

The Orissa Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 812 CUTTACK, TUESDAY, MAY 17, 2005/ BAISAKHA 27, 1927

LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 28th April 2005

No.4189–li/1(B)-232/91/L.E.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award dated the 7th March 2005 in I.D. Case No. 40/1993 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the management of the Divisional Forest Officer (Afforestation), Baripada and its workman Shri Batish Chandra Mohanta was referred for adjudication is hereby published as in the schedule below :

SCHEDULE
IN THE LABOUR COURT, BHUBANESWAR
INDUSTRIAL DISPUTE CASE No. 40 OF 1993
Dated the 7th March 2005

Present :

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

Between :

The Management of the . . First-party—Management
Divisional Forest Officer,
Baripada.

And

Its Workman . . Second-party—Workman
Shri Batish Chandra Mohanta.

Appearances :

For the First-party—Management . . None

For the Second-party—Workman . . Shri S. K. Kar (Advocate)

2
AWARD

The State Government in exercise of powers conferred by sub-section (5) of Section 12 read with clause (d) 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.4485 (6)/L.E., dated 16-4-1993 for adjudication and Award.

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

“Whether the termination of services of Shri Batish Chandra Mohanta, Watcher by the Divisional Forest Officer (Afforestation), Baripada with effect from 1-4-1991 is legal and/or justified ? If not, to what relief he is entitled ?”

3. The brief facts giving rise to the present reference are that workman Shri Batish Chandra Mohanta was engaged as Watcher by the Divisional Forest Officer (Afforestation), Baripada (in short the management) during June, 1985. He continued to work as such till the date of his termination on 1-4-1991. According to the workman he had rendered continuous uninterrupted service for about six years but the management without any rhyme or reason had illegally terminated him from service with effect from 1-4-1991 without following the mandate of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act). It is stated by the workman that the action of the management in terminating his service was illegal and unjustified. Accordingly he has now prayed for reinstatement in service with back wages. Hence, the reference.

4. The management entered its appearance and filed written statement opposing the claim of the workman. Subsequently the management did not participate in the present preceding and therefore, was set *ex parte*. The *ex parte* hearing commenced on 24-10-2002.

5. During *ex parte* hearing workman Shri Batish Chandra Mohanta while admitting the averments averred in his statement of claim has categorically stated that he was working under the management in the month of June, 1985 and had worked till 31-3-1991 but the management without any rhyme or reason terminated him from service with effect from 1-4-1991 without giving any prior notice or notice pay and retrenchment compensation although he had completed 240 days of continuous service in 12 calendar months preceding the date of his termination. During evidence he has proved the xerox copies of certificates marked as Exts.1 and 2 respectively showing his engagement under the management. The evidence of the workman has not been challenged by the management. No rebuttal evidence is also adduced by the management so as to controvert the evidence of the workman. After carefully examining the evidence of the workman, absolutely I find no cogent reason to disbelieve his sole evidence. Rather it is clearly evident from his evidence that although he has rendered continuous service for about six years but the management illegally terminated him from service with effect from 1-4-1991 without following the mandate of Section 25-F of the Act, which in my considered view, was illegal and unjustified. In such view of the matter, the workman is entitled to the relief as prayed for.

6. Hence it is ordered :

ORDER

That the termination of services of Sri Batish Chandra Mohanta, watcher by the Divisional Forest Officer (Afforestation), Baripada with effect from 1-4-1991 is neither legal nor justified. The workman Shri Mohanta is entitled to be reinstated in service with a lump sum compensation to the tune 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
7-3-2005
Presiding Officer
Labour Court,
Bhubaneswar

P. K. SAHOO
7-3-2005
Presiding Officer
Labour Court,
Bhubaneswar

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