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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 28th March 2006

No. 2777-li/1(J)-39/1999(Pt.)-L. E.-In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 24th January 2006 in Industrial Dispute Case No. 89/1999 of the Presiding Officer, Labour Court, Jeypore to whom the industrial disputes between the Management of the Managing Director, M/s Singer India Ltd., A-26/4, 2nd Floor, Mohan Co-operative Industrial Area, New Delhi-44 and its Workman Shrimati Manamohini Pattnaik, D/o Late Nabeen Ch. Pattnaik, Ashok Nagar-9 Infront of Ice Factory, Berhampur- 4, At/Post Berhampur, Dist. Ganjam 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. 89 OF 1999

Dated the 24th January 2006

Present :

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

Between :

The Managing Director of
M/s Singer India Ltd.,
A-26/4, 2nd Floor, Mohan Co-operative
Industrial Area, New Delhi - 44. . . First Party-Management

Versus

Smt. Manamohini Pattanaik
D/o Late Nabeen Ch. Pattanaik
Ashok Nagar-9, Infront of Ice Factory
Berhampur-4, At/P. O. Berhampur
Dist. Ganjam. . . Second Party-Workman

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

Appearances :

For the Management	..	Shri R. N. Patra, Area Manager on behalf of the Singer India, Ltd., New Delhi.
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For the Workman	..	Self
Date of Argument	..	19-1-2006
Date of Award	..	24-1-2006

AWARD

This is a reference under Section 10(1), read with Section 12(5) of the Industrial Disputes Act, 1947 (for short the Act) made by the State Government of Orissa in their Labour & Employment Department memo No. 15672(5), dated the 9th December 1999 for adjudication of the following dispute :

“Whether the termination of services of Smt. Manamohini Pattnaik by way of retrenchment by the Management of M/s Singer India Ltd., with effect from the 1st January 1998 is legal and/or justified ? If not, to what relief she is entitled ?”

2. Smt. Manamohini Pattnaik (Claimants Workman) has averred as follows :

3. She was appointed as Demonstrator at the Berhampur Shop of the Management with effect from the 15th May 1994 on monthly salary of Rs. 450. She was confirmed in service in the year 1995. In course of routine inspection the Labour Officer detected less payment of wages to her. Differential amount was paid to her in compliance of the objections. However the Management nurtured grudge and retrenched her from Service without prior notice or holding any enquiry with effect from the 1st January 1998. A complaint being filed by the Labour Officer, Berhampur endeavoured was taken for an amicable settlement but failed. Finding of an industrial dispute this reference has been made for adjudication. The claimant has prayed for reinstatement in service with full back wages and other incidental service benefits.

4. The first party management filed written statement objecting tooth and nail the claims made by the second party Workman. Objections are mainly two fold. First the claimant was not a workman within the meaning of the Industrial Dispute Act, and second, she was very irregular in duty and remaining absent continuously for long time.

5. It has been further stated by the Management that there was no requirement of the post of Demonstrator for which the second party Workman has been retrenched.

6. Both the Workman and the Management have filed the appointment Order Ext.1 confirmation Order Ext. 2 and retrenchment Order Ext-3. But before the Labour Officer and at the time of conciliation it has been felt that the Workman was terminated by the Management and accordingly reference has been received in such manner. Both workman and representative of the Management, each has been examined in the case. On careful scrutiny of Ext. 3 it appears that the Second Party Workman has ben retrenched by the Management. Since the workman has been retrenched such case will be considered according to Section 25-G and Section 25-H is speaks as follows :—

25-G—Procedure for retrenchment —where any workman in an industrial establishment who is a citizen of India is to be retrenched and he belongs to a particular category of workman in that establishment in the absence of any agreement between the employer and the workman in this behalf the employer shall ordinarily retrenched the workman who was the last person to be employed in that category unless for reasons to be recorded the employer retrenches any other workman.

25-H. Re-employment of retrenched workmen —Where any workmen are retrenched and the employer proposes to take in to his employ any persons he shall in such manner as may be prescribed give in opportunity (to the retrenched workman who are citizens of India to offer themselves for re-employment and such retrenched workmen) who offer themselves for re-employment shall have preference over other persons.

7. The Management submitted that they have made all payment to the workman to which the workman refuted. Since it is a question of retrenchment the workman is at liberty to claim retrenchment compensation, notice pay and other dues from the Management and according to 25-H. In case the management requires the workman in work of similar nature in the Organisation the present workman should be given preference first than that of the other retrenched employees or new recruits. In view of the above observation the workman was treated as retrenched but not terminated. The management is to comply 25-H and if necessary the workmen is at liberty to claim his dues. The management is further directed to immediately comply both the provisions Ces 25-G and Sec. H. of the Industrial Disputes Act.

In the result the reference is answered as per the observation made above.

Dictated and corrected by me.

R. K. SARAN
24-1-2006
Presiding Officer, Labour Court,
Jeypore

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