrenchment void *ab initio*. After carefully examining the evidence of the workman on record and keeping in view the settled position of law, I am of the considered view that the action of the Management in terminating the services of the workman with effect from 09-03-1991 was illegal, unjustified and against the mandate of section 25-F of the Act. In that view of the matter, the workman is entitled to the relief of reinstatement.

6. The schedule of reference clearly goes to show that the workman has been terminated from service with effect from 09-03-1991. Nothing has been brought to my notice to arrive at a conclusion that the workman has been gainfully employed elsewhere with effect from the date of his termination. In such premises, the workman is entitled to be reinstated in service, but on the facts and circumstances of the present case, as the workman had not worked with effect from the date of his termination, he is entitled to get a lump sum compensation of Rs. 3,000 in lieu of back wages.

7. Hence it is ordered.

ORDER

That the termination of services of Shri Dambarudhar Naik, Tracker by the Range Officer, Tiger Project, Nawana with effect from 09-03-1991 is neither legal nor justified. The workman Shri Naik is entitled to be reinstated in service with a lump sum compensation of Rs. 3,000 (Rupees three thousand) only in lieu of back wages.

The reference is thus answered accordingly *ex parte*.

Dictated and corrected by me.

P.K. SAHOO
22-07-2005
Presiding Officer,
Labour Court,
Bhubaneswar.

P.K. SAHOO
22-07-2005
Presiding Officer,
Labour Court,
Bhubaneswar.

By order of the Governor

D.MISHRA
Under-Secretary to Government