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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 31st July 2006

No. 6975—li/1(S)-36/2002-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 12th June 2006 in Industrial Dispute Case No. 4/2004 of the Presiding Officer, Labour Court, Sambalpur to whom the industrial disputes between the Management of Orissa Weavers Co-operative Spinning Mills Ltd., Tora, Bargarh represented through its Managing Director and Managing Director, M/s Konark Cotton Growers Co-operative Spinning Mills Ltd., Kesinga, Dist. Kalahandi and its workman Shri Jayalal Mishra was referred for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER
LABOUR COURT, SAMBALPUR

INDUSTRIAL DISPUTE CASE NO. 4 OF 2004

Dated the 12th June 2006

Present :

Shri P. K. Mohapatra, LL. B.
Presiding Officer, Labour Court,
Sambalpur.

Between :

The Management of
Orissa Weavers' Co-operative Spinning Mill
Tora, Bargarh represented by
1. The Managing Director
Orissa Weavers' Co-operative
Spinning Mills, Ltd., Tora, Bargarh. . . First Party—Management

2. The Managing Director

M/s Konark Cotton Growers' Co-operative
Spinning Mills, Ltd., Kesinga, Dist. Kalahandi.

And

Its Workman

.. Second Party—Workman

Shri Jayalal Mishra

At/P.O. Mishra Tikira Govinpali,
Bargarh, Dist. Bargarh.

Appearances :

For the First Party—Management	..	None
For the Second Party—Workman	..	Self

AWARD

1. This case arises out of the reference made by the Government of Orissa, Labour & Employment Department under Sections 10 & 12 of the Industrial Disputes Act, 1947 vide Memo No. 1625(6)-L.E., dated the 13th February 2004 for adjudication of dispute scheduled below :

“Whether the action of the management of Orissa Weavers' Co-operative Spinning Mills Ltd., Tora, Bargarh in terminating the services of Shri Jaylal Mishra with effect from the 1st May 1996 by way of refusal of employment is legal and/or justified ? If not, what relief is Shri Mishra entitled to ?”.

2. The workman named above was appointed under the Managing Director, The Orissa Weavers' Co-operative Spinning Mills Ltd., Tora (hereinafter referred as Bargarh Spinning Mills) and while performing his duty satisfactorily to the satisfaction of his superiors, he was deputed to the Konark Cotton Growers' Co-operative Spinning Mills Ltd., Kesinga (hereinafter referred as Kesinga Spinning Mills) and after finishing his deputation duty, he came down to Bargarh Spinning Mills and performed his duties as a Fitter, but he was again deputed to Kesinga Spinning Mills and worked there till May 1995 as a Fitter. It is the specific allegation of the workman that while he was working as Fitter at Bargarh Spinning Mills he was relieved in order to join at Kesinga Spinning Mills and there he was allotted work of a casual labourer with effect from the 11th January 1995 and he was not absorbed in his original posting and as the above action of the administration of Kesinga Spinning Mills amounts to degradation which is illegal and unfair he protested, but no attention is given and to his protest and then he was refused to sign in the body of the attendance register. Then the workman came back to Bargarh Spinning Mills and informed the entire situation and requested to allow him to continue as a permanent Fitter at Bargarh Spinning Mills, but there was no positive respond from the administration of the Bargarh Spinning Mills and simply vide letter No. 2046, dated the 18th

January 1996 they have moved the Managing Director of Kesinga Spinning Mills to absorb him (workman) as a permanent Fitter. Thereafter, he was appointed as such but he was attached to the Contractor who was by then doing the conversion work. As it is purely temporary in nature, the workman again moved the administration of Bargarh Spinning Mills for absorbing him permanently but they did not listen and from May, 1996 the administration of Kesinga Spinning Mills refused to appoint him. While removing him from service the requirements of Section 25-F or 25-N of I. D. Act were not complied, as a result, the termination is illegal and unfair.

After his removal he had moved the labour office for appropriate action and then the matter was taken up by the Assistant Labour Officer for conciliation, but there was no fruitful result as a result, he presented a failure report and after taking the note of the same, the Government treated it as an industrial dispute and referred the same to this Court for adjudication. The schedule of reference runs as follows :—

“Whether the action of the management of Orissa Weavers’ Co-operative Spinning Mills Ltd., Tora, Bargarh in terminating the services of Shri Jayalal Mishra with effect from the 1st May 1996 by way of refusal of employment is legal and/or justified ? If not, what relief is Shri Mishra entitled to ?”

3. As it appears, the Managing Directors of the above referred two Mills have received the notices issued by this Court by Regd. Post, but they did not turn up and they have also not filed written statement to substantiate their plea. By taking the note of the above situation vide order dated the 12th October 2004 the management side were set *ex parte* and then the workman has adduced *ex parte* evidence. On perusal of the same what emerges is that he was appointed in the year 1975 and then he was promoted to the rank of the Assistant Fitter in the year 1983 and in the year 1993 he was promoted to the post of Fitter. This witness has also stated in his evidence that he was deputed to Kesinga Spinning Mills, but then he was asked to work as a casual labourer and then he protested the above action as a result there was bickering and he came down to Bargarh Spinning Mills and advanced prayer to absorb him permanently, but there was no good response and they played hide and seek with him. According to the workman, the order of deputation and the subsequent denial to absorb him in the grade of Fitter are illegal and he is entitled to be reinstated in service with full back wages. Since there is no challenge from the side of the management, so there is every reason to accept the above evidence of the workman. By looking to the report of the Conciliation Officer and by taking the note of the unchallenged testimony of the workman, there is every reason to answer the reference in support of the workman. I am of firm view that the workman was denied employment without good reasons and non-payment of the statutory benefits at the time of denial of employment to the workman are good grounds to grant the relief as prayed for. Hence the following award.

AWARD

The reference is answered *ex parte* in support of the workman without any cost. The Managing Director of Bargarh Spinning Mills is directed to reinstate the workman by giving full back wages to him. The payment be made within two months hence. As it appears the workman was also working at Kesinga Spinning Mills for a while. The back wages relating to his tenure at Kesinga Spinning Mills is to be paid by the Managing Director of that Spinning Mills within two months hence.

Dictated and corrected by me.

P. K. MOHAPATRA
12-6-2006
Presiding Officer,
Labour Court, Sambalpur

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12-6-2006
Presiding Officer,
Labour Court, Sambalpur

By order of the Governor
N. C. RAY
Under-Secretary to Government