

The Orissa Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 692 CUTTACK, FRIDAY, APRIL 29, 2005 / BAISAKHA 9, 1927

LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 19th April 2005

No. 3809–li/1(J)-5/2005-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. 29/2000 of the Presiding Officer, Labour Court, Jeypore to whom the industrial disputes between the management of M/s Laxmi Shuller Rice, Flour & Oil Mill, Paralakhemundi, Gajapati and its Workman represented through the Secretary, Mill Workers Union, Keviti Street, Paralakhemundi, 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. 29 OF 2000

Dated the 17th July 2004

Present :

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

Between :

The Management of .. First Party–Management
M/s Laxmi Shuller Rice Flour and Oil Mill
Paralakhemundi, At/P. O. Paralakhemundi
Dist. Gajapati.

Versus

Its Workman .. Second Party–Workman
represented through the Secretary
Mill Workers Union, Keviti Street
Paralakhemundi, At/P.O. Paralakhemundi
Dist. Gajapati.

Under Sections 10 & 12 of the Industrial Disputes Act, 1947

Appearances :

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

AWARD

The Government of Orissa under Letter No. 5159-L.E., dated the 10th April 2000 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 P. Appa Rao, Khalasi by the employer of M/s Laxmi Shuller Rice, Flour and Oil Mill, Ramanagar Street, Paralakhemundi, Dist. Gajapati with effect from the 21st January 1998 is legal and/or justified ? If not, to what relief the workman Shri P. Appa Rao, Khalasi is entitled ?”

2. Undisputed facts may be outlined. The Mill workers of Gajapati district proceeded on a strike demanding higher wages. The strike continued from the 15th November 1997 to the 20th January 1998. The President of the Mill Workers Union raised a dispute before the District Labour Officer, Gajapati alleging illegal retrenchment of Khalasi, P. Appa Rao (W. W. 1). Shri Laddi Durga Rao, owner of M/s Laxmi Shuller Rice, Flour & Oil Mill, Ramanagar Street, Paralakhemundi neither produced any register nor attended the conciliation proceeding before the District Labour Officer. A conciliation failure report was submitted to the Government indicating existence of an industrial dispute. The dispute thus has been referred for adjudication.

3. It is the case of the workman that while other workers of Laxmi Suller Rice, Flour and Oil Mill, Ramanagar Street, Paralakhemundi were allowed to join on the 20th January 1998 after the strike was called off, Khalasi P. Appa Rao was not allowed to join . Lead role in the strike by the workman is said to be the ground for refusal. Terming the action as illegal and unjustified it has been prayed for reinstatement with back wages.

4. That the workman was never employed in the Mill, that there was no relationship of workman and employer, that the Industry was seasonal, that the Mill was closed owing to workers indiscipline and reopened on the 30th January 1998 and that the management sustained huge loss due to illegal strike by the labourers are the grounds advanced in the written statement of the Management. It has been prayed for rejecting the reference.

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

6. The workman himself and the President of the Workers Union are the only witnesses on behalf of the workman. The management has not examined any witness nor produced any documents.

7. After passing award by this court, dated the 18th 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 workman also remained absent. Therefore, considering the materials already available on record, the following order follows.

8. W. W. 1 & W. W. 2 have deposed that P. Appa Rao had been working continuously under the first party employer for more than 15 years till the 15th November 1997 on monthly wages of Rs. 900. Non-production of the Register showing duration of engagement and payment of wages would indicate that their production would have supported the evidence of W. W. 1 & W. W. 2. The report of the conciliation officer shows that the employer has retrenched the workman illegally.

9. In view of the length and nature of engagement Shri P. Appa Rao was a workman. Admittedly there has not been any enquiry or compliance of the provision under Section 25-F of the Industrial Disputes Act. The action of the management is consequently illegal and unjustified. There is no evidence that the workman profitably engaged himself during the period he was out of employment of the 1st party. He is entitled to reinstatement and back wages.

10. In the result the reference is allowed. The action of the Management in refusing engagement to Khalasi P. Appa Rao with effect from the 20th January 1998 is illegal and unjustified. The management is directed to reinstate the workman forthwith and to pay back wages within three months.

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