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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 5th August 2005

No. 6651-Ii/1 (J)-51/2000/LE.— In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award dated the 12th April 2005 in I.D. Case No. 13/2001 of the Presiding Officer, Labour Court, Jeypore to whom the industrial dispute between the Management of M/s. Agarwal & Co., M/s. Pattnaik & Co., Contractors and Senior General Manager, M/s. IMFA Ltd., Theruvali and its workman Shri Paramananda Gantayat was referred for adjudication is hereby published as in the scheduled below:—

SCHEDULE

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

INDUSTRIAL DISPUTE CASE No. 13 OF 2001

Dated the 12th April 2005

Present:

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

Between:

1. The Management of
Shri Mahanlal Agarwal,
M/s. Agarwal & Company,
C/o. Santosh Medical Stores,
At/P.O./ Saintola,
Dist./ Bolangir.
2. Shri Mahesh Patnaik,
M/s. Patnaik & Co., Contractor,
M/s. IMFA Ltd.,
At/P.O./ Theruvali,
Dist./ Rayagada.

3. The Senior General Manager (Operations),
M/s. IMFA Ltd.,
At/P.O./ Theruvali,
Dist./ Rayagada. . . First party—Management

Versus
Their Workman,
Shri Paramananda Gantayat,
At/P.O./ Bhairaligarh,
Via./ Muniguda,
Dist./ Rayagada. . . Second party—Workman

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

Appearances:

For the Management No.I	. . None (Set <i>Ex parte</i>)
For the Management No.II	. . Shri Basanta Kumar Das A/R of the No. II.
For the Management No.III	. . Shri N.K. Das and Shri P.C. Das, Advocate Rayagada.
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For the Workman	. . Shri Kishore Kumar Behera, Advocate, Jeypore & Shri R. Ch. Boxipatro, Advocate, Rayagada and Associates.
Date of Argument	. . 06-04-2005
Date of Award	. . 12-04-2005

AWARD

This is a reference U/s. 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. 6928 (7) LE., dated the 8th May 2001 for adjudication of the dispute mentioned below.

Schedule

“Whether the action of M/s. Agarwal & Co., M/s. M. Patnaik & Co., both Contractors in M/s. I.M.F.A. Ltd., Theruvali of the Senior General Manager (Operations) of M/s. I.M.F.A.Ltd., Theruvali by terminating services of Shri Gantayat with effect from 18-04-1995 is legal and/or justified ? If not, to what relief Shri Gantayat is entitled ?”

2. The present reference has been received from the Government for answer as to whether the termination of the services of the workman is legal or justified and what relief he is entitled ?”

The entire schedule is given below:

“ Whether the action of M/s. Agarwal & Co., M/s. M. Patnaik & Co., both Contractors in M/s. I.M.F.A.Ltd., Theruvali, of the Senior General Manager (Operations) of M/s. I.M.F.A. Ltd., Theruvali by terminating services of Shri Gantayat with effect from 18-04-1995 is legal and/or justified ? If not, to what relief Shri Gantayat is entitled ?”

3. After receipt of the reference all parties have been noticed, appeared subsequently, Contractor under Indian Metals & Ferro Alloys Ltd., Agarwal Company, remained absent and has been set *ex parte*. During the course of hearing the second party workman has been examined as a witness and exhibited a document Ext.A which is the xerox copy of the stamp receipt. His case is he was working as a second party workman under Agarwal & Company who is a Contractor of I.M.F.A. and the Contractor supplying workman to I.M.F.A. including the present workman. It is his further case that Agarwal & Company suspended him for the union activities of the workman. A Departmental enquiry has been held and the workman was found not guilty. It is the further case of the workman that he requested the Agarwal & Company to engage him in the Company. But the Agarwal & Company delayed the matter and did not engage him and subsequently left the work and other company took over the charge of Contract Labour engagement with I.M.F.A. At the time of completion of the hearing the workman files a petition to again notice the Agarwal Company. But the workman did not take any step nor gave any correct address of the same.

4. The learned counsel for the IMFA exhibited a document signed by the workman wherein it has been reflected that, the workman is not interested to work in the Company if he will receive Rs. 27,000 (Rupees twenty seven thousand) only from the Agarwal & Company and on that day he received Rs. 10,000 (Rupees ten thousand) only and executed a stamp receipt which is marked Ext.A. It has also been mentioned if the balance amount of Rs. 17,000/- is not paid to him by Agarwal & Company by 31-08-1998 the money receipt earlier i.e., Rs. 10,000/- will not be taken into account. During the course of argument the workman himself argued the case admitted Ext. A. On the other hand, the learned counsel for the I.M.F.A. submitted that as they do not know when the workman was suspended by the Agarwal Company when he was exonerated from the charges or not he will not be liable to pay anything to the second party workman.

5. Considering all aspects of the case and Ext.A the only conclusion is the workman is entitled to entire Rs. 27,000/- from the Agarwal & Company. As Agarwal & Company breached the condition mention in Ext.A. Moreover, since as per Ext.A the workman has stated that he is not interested to work if he gets the entire amount, no order is passed regarding the legality of his termination. As per the considered opinion it is ordered that the Agarwal & Company is directed to pay Rs. 27,000/- within 15 days to the workman from the date of order failing which the workman is at liberty to recover the amount from Agarwal & Company along with interest @ Rs. 10% on Rs. 27,000/- from 31-08-1998 that is the date mentioned in Ext.A. Moreover, if any amount of Agarwal & Company is left unpaid the I.M.F.A. Management is directed to pay the same to the workman and not to Agarwal & Company.

Dictated and Corrected by me.

R.K. SARAN
12-04-2005
Presiding Officer,
Labour Court,
Jeypore.

R.K. SARAN
12-04-2005
Presiding Officer,
Labour Court,
Jeypore.

By order of the Governor

D. MISHRA
Under-Secretary to Government