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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 20th April 2005

No. 3873-li/1(S)-1/2005-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 26th August 2004 in Industrial Dispute Case No. 1/1998 of the Presiding Officer, Labour Court, Jeypore to whom the industrial disputes between the management of M/s Hindustan Aeronautics Consumers Co-operative Stores Ltd., Sunabeda-2, Koraput and its workman Shri Somnath Sahu 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. 1 OF 1998

Dated the 26th August 2004

Present :

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

Between :

The Management of .. First Party—Management
M/s Hindustan Aeronautics Consumers
Co-operative Stores Ltd., Sunabeda-2,
At/P.O. Sunabeda, Dist. Koraput.

Versus

Its workman .. Second Party—Workman
Shri Somnath Sahu, Qr. No. M/18,
HAL Township, Sunabeda-2
At/P.O. Sunabeda, Dist. Koraput.

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

Appearances :

For the First Party–Management	..	Shri T. Narayana Murty, Advocate, Koraput and Associates.
For the Second Party–Workman	..	Self
Date of Argument	..	20-8-2004
Date of Award	..	26-8-2004

AWARD

This is a reference under Section 10(1), read with Section 12(5) of the Industrial Disputes Act, 1947 made by the State Government of Orissa in their Labour & Employment Department Memo No. 4615(5)-L.E., dated the 28th April 1998 for adjudication of the dispute mentioned below :

“Whether the action of the management of Hindustan Aeronautics Consumers Co-operative Stores Ltd., Sunabeda in dismissing Shri Somnath Sahu, Jr. Accountant from his services with effect from the 14th July 1993 is legal and/or justified ? If not, what relief he is entitled to ?”

2. In this reference proceeding the legality of an order of dismissal is in dispute. The management have dismissed the workman after a regular domestic enquiry into the charges of misconduct. The workman contends that the enquiry was not conducted fairly and that principles of natural justice were not observed by the enquiry officer. Therefore, the following issues has been taken up :—

(i) “Whether the domestic enquiry conducted by the management is fair and proper and what reliefs the workman is entitled”.

Management has contended that the enquiry conducted is just and proper. It has relief on the materials collected during the enquiry.

3. The second party workman has not specified in his claim statements the grounds on which he challenges the fairness of the enquiry. But at the time of argument he stated that fair chance for cross-examination of the witnesses examined on behalf of the first party management was not given to him and that the enquiry officer found all the charges proved even though there was no sufficient evidence. I have gone through the entire proceedings of the enquiry and the documents produced before me. Perused the enquiry report prepared by the enquiring officer, it appears that the enquiry officer has given sufficient opportunity to the workman and the workman has attended the enquiry. The workman has submitted that he has not manipulated in any register and the accounts have been audited. He has stated that he has not misappropriated any amount out of the income from sold milk. The charges leveled against the Junior Accountant is not for misappropriation of the amount of the milk sold or damaged. But the charges as to whether the Junior Accountant tampered with the books of account maintained by the Society.

4. In the enquiry report, the enquiring officer has referred the books of accounts, audit report, receipt, etc. and referred those things in his report. He has also clearly mentioned that there is no direct evidence that it is the Junior Accountant who has tampered with the cash books and other registers. But on complete verification of the records it appears, whatsoever tampering with is notice *ex facie*, it appears that the benefit and the advantage of such tamperings has gone in favour of the Junior Accountant the present workman and others interest has been jeopardised. Since by tampering and by manipulation the advantage has directly drawn in favour of the workman and there is evidence that the workman was in possession of all the books of accounts as a Junior Accountant, the observation of the enquiring officer that the workman has tampered with the books of accounts is established. This being the situation it can not be said that the enquiry by the enquiring officer is improper and proper opportunities has not been given to the workman. Since the workman is found guilty in the enquiry this court has nothing to interfere with the findings and the punishment awarded to the workman. Moreover why another person will tamper with the documents for the benefit of the present workman. Though no one has not seen the actual act the circumstances is against the second party workman.

5. In the result the reference is answered in negative and the workman is not entitled to any relief in this case.

Dictated and corrected by me.

R. K. SARAN
26-8-2004
Presiding Officer, Labour Court,
Jeypore

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