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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 6th June 2006

No.4529-li/1(B)-231/1994(Pt.)/L.E.— In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the award dated the 22nd April 2006 in I.D.Case No.230/1994 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of the Secretary, the Utkal Rastrabhasa Prachar Co-operative Press & Publishing Society Ltd., Cuttack and its workman Shri Ramakanta Mishra, C/o Shri A.P. Rath, Plot No. 248, Saheed Nagar, Bhubaneswar was referred for adjudication is hereby published as in the schedule below.

SCHEDULE

IN THE LABOUR COURT : BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 230 of 1994

The 22nd April 2006

Present :

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

Between :

The Secretary,
The Utkal Rastrabhasa Prachar
Co-operative Press and Publishing
Society Limited, Cuttack.

..First Party —Management

AND

Shri Ramakanta Mishra,
C/o. Shri A.P.Rath,
Plot No. -248, Sahidnagar,
Bhubaneswar.

..Second Party — Workman

Appearances :

NONE

..For First Party —Management

Shri R.K. Mishra

..Second Party —Workman Himself

AWARD

The State Government in exercise of powers conferred by sub-section (5) of section 12 read with clause (c)/(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. 16717(5)/L.E., dated the 23rd December 1994 for adjudication and Award.

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

“Whether the dismissal from services of Shri Ramakanta Mishra, Accountant with effect from 21st January 1994 by the Management of M/s. The Utkal Rastrabhasa Prachar Co-operative Press & Publishing Society Limited, Cuttack is legal and/or justified ? If not, what relief Shri Mishra is entitled to ?”

3. By way of this reference workman Shri Ramakanta Mishra has challenged the legality and justifiability of the action of the Management of M/s. The Utkal Rastrabhasa Prachar Co-operative Press & Publishing Society Limited, Cuttack (in short the Management) in dismissing him from service with effect from 21st January 1994.

The brief facts giving rise to the present case are that the workman was appointed as an Accountant by the Management with effect from 14-6-1980. He continued to work as such till 17-6-1991 when he was placed under suspension. The Management initiated an enquiry on several charges including misappropriation of the properties of the society. According to the workman, the Management without following the minimum principles of natural justice had conducted the enquiry and no adequate and reasonable opportunity had been given to him to properly defend his case during the enquiry. Even the Management had not supplied the copies of the material documents and statement of witnesses. On the whole, he was not given reasonable opportunity to properly defend his case during enquiry. It is categorically averred in his statement of claim that the enquiry conducted by the Management was not fair and proper and the final order of dismissal was not based on any legal evidence. The Management without conducting enquiry properly dismissed him from service with effect from 21st April 1994. Despite his approach for reinstatement in service, when no fruitful result was forthcoming, he approached the labour machinery but to no effect. The conciliation proceeding ended in failure and the matter was ultimately referred to this Court by the Government in the Labour & Employment Department for adjudication. While seeking industrial adjudication the workman has prayed for his reinstatement in service with full back wages alongwith other service benefits.

4. The Management was set *ex parte* and the *ex parte* hearing commenced on 18th November 2005.

5. During *ex parte* evidence the workman has clearly stated that he was working as Accounts Assistant under the Management with effect from 14th June 1980 and continued to work as such till 17th June 1991 when he was placed under suspension. A charge-sheet came to be issued against him and the Management appointed the Enquiring Officer without supplying him the copy of the charge-sheet. It is categorically stated by the workman that on 26th December 1991 he requested the Enquiring Officer to supply him the copy of the charge-sheet, who also assured him to supply the same on the next date. On 8th January 1992 he again requested the Management to supply all relevant connected documents but the Management did not supply any document to him. It further reveals from the evidence of the workman that the Enquiring Officer without conducting any enquiry submitted the enquiry report to the Management. He ascertained that the enquiry was conducted in his absence and the enquiry report was submitted to the Management. Subsequently the Deputy Secretary,

ment declared the said enquiry null and void and directed the Management to conduct fresh enquiry. Thereafter the Management without informing him appointed the Manager, Cottage Industry, Office of the D.I.C., Cuttack as Enquiring Officer. The date of enquiry was fixed to 5th February 1993. On the date fixed he appeared before the Enquiring Officer and requested him to supply all the copies of the documents relating to the enquiry, who also assured him to supply the same on the next date. The next date was not informed to him and the Enquiring Officer in his absence conducted the enquiry and submitted the enquiry report to the Management without serving the copy on him. It further reveals from the evidence of the workman that on 25th September 1993 he was asked to submit his show cause as to why his service would not be terminated. On 5th November 1993 the Board of Directors meeting was convened and he appeared personally before the Board of Directors and submitted the reply to the show cause but the Management without considering his show cause illegally and arbitrarily dismissed him from service with effect from 21st January 1994 which was according to him illegal and unjustified. He has now raised the present dispute for his reinstatement in service with full back wages. During evidence he has duly proved the enquiry report, the letter dt. 8th January 1992 requesting the Management to supply the copies of the documents, letter dt. 14th August 1992 declaring the enquiry null and void and the application dt. 5th February 1993 requesting the Enquiring Officer to supply the copies of the documents marked as Exts. 1 to 4 respectively. It is categorically stated by the workman that since the action of the Management in dismissing him from service with effect from 21st January 1994 was illegal and unjustified, he has now prayed for his reinstatement in service with full back wages. The evidence given by the workman has not been challenged by the Management as a result, his evidence on the above context remains unchallenged.

6. After carefully examining the sole unchallenged testimony given by the workman it is clearly evident that initially an enquiry was conducted against the workman and the Enquiring Officer despite his repeated request did not supply him the copies of relevant documents and arbitrarily closed the enquiry. Basing on such faulty enquiry report he was asked to submit his show cause. The workman challenged the enquiry report by filing the representation before Government and the Government after careful consideration declared the said enquiry null and void and directed the Management to conduct a fresh enquiry. As per the direction of the Government, the Management conducted fresh enquiry but as it reveals from the evidence of the workman, the Enquiring Officer without adhering the minimum principles of natural justice illegally closed the enquiry without giving adequate and reasonable opportunity to the workman to properly defend his case during enquiry. After completion of enquiry the Enquiring Officer submitted his report to the Management and the Management without any consideration accepted the enquiry report and passed final order of dismissal of the workman with effect from 21st April 1994. In absence of any rebuttal evidence absolutely I find no cogent reason to disbelieve the evidence given by the workman on the above aspect. In view of his unchallenged testimony I am, clearly led to hold that the domestic enquiry conducted by the Management was not fair and proper and the final order of dismissal was not based on any legal evidence. In that view of the matter, the workman is entitled to the relief of reinstatement in service.

7. Hence it is ordered :

ORDER

That the dismissal from services of Shri Ramakanta Mishra, Accountant with effect from 21st January 1994 by the Management of M/s. Utkal Rastrabhasa Prachar Co-operative Press & Publishing Society Ltd., Cuttack is neither legal nor justified. The workman has nowhere asserted

gainfully employed elsewhere with effect from date of his dismissal. In that view of the matter, the workman is entitled for reinstatement in service, but on the facts and circumstances of this case as the workman had not worked under the Management with effect from the date of his dismissal, he is entitled to a lump sum compensation 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
22-04-2006,
Presiding Officer,
Labour Court,
Bhubaneswar.

P.K. SAHOO
22-04-2006,
Presiding Officer,
Labour Court,
Bhubaneswar.

By order of the Governor

N.C. RAY
Under- Secretary to Government