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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 14th November 2006

No. 10034-li/1(S)-2/2004-L. E.-In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 30th August 2006 in Industrial Dispute Case No. 10/2004 of the Presiding Officer, Labour Court, Sambalpur to whom the industrial disputes between the Management of D. F. O., Bamra, At/P.O. Bamra, Dist. Sambalpur and its workman Shri Raju Kharsel, At/P.O. Kuanrmal, Dist. Jharsuguda 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. 10 OF 2004

Dated the 30th August 2006

Present :

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

Between :

The Management of .. First Party-Management
D. F. O., Bamra
At/P. O. Bamra, Dist. Sambalpur.

And

Its Workman .. Second Party-Workman
Shri Raju Kharsel
At/P.O. Kuanrmal
P. S. Laikera, Dist. Jharsuguda.

Appearances :

| | | |
|--------------------------------|----|---|
| For the First Party–Management | .. | Shri Ugrasen Jena, Range Officer, Kisinda, Sambalpur. |
| <hr/> | | |
| For the Second Party –Workman | .. | himself |

AWARD

This case arises out of the reference made by the Government of Orissa, Labour & Employment Department under Sections 10 and 12 of the Industrial Disputes Act, 1947, vide Memo No. 5120(5)-L. E., dated the 17th June 2004 for adjudication on Schedule below :

“Whether the termination of services of Shri Raju Kharsel, ex-Watcher by way of refusal of employment with effect from the 2nd April 2002 by the D. F.O., Bamra is legal and / or justified ? If not, what relief is Shri Kharsel entitled to ?”

2. The case of the workman is that he was working as a Choukidar in the residence of A.C.F., Bamra, from the 20th January 1997 up till the 1st January 2002 and without any rhyme and reason he was terminated from service and another new man was inducted in his place and such action of the management is illegal as the minimum requirements of law are not complied by them. The workman has prayed for reinstatement in service with full back wages.

3. The Management has contested the above claim by stating that the workman was engaged on daily wage basis by the Range Officer of Bamra Range and his up to date wages were paid up till March 2002 and thereafter due to non-availability of sufficient fund he was terminated from service by the Range Officer of Bamra and such action of the Range Officer has nothing to do with the D. F. O., Bamra Wildlife Division and accordingly the claim of the workman is not justified. It is also the case of the D.F.O. of Bamra Wildlife Division that the workman was directed to do work on daily wage basis in Badarama Wildlife Range as at the relevant time, there was allotment of fund in that Range, but he (workman) did not comply the same, as a result, he has no legal right to claim the present benefits. To sum up, he has prayed for rejection of the claim of the workman.

4. By taking the note of the pleadings of the parties the following issues have been framed for adjudication :

ISSUES

- (i) “Whether the termination of services of Raju Kharsel, ex-Watcher by way of refusal of employment, with effect from the 2nd April 2002 by the D. F. O., Bamra is legal and justified ?
- (ii) To what relief the workman Shri Kharsel is entitled ?”

5. In order to suffice his case, the workman is examined as the only witness from his side. The management side is represented by the Range Officer of Wildlife Range at Kisinda and he has adduced his evidence to substantiate the plea of the management.

6. No document is filed from the parties to suffice their respective claim.

FINDINGS

7. *Issue Nos (i) and (ii)*—The above two issues are taken up together as those are interlinked. It is the admitted case of the parties that the workman was working on daily wage basis in the Bamra Range jurisdiction and up till March 2002 his up to date wage was paid to him. In his application, the workman has pointed that he was engaged in the service from the 20th January 1997 and he was removed from service on dated the 1st January 2002 without any reason. In the written statement, the D. F. O., Bamra Wildlife Division has specifically stated that the workman was disengaged from service after March, 2002. If the stand of the parties as per the pleadings is taken up then what emerges is that the workman was engaged in Bamra Range jurisdiction and he was removed from service after March, 2002. In his evidence the workman has stated that he was appointed as a Cook in the residence of the A. C. F., Bamra and in 2002 he was removed from service without any written authority. According to him, the D.F.O. orally told him that he was removed from service and there is no written order in this regard. He has further stated that he had worked in that Range for about 5 years. The workman was cross-examined by the Range Officer of Kisinda Range who is the representative of D. F. O. and nothing substantial is elicited to disbelieve that the workman was not working under the said Range for about 5 years. In his evidence the Range Officer has also stated that due to want of funds the workman was removed after March, 2002, but in 2004, he was instructed to work on daily wage basis in Badarama Range, but he refused to work there and initiated this proceeding. So from the evidence of the parties it is also forthcoming that the workman was in service under the management for more than one year and then he was retrenched from service and during the period of employment, he had served for not less than 240 days. The claim of the management that he was appointed on daily wage basis has no bearing as even a workman of such type is entitled to get the benefits available u/s 25-F of the I. D. Act. As in this case the workman was removed from service without compliance of requirements of Section 25-F of the Act. So he is entitled to get the benefits claimed by him. No where the D. F. O. of Bamra Wildlife Division has stated that the benefits provided in the Act were extended to the workman. The same is sufficient to allow the prayer of the workman.

8. Admittedly the management offered another employment to the workman. In this connection, the representative of D. F O. has stated that the workman did not comply it. But the workman has come up with a plea that he had been to the Range Officer of Badarama Range who then directed him to work at Bamra Range. So the management side has treated

the workman with a positive approach. His (D. F. O., Bamra Wildlife Division) such attitude in congenial to conclude that he has a positive mind to help the workman. So while reinstating the workman in service, there is no good reason to allow full back wages to him. Consequently, the back wage is limited to Rs. 5,000. The above issues are answered accordingly. hence the following Award :-

AWARD

The reference is answered in support of the workman and against the management on contest. The termination of services of Raju Kharsel, ex-Watcher by way of refusal of employment with effect from the 2nd April 2002 by the D. F. O., Bamra is illegal and unjustified. The D. F. O., Bamra is directed to reinstate the workman in service within one month hence and is further directed to pay a consolidated amount of Rs 5,000 (Rupees five thousand) only to him as back wages.

Dictated and corrected by me.

P. K. MAHAPATRA
30-8-2006
Presiding Officer
Labour Court
Sambalpur.

P. K. MAHAPATRA
30-08-2006
Presiding Officer
Labour Court
Sambalpur.

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