

AWARD

The State Government In exercise of powers conferred by sub-section (5) of Section 12, read with clause (c) 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. 12591(5)-L. E., dated the 10th November 1998 for adjudication and Award.

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

“Whether the action of the Managing Director, Kuliana Block Level Village Artisan Industrial Multipurpose Co-operative Society Limited in terminating the services of Shri Niranjan Behera, Secretary, with effect from the 1st June 1995 vide his order No. 114, dated the 20th June 1996 is legal and/or justified? If not, what relief he is entitled to?”

3. In brief the case of the workman Shri Niranjan Behera is that he was appointed as Secretary under the management of Kuliana Block Level Village Artisan Industrial Multipurpose Co-operative Society Limited (in short the management) with effect from the 29th September 1982. He continued to work as such till the date of his termination on the 1st June 1995. According to the workman, although he had rendered continuous uninterrupted service for the above said period with much sincerity, devotion and to the utmost satisfaction of the authority but the management without any rhyme or reason placed him under suspension and terminated him from service with effect from the 1st June 1995 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 along with other service benefits. Hence the reference.

4. Despite issuance of notice the management did not enter its appearance and was set *ex parte*. The *ex parte* bearing commenced on the 3rd January 2002.

5. During evidence workman Niranjan Behera already examined as W. W. 1 has clearly stated that on the 29th September 1982 he joined in the services of the management and continued to work till the date of his termination on the 1st June 1995. He has categorically stated that although he was placed under suspension by the Managing Director of the management but neither any charge was framed nor any explanation was called for from him. It is also in his evidence that although he had completed 240 days of work in 12 calendar months preceding the date of his termination but the management had not given any notice or notice pay and retrenchment compensation for which he raised the present dispute claiming for his reinstatement in service with back wages. Admittedly no rebuttal evidence is adduced by the management to discredit the evidence of the workman. In absence of any rebuttal evidence I find no cogent reason to disbelieved the sole testimony of the workman. After carefully examining the evidence led by the workman it is clearly evident that although the workman had rendered continuous service with effect from the 29th September 1982 till the date of his termination on the 1st June 1995 but the management without any rhyme or reason terminated him from service without following the mandate of Section 25-F of the Act, which in my opinion was illegal and unjustified. In that view of the matter, the workman is entitled to the relief of reinstatement.

6. The perusal of the schedule of reference clearly reveals that the workman has been terminated from service with effect from the 1st June 1995 . Nowhere it has been proved by the management 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 to the tune of Rs. 5,000 in lieu of back wages, which in my opinion would meet the ends of justice in the instant case.

7. Hence it is ordered :

ORDER

That the action of the Managing Director, Kuliara Block Level Village Artisan Industrial Multipurpose Co-operative Society Limited in terminating the services of Shri Niranjana Behera, Secretary with effect from the 1st June 1995 vide his order No. 114, dated the 20th June 1996 is neither legal nor justified. The workman Shri Behera is entitled to be reinstated in service with a lump sum compensation of Rs. 5,000 (Rupees Five thousand) only in lieu of back wages.

The reference is thus answered accordingly *ex parte*.

Dictated and corrected by me.

P. K. SAHOO
28-2-2005
Presiding Officer
Labour Court
Bhubaneswar.

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Presiding Officer
Labour Court
Bhubaneswar.

By order of the Governor
D. MISHRA
Under-Secretary to Government