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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 20th April 2005

No. 3858-li/1(BH)-1/2005-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 21st March 2005 in Industrial Dispute Case No. 144/1995 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial disputes between the management of Orissa State Tasar and Silk Co-operative Society Ltd., Bhubaneswar and its workman Shri Achyutananda Behera was referred for adjudication is hereby published as in the Schedule below :

SCHEDULE
IN THE LABOUR COURT, BHUBANESWAR
INDUSTRIAL DISPUTE CASE NO. 144 OF 1995
Dated the 21st March 2005

Present :

Shri P. K. Sahoo, o.s.J.s. (Jr. Branch)
Presiding Officer, Labour Court
Bhubaneswar.

Between :

The management of .. First Party—Management
Orissa State Tasar and Silk Co-operative
Society Ltd., Bhubaneswar.

And

Its Workman .. Second Party—Workman
Shri Achyutananda Behera.

Appearances :

For the First Party—Management .. None

For the Second Party—Workman himself .. Shri A. Behera

AWARD

The State Government in exercise of powers conferred under 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. 8102(5), dated the 10th July 1995 for adjudication and Award.

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

“Whether the action of the management of Orissa State Tasar and Silk Co-operative Society Ltd., Bhubaneswar in terminating Shri Achyutananda Behera from services with effect from the 1st July 1992 is legal and justified ? If not, what relief he is entitled to ?”

3. The brief facts giving rise to the present reference are that workman Achyutananda Behera was engaged as Watchman under the management of Orissa State Tasar and Silk Co-operative Society Ltd., Bhubaneswar (in short the management) with effect from November, 1988. He continued to work till June, 1992. Although he had rendered continuous uninterrupted service for the above period but the management without any rhyme or reason terminated him from service without following the mandate of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act) which was according to the workman, illegal and unjustified. Under the above premises the workman while challenging the action of the management in terminating his services with effect from the 1st July 1992 has now prayed for his reinstatement in service with back wages and other service benefits. Hence the reference.

4. The management entered its appearance and filed written statement opposing the claim of the workman. Subsequently the management was set *ex parte* vide order, dated the 28th May 2002. The *ex parte* hearing commenced on the 17th February 2005.

5. During *ex parte* hearing the workman has examined himself as W. W. 1 and has relied upon the copies of the certain documents such as the certificates marked as Exts. 1, 3 and 4, respectively and the office letter No. 52, dated the 31st October 1990 of the Officer in-charge, Inter-State Tasar Project, Pilot Project, Centre, Athamallik, Dhenkanal marked as Ext. 2 in support of his case.

6. The workman in his evidence during *ex parte* hearing has clearly and categorically stated that he was working under the management as Watchman with effect from November, 1988 till June, 1992 but the management without any rhyme or reason had illegally terminated him from service with effect from the 1st July 1992 without giving any notice or notice pay and retrenchment compensation. Since the action of the management in terminating him from service with effect from the 1st July 1992 was illegal and unjustified, he has now prayed for his reinstatement in service with back wages and other service benefits. On the other hand, no rebuttal evidence is adduced from the side of the management to controvert the evidence of the workman. In absence of any rebuttal evidence, I find no reason to disbelieve the evidence of the workman rather the evidence of the workman gets support from the facts narrated in his

statement of claim. Moreover the documents relied upon by the workman clearly indicate that he was discharging his duties with much sincerity, devotion and to the utmost satisfaction of the management, but the management without any rhyme or reason had illegally terminated him from service with effect from the 1st July 1997 without giving 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. Since the evidence of the workman has not been challenged by the management in any manner, I am of the considered view that the action of the management in terminating the services of the workman was illegal, unjustified and against the mandate of Section 25-F of the Act. In such view of the matter the workman is entitled to the relief of reinstatement.

7. Hence it is ordered :

ORDER

That the action of the management of Orissa State Tasar and Silk Co-operative Society Ltd., Bhubaneswar in terminating Shri Achyutananda Behera from service with effect from the 1st July 1992 is neither legal nor justified. The workman Shri Behera is entitled to be reinstated in service with full back wages.

The reference is thus answered accordingly *ex parte*.

Dictated and corrected by me.

P. K. SAHOO
21-3-2005
Presiding Officer
Labour Court
Bhubaneswar

P. K. SAHOO
21-3-2005
Presiding Officer
Labour Court
Bhubaneswar

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