

The Orissa Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 691 CUTTACK, FRIDAY APRIL 29, 2005 / BAISAKHA 9, 1927

LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 19th April 2005

No. 3804—li/1(J)-9/2005-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 17th July 2004 in Industrial Dispute Case No. 80/1999 of the Presiding Officer, Labour Court, Jeypore to whom the industrial disputes between the Management of M/s Venkateswar Rice & Oil Mill, Parlakhemundi, Gajapati and its workman represented through the President/Secretary, Mill Workers Union, Parlakhemundi, Kaviti Street, Parlakhemundi, Gajapati was referred for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER
LABOUR COURT, JEYPORE, KORAPUT

INDUSTRIAL DISPUTE CASE No. 80 OF 1999

Dated the 17th July 2004

Present :

Shri R. K. Saran
Presiding Officer, Labour Court
Jeypore, Dist. Koraput.

Between :

The Management of
M/s Venkateswar Rice & Oil Mill,
Parlakhemundi, At/P. O. Parlakhemundi
Dist. Gajapati

.. First Party—Management

Versus

Its workman .. Second Party–Workman
Represented through
the President/Secretary,
Mill Workers Union, Parlakhemundi
Kaviti Street, At/P. O. Parlakhemundi, Dist. Gajapati.
Under Sections 10 and 12 of the Industrial Disputes Act, 1947.

Appearances :

For the Management	..	Shri N. K. Mishra, Advocate Madhusudan Nagar, Cuttack.
For the Workman	..	Shri D. Venkat Rao President of Mill Workers Union, Parlakhemundi.
Date of Argument	..	Nil
Date of Award	..	17-7-2004

AWARD

The Government of Orissa under letter No. 9183-L. E., dated the 12th July 1999 of the Labour & Employment Department have referred the following dispute for adjudication in exercise of power under Section 12 (5) read with Section 10-1 (c) of the Industrial Disputes Act, 1947.

“Whether the termination of services of Shri K. Ramalingam, Shri Chandaka Appa Rao, Khalasi by the employer of M/s Venkateswar Rice & Oil Mill, Kasinagar Road, Parlakhemundi with effect from the 21st January 1998 is legal and/or justified ? If not, to what relief the workman Shri K. Ramalingam and Shri Chandaka Appa Rao, Khalasi are entitled ?”

2. Back ground facts are stated below. The Mill workers of Gajapati District after serving strike notice struck work from the 15th November 1997 to the 19th January 1998. K. Ramalingam and Chandaka Appa Rao working as Khalasi in Venketeswar Rice and Oil Mill, Kasinagar Road came to resume duty on the 20th January 1998 like other workers. The President of the Workers Union raised dispute with the District Labour Officer, Gajapati that they were refused engagement. A conciliation proceeding was carried on by the District Labour Officer. The employer of the Mill as per report of the Labour Officer has not participated in the proceeding. An Industrial Dispute was noticed on perusal of the conciliation failure report and that is now the dispute came for adjudication.

3. It is the case of the workmen that they were illegally refused employment from the 20th January 1998. They have prayed for reinstatement and back wages.

4. The first party employer has denied employer and employee relationship. It has been stated that the Industry was seasonal functioning for 3 to 4 months and the engagement of Khalasies was casual. It has been submitted to reject the reference.

5. Issues as per schedule at paragraph No. 1 arise for decision.

6. Chandaka Appa Rao, Khalasi and President of the Mill Workers Union, Gajapati have been examined for the workmen. The management has not examined any witness. No document has been filed.

7. After passing award by this court dated the 20th July 2001 the management approached the Hon'ble Court. The court after hearing the case has been pleased to remand the case to this Court for fresh award after giving opportunities to the parties. Accordingly sufficient opportunity were given to them. They also took part in the proceedings for certain dates. Subsequently the parties remained absent continuously from the 23rd April 2004 till the judgement. The workmen also remained absent. Therefore considering the materials already available on record the following order follows :

8. As per conciliation failure report and evidence of both the witnesses the engagement of both the Kahlasies were continuous on mothly wages for more than 15 years before commencement of the strike. Non-production of engagement register of Khalasies and payment vouchers would support the evidence of W. W. 1 & W. W. 2.

9. Both the Khalasies were workmen under Section 2 (s) of the Act. Their termination calls for compliance of provisions under Section 25-F of the Act. Admittedly that has not been complied there being no notice or proceeding. Refusal to engage is illegal. Both the workmen were deprived of their wages for the illegal action of the management. They are entitled to reinstatement in service with back wages.

10. In the result the reference is allowed. The termination of the workmen from the 20th January 1998 by the first party is held illegal and unjustified. The management is directed to reinstate the forthwith and to pay back wages besides other service benefits.

The reference is accordingly answered.

Dictated and corrected by me.

R. K. SARAN
17-7-2004
Presiding Officer, Labour Court
Jeypore

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